
Bret Pfaff,	
v.	
Community Utilities of	
Pennsylvania, Inc.	
Initial Call-In	
Telephonic Hearing	

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Judge's Chambers
State Office Building
801 Market Street
Philadelphia, PA

Tuesday, July 22, 2025
Commencing at 10:05 a.m.

INDEX TO EXHIBITS

Docket No. C-2025-3053638

Hearing Date: July 22, 2025

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July 15, 2025

VIA ELECTRONIC MAIL

Administrative Law Judge Eranda Vero
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
801 Market Street, Suite 4063
Philadelphia, PA 19107
evero@pa.gov

Re: Bret Pfaff v. Community Utilities of Pennsylvania, Inc.; Docket No. C-2025-3053638;
**COMMUNITY UTILITIES OF PENNSYLVANIA, INC.'S HEARING
EXHIBITS**

Dear ALJ Vero:

Enclosed you will find the following hearing exhibits on behalf of Respondent, Community Utilities of Pennsylvania, Inc. ("CUPA"), that may be identified and relied upon at hearing on July 22, 2025 in the above-referenced matter:

1. April 26, 2024 Joint Petition for Full Settlement of Rate Proceedings;
2. August 1, 2024 Opinion and Order;
3. Aqua Wastewater Tariff Effective May 16, 2025;
4. Exhibit – Opinion and Order from PAWC R-2023-3043189;
5. Exhibit – Recommended Decision from PAWC R-2023-3043189; and
6. PAWC Wastewater Tariff Effective July 1, 2025

If you have any questions regarding this filing, please contact me.

Very truly yours,
/s/ Whitney E. Snyder

Whitney E. Snyder
Erich W. Struble

Counsel for Community Utilities of Pennsylvania, Inc.

WES/das

Enclosures

cc: Pamela McNeal, Legal Assistant (pmcneal@pa.gov)
Bret Pfaff (y100Bret@aol.com)

- 1. April 26, 2024 Joint Petition for Full Settlement of Rate Proceedings;**



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April 26, 2024

By Electronic Filing

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

RE: Community Utilities of Pennsylvania Inc. Water Division;
Docket No. R-2023-3042804;

Community Utilities of Pennsylvania Inc. Wastewater Division;
Docket No. R-2023-3042805;

JOINT PETITION FOR FULL SETTLEMENT OF RATE PROCEEDINGS

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Joint Petition for Full Settlement of Rate Proceedings in the above-captioned proceeding.

If you have any questions concerning this filing, please contact me.

Very truly yours,

/s/ Whitney E. Snyder

Whitney E. Snyder (Attorney ID No. 316625)
Thomas J. Sniscak (Attorney ID No. 33891)
Phillip D. Demanchick Jr. (Attorney ID No. 324761)

*Counsel for
Community Utilities of Pennsylvania Inc.*

WES/das
Enclosures

cc: Administrative Law Judge Steven K. Haas (sthaas@pa.gov)
Administrative Law Judge Alphonso Arnold (alphonarno@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2023-3042804
	:	R-2023-3042805
Community Utilities of Pennsylvania Inc.	:	

JOINT PETITION FOR FULL SETTLEMENT OF RATE PROCEEDINGS

DATED: April 26, 2024

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I. INTRODUCTION

Community Utilities of Pennsylvania Inc. (“CUPA” or the “Company”), the Bureau of Investigation & Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”), by their attorneys and collectively referred to as “Joint Petitioners,”¹ submit and join in this Joint Petition for Full Settlement of Rate Proceedings (“Joint Petition” or “Settlement”) in the above-captioned consolidated proceedings. The Joint Petitioners respectfully request that Administrative Law Judges Steven K. Haas (“ALJ Haas”) and Alphonso Arnold III (“ALJ Arnold”) (collectively, the “Presiding Officers”) and the Pennsylvania Public Utility Commission (“Commission” or “PUC”) approve the proposed Settlement and all of its terms and conditions without modification and find that the terms of the Settlement are in accordance with the law and are in the public interest.

The Joint Petition² is organized into various sections. **Section II** contains the terms and conditions of the proposed Settlement. These terms include, *inter alia*, specifications on revenue requirement, a rate case stay-out, modifications associated with the Company’s website and reporting requirements as it relates to the Company’s Low-Income Program, and modifications to the Company’s proposed Arrearage Management Program (“AMP”). The terms also address various service-related issues raised during this proceeding. **Section III** explains that the proposed Settlement is in the public interest.

Ultimately, the Settlement is in the public interest because, *inter alia*, it: (1) provides a reasonable resolution after the Joint Petitioners completed an extensive investigation of CUPA’s filings, (2) is consistent with Commission policies promoting negotiated settlements, 52 Pa. Code §§ 5.231, 69.391, 69.401-69.406, (3) reduces the Company’s total annual revenue increase by

¹ Joint Petitioners are the only parties to this proceeding that actively participated in this proceeding.

² **Appendix A** hereto contains an overview of the procedural history, proposed findings of fact, proposed conclusions of law, and proposed ordering paragraphs.

approximately 17% compared to as-filed rates, (4) establishes rates that are just and reasonable, achieves full consolidation of the water and wastewater rates of CUPA's various divisions, and is based upon principles of gradualism, (5) enhances the Company's Low-Income Program providing increased rate discounts (45% compared to 35% originally proposed) to both the fixed and volumetric components of the bill for customers that qualify, extending eligibility for the program to 200% of the Federal Poverty Level ("FPL), and applying rate discounts to wastewater customers and water customers, (6) comprehensively addresses the quality of service issues raised in this proceeding, (7) avoids the necessity of further litigation and the substantial cost to the Joint Petitioners and CUPA's customers that such litigation would entail, and (8) is supported by substantial evidence.

Accordingly, the Commission should approve the Settlement and all its terms and conditions without modification and find that the terms of the Settlement are in accordance with the law and are in the public interest.

II. TERMS AND CONDITIONS OF SETTLEMENT

1. The Company, I&E, the OCA, and OSBA engaged in a series of long, detailed, and productive communications to determine if, consistent with the Commission's policy to "encourage settlements," stated at 52 Pa. Code § 5.231(a), a settlement was possible. After extensive discovery and testimonial presentation by the Joint Petitioners, the Joint Petitioners engaged in an even more extensive series of settlement negotiations. The Settlement is the product of those comprehensive negotiations, representing give-and-take by all Joint Petitioners, which resulted in a settlement that is in the public interest. The Settlement balances the need for significant investment to modernize facilities in CUPA's territories and the need for cost-based rates and measures to further enhance service and future performance with the principle of gradualism in rate changes and recognition of potential financial hardships for some customers. Moreover, the Settlement comprehensively addresses the quality of service issues raised in this

proceeding by requiring the Company to, among other things, submit information on lost and unaccounted for water, update the Joint Petitioners on the implementation of virtual District Metering Areas in its Penn Estates service territory, provide certain information on isolation valve exercising as part of its next base rate case, and develop a hydraulic model to evaluate fire suppression flows in the Company's Tamiment system.

2. The Settlement is a typical "black box" settlement;³ that is, without admission on any particular issue. The terms agreed to are enforceable upon approval by the Commission. The Joint Petitioners agree that this Settlement is a reasonable resolution of competing positions and interests in a way that meets and promotes the public interest. It also avoids additional significant time and expense of all involved and avoids further expense including expensive briefing, exceptions, replies, and potential appeals, which costs, under prevailing Pennsylvania law, would have ultimately been borne by the ratepayers.

3. The Joint Petitioners support approving CUPA's base rate filing at the above-captioned dockets as modified by the terms and conditions that follow:

A. Revenue Requirement Increase - Water

4. Upon Commission approval of this Settlement, the Company will be permitted to charge rates for water service as set forth in the proposed Water Tariff Supplement attached hereto as **Appendix B** ("Water Settlement Rates"), to become effective upon one day's notice. Instead of the \$1,470,360 increase requested in the filing, the Water Settlement Rates are designed to

³ *Pennsylvania Public Utility Commission et al v. Peoples TWP LLC*, 2013 WL 6835105, at *16 (Order entered Dec. 19, 2013) ("We have historically permitted the use of "black box" settlements as a means of promoting settlement among the parties in contentious base rate proceedings. See, *Pa. PUC v. Wellsboro Electric Co.*, Docket No. R-2010-2172662 (Final Order entered January 13, 2011); *Pa. PUC v. Citizens' Electric Co. of Lewisburg, PA*, Docket No. R-2010-2172665 (Final Order entered January 13, 2011). Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company's revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company's cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases. For these reasons, we support the use of a "black box" settlement in this proceeding and, accordingly, deny this Exception.").

produce an increase of annual water revenue of \$1,227,538 as shown in greater detail on the Proof of Revenues attached hereto as **Appendix D**.

B. Revenue Requirement Increase - Wastewater

5. Upon Commission approval of this Settlement, the Company will be permitted to charge rates for wastewater service as set forth in the proposed Wastewater Tariff Supplement attached hereto as **Appendix C** (“Wastewater Settlement Rates”), to become effective upon one day’s notice. Instead of the \$1,738,944 increase requested in the filing, the Wastewater Settlement Rates are designed to produce an increase of annual wastewater revenue of \$1,447,621 as shown in greater detail on the Proof of Revenues attached hereto as **Appendix E**.

C. Stay Out

6. The Company agrees that it will not file for a general increase pursuant to 66 Pa C.S. § 1308(d) to water or wastewater base rates earlier than February 9, 2026. This paragraph does not apply to extraordinary or emergency rate relief pursuant to 66 Pa. C.S. § 1308(e) (or upon a petition for emergency rate increase), tariff changes required by Commission order or industry-wide changes in regulatory policy which affect CUPA’s rates.

D. Effective Date

7. Upon the entry of a Commission Order approving this Joint Petition, the Company will be permitted to file a tariff for water service, in the form attached hereto as **Appendix B**, and a tariff for wastewater service, in the form attached hereto as **Appendix C**, reflecting the agreed-upon additional operating revenue. The Joint Petitioners agree to the implementation of the Water Settlement Rates and Wastewater Settlement Rates on August 9, 2024, when the original statutory suspension period was to expire, if the Commission enters an Order approving the Joint Petition prior to or on that date.⁴

⁴ By Scheduling Order entered January 25, 2024, the procedural suspension date was extended from August 9, 2024, to August 22, 2024.

8. If the Commission approval of this Settlement occurs after August 9, 2024, the Joint Petitioners agree that CUPA shall be entitled to recoup the revenue increase not billed from the effective date of August 9, 2024, through the date of any PUC approval of new rates in the manner set forth in the Commission's final Order in this proceeding. The revenue increases not billed from the effective date of August 9, 2024, through the date of PUC approval of new rates will be recovered over a six-month period that shall be applied proportionately to all customer classes via a surcharge on each monthly bill during the six-month recovery period. The Company will be permitted to file revised water and wastewater tariff pages to implement the surcharge, as set forth in Appendices B and C, respectively.

E. COVID-19 Regulatory Asset

9. CUPA shall recover the COVID-19 Regulatory Asset balance of \$114,185 amortized over 5 years.

10. CUPA shall remove the deferred charges related to the COVID-19 pandemic from rate base.

11. The above revenue requirement includes recovery of the COVID-19 Regulatory Asset as modified by the Paragraphs 9 and 10, but to the extent CUPA files another rate case prior to the end of 5-year amortization period, CUPA may recover any remaining balance in future rates.

12. CUPA agrees to no longer continue recording a regulatory asset for ongoing COVID-19 related incremental bad debt (other than reductions to bad debt in the regulatory asset associated with late recovery of such related bad debt) and other COVID-19 related expenses after the effective date of new rates for the instant proceeding.

F. Low-Income Program

13. The Company will expand the eligibility of its Low-Income Program from income up to 100% to income up to 200% of the FPL.

14. Regarding changes to the Company's website:

a. The Company will make the low-income section on its website a permanent news item that is visible as soon as the customer enters the website.

b. The separate, low-income page will include a link to the application form, as well as all information about the sign-up process and eligibility qualification requirements.

c. The Company will change the existing “URL” link to the application page to say “Application” or “Click here to apply”.

d. The Company will use its existing customer notification infrastructure to drive customers to the website to explore the Low-Income Program and their possible eligibility. Specifically, the Company will use its Voice Reach system – which sends information directly to customers via email, phone, and text messages – to provide quarterly updates to customers about the existence of the program. This outreach will be modified to both English and a Spanish language.

e. The Company will provide print copies of their low-income handouts to customers in English or Spanish. These mailers will be provided quarterly through bill inserts.

15. The Company will continue to provide quarterly report updates detailing participation, usage, and revenue shortfalls/surpluses.

16. The Company will track all costs associated with the administration of its Low-Income Program, if those costs are dedicated to administering the Program. Such costs include the Company’s payments to Dollar Energy Fund for income verification and costs associated with outreach activities. The Company will report these costs on a quarterly basis in its Low-Income reporting. In its next base rate proceeding, the Company shall identify those costs it seeks to recover as part of its ongoing administration of the Low-Income Program.

17. Until the Commission issues an order in CUPA’s next base rate case, the Company will hold annual customer meetings in each of its service territories where topics including the Low-Income Program will be discussed.

G. Rate Design and Structure

18. The parties agree to the rate design reflected in **Appendix D** and **Appendix E**, which reflects the following rate design principles:

- a. The Company will apply a 45% discount to both the volumetric and customer charge for all participants in the Low-Income Program, regardless of their income relative to the FPL.
- b. The company will implement a 6.3% water and a 1% wastewater differential between commercial and residential volume charges.
- c. For the purposes of establishing the revenue requirement in this case, CUPA shall utilize a consumption decline of 1.16% from the Historical Test Year (“HTY”) consumption levels to the Future Test Year (“FTY”) consumption levels and an additional decline of 1.16% from the FTY to the Fully Projected Future Test Year (“FPFTY”) consumption levels.

19. In its next base rate filing, CUPA will present a tiered discount income-based plan with tiers at 50% and 75% of the Federal Poverty Level (“FPL”). This tiered income-based plan will only be applied to and recovered from residential customers.

H. Arrearage Management Program (AMP)

20. Customers approved for CUPA’s low-income rate and with a past-due balance greater than \$400 can participate in CUPA’s AMP.

21. The AMP will be comprised of the total past due balance for all services – water and/or wastewater. The past due balance threshold of \$400 for participation in the AMP will be based upon this combined balance.

22. AMP customers will be enrolled in a multi-month Deferred Payment Arrangement (“DPA”). A DPA allows customers to take their past-due balance and split their past-due balance over equal monthly installments.

23. The default AMP period for low-income customers will be 12 months. While these terms may be default periods, CUPA will allow good faith flexibility by including consideration of ability of the customer to pay, length of time over which the past due balance accumulated, payment history, and size of unpaid balance.

24. AMP customers who make timely payments and stay current with their monthly water/wastewater bill, including the DPA portion of their bill, for half of the months of the AMP term will have the remaining monthly DPA payments forgiven. In the next base rate case, the company will present an analysis and costs to implement changes to its billing system that would allow customers on an active AMP to select an alternate billing due date. Should such AMP feature be approved by the Commission, and the costs to implement the changes are deemed reasonable, such costs would be recoverable as a component of the Company's cost of service.

25. If the customer defaults on the DPA, normal collections processes apply. The customer may request to establish a new DPA (not an AMP DPA) for any then-current past due balance. The customer may be eligible for an AMP DPA to be implemented 12 months after default of a previous AMP DPA.

26. If the customer defaults on the DPA, then all payments made by the customer to satisfy the customer's obligations under the DPA will contribute towards satisfying the customer's overall arrearage (*e.g.*, if a customer makes monthly payments totaling \$250 of their \$500 requirement under the AMP with a \$1,000 overall arrearage balance, then the customers arrearage balance upon default would be \$750.)

27. The AMP will be indifferent as to how or who makes payments on the balance.

28. Customers who apply for or are approved for the Low-Income Program will be informed of the AMP and offered an opportunity to participate in the AMP in conjunction with the Low-Income Program outreach.

29. If a CUPA customer contacts CUPA or Dollar Energy Fund (“DEF”) regarding an issue with paying their bill or signing up for either the AMP or the low-income program, the customer shall be informed of both programs, including eligibility requirements.

I. Integration Customer Protection Deferral Mechanism

30. CUPA shall set up a deferral account, “Integration Customer Protection Deferral Mechanism,” which will capture accrued costs and benefits of integration that occur for five years after the closing date. All parties reserve their rights to challenge recovery of any deferred amounts in future rate proceedings.

J. Water Quality & Service Issues

31. Regarding Unaccounted for Water (“UFW”) mitigation and reporting:
- a. For all systems, the Company will perform annually system wide leak detection and any associated repairs unless the individual system has an average UFW that is below 20% for the previous 6 months.
 - b. For Penn Estates, the company is currently working with GHD, an engineering firm, to design and implement virtual district metering areas (“vDMA”) at Penn Estates utilizing the existing hydraulic model. The vDMAs serve to split the system into smaller zones, which will allow for ongoing monitoring and quicker response times to locate and repair leaks. Before the next rate case, CUPA will provide OCA, I&E, and OSBA with an update on the implementation of the vDMA project.
 - c. CUPA will submit PUC Form 500 method using gallons/year units instead of gallons/day.
 - d. CUPA will submit an individual Form 500 for each of its systems.
 - e. In future rate cases, CUPA will continue to provide a breakdown of lost and unaccounted for water by system detailing all identified causes as per the previous base rate case settlement.

f. CUPA shall provide quarterly updates regarding their UFW by system to the OCA and the Commission until CUPA files its next base rate case.

32. Before the next rate case, CUPA will provide an update to OCA, I&E, and OSBA on the implementation of the recommendations from the engineering study and hydraulic analysis to address low and high pressure in Penn Estates.

33. CUPA will submit with its next rate case documentation that identifies the isolation valves that need to be located, uncovered, repaired and/or replaced in the following year.

34. The Company will have GHD develop a hydraulic model utilizing existing data for its Tamiment system. The hydraulic model will then be used to evaluate the fire suppression flows available throughout the Tamiment system before the next base rate case. Monthly unmetered public fire protection rates will not be decreased.

35. The Company will present a no-fee payment option for online payments in the next base rate case. Under this methodology, customers would not be directly charged an additional fee at the time of payment. Instead, these expenses will be recovered by CUPA directly under the O&M expenses in the cost of service.

K. Capital Reporting Requirements

36. CUPA will file and serve upon I&E, the OCA, and OSBA an updated CUPA Schedule A-1, Columns A-G, lines 1-50 (water) and 51-119 (wastewater) no later than November 1, 2024, that will include actual capital expenditures, plant additions, and retirements by month for the twelve months ending July 31, 2024.

37. CUPA will provide an additional update for the 12 months ending July 31, 2025, no later than November 1, 2025.

L. Standard Terms

38. The Commission's approval of the Settlement Terms shall not be construed as approval of any Joint Petitioner's position on any issue but rather as an agreed-to compromise of

the Joint Petitioners' competing positions. It is understood and agreed among the Joint Petitioners that the Settlement Terms are the result of compromise and do not necessarily represent the position(s) that would be advanced by any Joint Petitioner in this or any other proceeding, if it were fully litigated. Accordingly, the Settlement Terms may not be cited as precedent in any future proceeding, except to the extent required to implement or enforce any Settlement Term herein.

39. This Settlement is presented without prejudice to the position any of the Joint Petitioners may advance in future proceedings, except to the extent necessary to effectuate or enforce any term specifically agreed to by the Joint Petitioners in this Settlement.

40. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. In reaching this Settlement, the Joint Petitioners thoroughly considered all issues and give and take of positions. As a result of that consideration, the Joint Petitioners believe that the settlement agreement meaningfully addresses all such issues raised and therefore should be approved without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within five (5) business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw the Settlement as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

41. If the ALJ, in the Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions. However, to the extent any terms and conditions of the Settlement are modified, or additional matters are proposed by the ALJ in the Recommended Decision, the Joint

Petitioners do not waive their rights to file Exceptions in support of the Settlement. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed provided such Replies support the Settlement.

42. The Joint Petitioners recognize that this Joint Petition is a settlement of, and binding upon, only the parties signing this document. The OCA represents it will, on the date of the signing of this settlement petition, send a letter providing instructions concerning the Complainants' opportunity to address the proposed Settlement. OCA also represents that the letter will explain that the Complainant has until May 15, 2024, to join, disagree but not actively oppose, or object to the Settlement and provides contact information for the Presiding Officers and the OCA.

43. The Joint Petitioners agree that this document may be signed or executed in separate counterparts or signature pages that shall be binding upon the Joint Petitioners and such counterparts shall be considered as one document.

44. The Joint Petitioners agree and request that if the Settlement is approved, the OCA and OSBA's respective Formal Complaints in this matter should be marked satisfied and closed due to the Settlement.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

45. The proposed Settlement provides a reasonable resolution of these consolidated proceedings. This Settlement was achieved by the Joint Petitioners after an extensive investigation of CUPA's filings, including informal and formal discovery and the submission of direct, rebuttal, surrebuttal and rejoinder testimony by the Joint Petitioners, and exhaustive settlement negotiations. The Joint Petitioners in this proceeding had substantially different views on many issues in this proceeding, including rate design principles. Where the Joint Petitioners agreed, with regard to the need for certain improvements, investigation and reporting, the Settlement adopts those requirements and commitments. The Joint Petitioners were able to reach a balanced compromise on the issues addressed by the Settlement. Further, the Settlement addresses certain

recommendations by the I&E and OCA that will enhance service and provide additional information to the parties prior to the Company's next base rate filing.

46. The Settlement is consistent with Commission policies promoting negotiated settlements. The Joint Petitioners arrived at the Settlement, after conducting extensive discovery and numerous in-depth discussions. The Settlement constitutes reasonably negotiated compromises on the issues addressed. Thus, the Settlement is consistent with the Commission's rules and practices encouraging settlements, 52 Pa. Code §§ 5.231, 69.391, 69.401-69.406, and is supported by a substantial record.

47. The Settlement produces just and reasonable rates that demonstrate gradualism, while still allowing CUPA adequate revenue and rate of return, particularly given that the Settlement addresses low-income programs for both water and wastewater customers, which was a contested issue in this proceeding.

48. Moreover, CUPA, having made significant investment and planning additional investments through the FPFTY to modernize its facilities and infrastructure and the provision of service, is receiving approximately 17% less than the as-filed for increase, while agreeing to various settlement provisions to increase adequacy of service. *See* CUPA St. 5 at 5:18 – 19:11.

49. The Settlement also achieves, in large part, full consolidation of the Company's water and wastewater rates amongst its various divisions, while also mitigating impacts to customers in various ways⁵. First, by virtue of the reduced revenue requirement, rates are lower than originally proposed. Moreover, a larger amount of the increase has been assigned to the volumetric charges than CUPA's litigation position, rather than the fixed customer charge, thus providing customers increased opportunity to reduce their bills through conservation measures.

⁵ Based upon principles of gradualism, the Joint Petitioners have agreed not to consolidate the water availability fee applied to customers of Penn Estates and Tamiment. *See* App. B, Pg. 6, 11A. The Penn Estates availability fee is increasing by \$12.48, from \$18.18 to \$30.66, or by approximately 69%, The Tamiment availability fee is increasing by \$8.87, from \$9.31 to \$18.18, or by approximately 95%.

Additionally, for low-income customers, who will be most impacted by any rate increase, the Settlement provides for a 45% discount to both the fixed monthly charge and volumetric charge, for both water and wastewater rates, which is 10% greater than the discount originally proposed. The Company will also be establishing its AMP, which will provide arrearage forgiveness of a portion of arrearages for qualifying customers that are able to make payments towards their arrearage balance, in addition to their monthly bills, on time and in full. In sum, these modifications will help to offset the rate increases for those most impacted.

50. To the extent quality of service issues raised in these proceedings were not resolved through the provision of additional evidence, the Settlement provides for further resolution of those issues, reflecting CUPA's agreement to various requests I&E and OCA made in their testimony to address these issues, including: reporting requirements related to unaccounted for water, projects to address low and high pressure in Penn Estates, isolation valve replacement, and an agreement to develop a hydraulic model to evaluate fire suppression flows throughout the Tamiment system.

51. Acceptance of the Settlement will also avoid the necessity of further administrative, and possibly appellate, proceedings, regarding the settled issues at what would have been a substantial cost to the Joint Petitioners and CUPA's customers.

52. Lastly, the Settlement is the result of extensive direct, rebuttal, surrebuttal, and rejoinder testimony that was admitted into the record. In total, the terms and provisions of the Settlement represent reasonable compromises on the issues supported by that substantial testimony and evidence.

53. The Joint Petitioners have submitted, along with this Settlement, their respective Statements in Support setting forth the basis upon which each believes the Settlement to be fair, just, and reasonable and, therefore, in the public interest. The Joint Petitioners' Statements in Support are attached hereto as **Appendix G – Appendix J**.

IV. CONCLUSION

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request that the Presiding Officers approve the Settlement as set forth herein, including all terms and conditions, without modification, and find that the terms of the Settlement are in accordance with the law and are in the public interest.

Respectfully submitted,

/s/Whitney E. Snyder

(Dated) 04/26/2024

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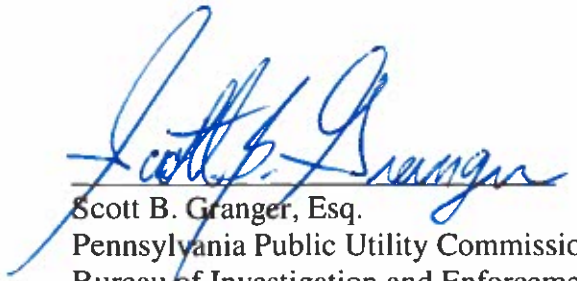
Counsel for Community Utilities of Pennsylvania Inc.

/s/Harrison W. Breitman

(Dated) 04/26/2024

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APPENDICES

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APPENDIX A

**PROCEDURAL HISTORY
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**APPENDIX A PROCEDURAL HISTORY, PROPOSED CONCLUSIONS OF LAW,
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PROCEDURAL HISTORY

1. On November 9, 2023, Community Utilities of Pennsylvania Inc. (“CUPA” or the “Company”) filed Supplement No. 13 to Tariff Water – Pa. P.U.C. No. 1 (“Supplement No. 13”) to become effective January 9, 2024, unless permitted by order of the Pennsylvania Public Utility Commission (“Commission” or “PUC”) to become effective at an earlier date. Supplement No. 13 would increase CUPA’s total annual operating revenues for water service by approximately \$1,470,360, or 62.29%, over Fully Projected Future Test Year (“FPFTY”) levels at present rates. The Commission docketed this filing at Docket No. R-2023-3042804.

2. On November 9, 2023, CUPA filed Supplement No. 11 to Tariff Wastewater – Pa. P.U.C. No. 1 (“Supplement No. 11”) to become effective January 9, 2024, unless permitted by Commission order to become effective at an earlier date. Supplement No. 11 would increase CUPA’s total annual operating revenues for wastewater service by approximately \$1,738,944, or 50.83%, over FPFTY levels at present rates. The Commission docketed this filing at Docket No. R-2023-3042805.

3. On November 13, 2023, the Commission’s Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance in both general base rate filing proceedings.

4. On November 22, 2023, CUPA filed its Proofs of Publication of Customer Notice of Base Rate Increase evidencing publication of the customer increase notice in newspapers of general circulation in the various service territories.

5. On November 29, 2023, the Office of Small Business Advocate (“OSBA”) filed Formal Complaints, Public Statements, Verifications, and Notices of Appearances in both general base rate filing proceedings.

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6. On December 8, 2023, the Office of Consumer Advocate (“OCA”) filed Formal Complaints, Public Statements, Verifications, and Notices of Appearances in both general base rate filing proceedings.

7. Formal Complaints were also filed by the following customers against Tariff Supplement No. 13: Joseph Albanese, Gail Bechtold, Joseph Bellantoni, Christina Boers, Mario Carlino, Tom Chladny, Oleg Chuchin, Rose Cocklin, Denise Cooper, Christine Corbissero, Nicholas Corforte, Margaret Creo, Nanette De Bartolo, Linda DiGregorio, Richard and Suan DiPiazza, Ryan Ellison, Rich Franzson, Scott and Vicky Furey, Catherine Gilchrist, Ernesha Holloway, John Hoopingarner, Jenny Howard, Steven and Carol Krauss, Rafail Kovalenko, Cassandra Kramer, David Lambie, Patricia Lathrop, Gregory Leone, George and Miriam Lingg, Susan Maeri, Anna Majewski, Kristen Martin, Peter Mauro, Patricia Merrill, Grace Moro, Craig Morris, Brian Morrison, Suzie Napolitano, Christ and Carol Nielsen, Susan Nikolaou, Natalie Ortiz, Thomas and Patricia Parillo, Anna Paryzki, Grazyna Paryzka, Penn Estates POA, Inc., Petricia Perville-Davy, Antonia and Ramon Rivas, Thomas Romano, Mary Rossetti, Michael Sanfilippo, Raju Shah, Larissa Shin, Angela Tam, and Monica Wagner.

8. Formal Complaints were also filed by the following customers against Tariff Supplement No. 11: Joseph Albanese, Gail Bechtold, Joseph Bellantoni, Christina Boers, Ernesha Bolden, Laura Brennan, Rene Bressant, Lynn Buckingham, Mario Carlino, Oleg Chuchin, Rose Cocklin, Denise Cooper, Christine Corbissero, Nicholas Corforte, Nanette De Bartolo, Linda DiGregorio, Richard and Suan DiPiazza, Ryan Ellison, David Fardig, Brian Fenimore, Rich Franzson, Scott and Vicky Furey, Catherine Gilchrist, John Hoopingarner, Jenny Howard, Steven and Carol Krauss, Rafail Kovalenko, Cassandra Kramer, Patricia Lathrop, Gregory Leone, George and Miriam Lingg, Susan Maeri, Anna Majewski, Kristen Martin, Peter Mauro, Daniel McKoy,

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Patricia Merrill, Grace Moro, Craig Morris, Brian Morrison, Suzie Napolitano, Christ and Carol Nielsen, Susan Nikolaou, Thomas and Patricia Parillo, Penn Estates POA, Inc., Tigran Petrosian, Antonia and Ramon Rivas, Thomas Romano, Mary Rossetti, Michael Sanfilippo, Larissa Shin, Monica Wagner, Christopher Williams, and Robert Zwahlen.

9. On December 15, 2023, the OCA filed a letter with the support of I&E requesting that the Commission exercise its discretion to designate the August 1, 2024 Public Meeting as the date for the issuance of a Commission order for purposes of setting a procedural schedule, rather than the July 11 Public Meeting, which would provide additional time for the parties to litigate this proceeding.

10. On December 19, 2023, CUPA filed a letter indicating that it was willing, on a limited and one time basis and contingent upon retroactive recovery of any foregone rate increase, to extend the suspension date to August 22, 2024, for rates to be effective August 23, 2023, which would allow the Commission to utilize an August 1 Public Meeting date and provide the Commission an additional 15 business days for subsequent order drafting and review.

11. On December 21, 2023, pursuant to 66 Pa. C.S. § 1308(d), the Commission suspended both rate filings by operation of law until August 9, 2024, unless permitted by Commission order to become effective at an earlier date (“Suspension Order”). The Suspension Order did not address the OCA’s letter request or CUPA’s letter regarding the voluntary extension of the suspension period.

12. On December 27, 2023, a Call-In Telephone Prehearing Conference Notice was issued by the Commission setting an initial telephonic prehearing conference for both rate filings for January 11, 2024. A Prehearing Conference Order was subsequently issued by the Presiding Officers on December 29, 2023, setting forth rules that would govern the prehearing conference

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and directing the parties to the proceedings to file prehearing conference memoranda by noon, January 9, 2024.

13. On December 28, 2023, the Company filed Supplement No. 15 to Tariff Water – Pa. P.U.C. No. 1 and Supplement No. 13 to Tariff Wastewater – Pa. P.U.C. No. 1 (“Suspension Tariffs”) in compliance with the Commission’s Suspension Order.

14. On January 9, 2024, prehearing conference memoranda were filed by CUPA, I&E, the OCA, and OSBA. No prehearing conference memoranda were filed by CUPA consumer complainants.

15. On January 11, 2024, a telephonic prehearing conference was held as scheduled. The following parties were present at the prehearing conference: CUPA, I&E, OCA, and OSBA. No consumer complainant appeared at the prehearing conference.

16. On January 19, 2024, a Public Input Hearings Notice was issued by the Commission.

17. On January 25, 2024, the Presiding Officers issues a Scheduling Order consolidating both rate increase filings, granting CUPA’s voluntary offer to extend the suspension period from August 9, 2024, to August 22, 2024, contingent upon CUPA being permitted to recover approved rates from the original suspension deadline date through the effective date of Commission-approved rates, modifying the Commission’s discovery regulations, setting a litigation schedule, and scheduling public input hearings.

18. On January 26, 2024, an In-Person Evidentiary Hearing Notice was issued by the Commission.

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19. On January 31, 2024, the Company filed its Proofs of Publication of Public Input Hearings demonstrating publication of the public input hearings notice in several newspapers of general circulation in the Company's service territory.

20. On January 31, 2024, the Company filed a Motion for Protective Order seeking to protect against non-authorized disclosure of proprietary information that is filed in the consolidated proceedings.

21. On February 2, 2024, the Presiding Officers issued an Order Granting Motion for Protective Order.

22. On February 2, 2024, the Company filed Supplement No. 16 to Tariff Water – Pa. P.U.C. No. 1 and Supplement No. 14 to Tariff Wastewater – Pa. P.U.C. No. 1, suspending the effective date of rates as issue in these proceedings until August 22, 2024.

23. Between January 30, 2024, and February 1, 2024, six public input hearings were convened, four of which were in-person and two of which were telephonic.

24. On February 6, 2024, I&E, the OCA, and OSBA each pre-served Direct Testimony.

25. On March 5, 2024, the Company, I&E, and OCA each pre-served Rebuttal Testimony.

26. On March 19, 2024, the Company, I&E, OCA, and OSBA each pre-served Surrebuttal Testimony.

27. On March 25, 2024, the Company pre-served its written Rejoinder Testimony.

28. On March 26, 2024, Company counsel e-mailed the Presiding Officers that the Company, I&E, the OCA, and OSBA had all agreed to waive cross examination of all witnesses and requested that the Presiding Officers excuse all witnesses, cancel the hearings, and allow for

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the submission of all pre-served testimony and exhibits into the record by way of a Joint Stipulation for Admission of Evidence.

29. On March 26, 2024, the Presiding Officers granted the parties request cancelling the evidentiary hearings and directing the parties to file a Joint Stipulation for Admission of Evidence.

30. On March 24, 2024, the Commission issued a Hearing Cancellation Notice.

31. On April 1, 2024, the Company, I&E, the OCA, and OSBA filed their Joint Stipulation for Admission of Pre-Served Testimony and Exhibits into the Evidentiary Record seeking to admit into the evidentiary record of this proceeding the previously served written testimony and exhibits prepared by CUPA, I&E, the OCA, and OSBA.

32. On April 2, 2024, the Presiding Officers issued an Order Granting Joint Stipulation and Admitting Evidence.

33. On April 18, 2024, the Presiding Officers issued a Revised Order Granting Joint Stipulation and Admitting Evidence clarifying that OSBA filed both public and confidential versions of OSBA Statement No. 1 – Direct Testimony of Justin Bieber.

34. On April 26, 2024, CUPA, I&E, the OCA, and OSBA filed a Joint Petition for Full Settlement of Rate Proceedings, which proposes to resolve all issues raised in this proceeding with accompanying statements in support from each party.

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PROPOSED FINDINGS OF FACT

1. CUPA is a certificated Pennsylvania public utility providing water service to approximately 3,257 customers via nine (9) wells and more than 294,000 linear feet of water distribution main. CUPA St. 1 at 4:11-12. CUPA also purchases bulk water from the City of Bethlehem for a portion of its customers located in Hanover Township in Northampton County, Pennsylvania. CUPA St. 1 at 4:12-14. Altogether, CUPA provides water service to three service territories in Pennsylvania, formerly known as Penn Estates Utilities, Inc. (“Penn Estates”), Utilities Inc. - Westgate (“Westgate”), and Pennsylvania Utility Company (“Tamiment”). CUPA St. 2 at 2:12-13.

2. CUPA is also certificated by the Commission to provide wastewater service and provides service to approximately 3,832 customers via three (3) wastewater treatment plant facilities and a complex network of collection mains and wastewater lift stations. CUPA St. 1 at 4:11-16. Altogether, CUPA provides wastewater service to three service territories in Pennsylvania, Penn Estates, Utilities Inc. of Pennsylvania (collectively, “Consolidated Service”), and Tamiment.

3. I&E was created by the Commission pursuant to 66 Pa. C.S. § 308.2(a)(7) as the prosecutory bureau for purposes of, *inter alia*, representing the public interest in ratemaking matters before the Office of Administrative Law Judge. *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011), at 4-5.

4. The OCA is empowered to represent the interests of Pennsylvania consumers before the Commission, pursuant to Act 1976-161 of the General Assembly, as amended, 71 Pa. C.S. §§ 3-901 *et seq.*

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5. OSBA is authorized by the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 – 399.50, to represent the interests of small business consumers of utility services in matters before the Commission.

6. CUPA's original base rate filings requested an increase in its water rates of \$1,470,360 and wastewater rates of \$1,738,944, or a 54.66% and 62.29% increase, respectively, over the FPFTY levels at present rates. CUPA St. 2 at 3:11-15; *see also* Filing Schedules, Lead Financial Exhibits, Sch. B, Pg. 1. As part of this proceeding, CUPA proposed full consolidation of the rates charged to customers in its Tamiment service territory with rates charged to CUPA's other customers for both water and wastewater. CUPA St. 1 at 12:14-16. For water, CUPA proposed increases to both the fixed customer charges and volumetric rates. CUPA St. 7, Exh. SAM-2 at 20. For wastewater, CUPA proposed a fixed customer charge and volumetric rates for all customers on a consolidated basis. CUPA St. 7, Exh. SAM-3 at 14.

7. The bill impacts of CUPA's initial proposal on monthly water bills are set forth in CUPA St. 7, Exh. SAM-2 at 16 – 19.

8. The bill impacts of CUPA's initial proposal on monthly wastewater bills are set forth in CUPA St. 7, Exh. SAM-3 at 13

9. CUPA also proposed modifications to its Low-Income Program, including increasing the income eligibility requirement from 100% to 200% of the FPL and establishing a low-income volumetric rate for its wastewater residential customers. CUPA St. 2 at 15:4.

10. CUPA also proposed an Arrearage Management Program, or AMP, for its water and wastewater customers, which would allow qualifying customers with a past-due balance greater than \$400 to have a portion of their past due balances forgiven after demonstrating an ability to cover current bills. CUPA St. 6 at 7:2-15.

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11. As part of this filing, CUPA proposed the establishment of an Integration Customer Protection Deferral Mechanism to capture the accrued costs and integration benefits associated with the merger of SW Merger Acquisition Corp. (“SWMAC”) and Corix Infrastructure (US) Inc. (“Corix US”), a subsidiary of CII and an indirect parent of CUPA, and the creation of Intermediate Newco, a subsidiary of the newly merged SWMAC and Corix US, which will acquire indirect control of CUPA (“Merger”). CUPA St. 6 at 10:6-7. As part of its proposal, the Company was not seeking to reflect any benefits and costs to achieve those benefits in this proceeding, but was seeking to establish a deferral mechanism that will accumulate benefits and costs to achieve those benefits which would then be addressed in future rate cases. CUPA St. 6-RJ at 3:11-16.

12. The OCA, I&E, and OSBA each made different proposals regarding, among other things, the Company’s proposed revenue increase, the proposed rate design, the Company’s proposed modifications to the Low-Income Program, the Company’s proposed AMP, and the Company’s proposed Integration Customer Protection Deferral Mechanism. The OCA, I&E, and OSBA also proposed various adjustments to CUPA’s operating expenses. The OCA, I&E, and OSBA also proposed lower rates of return than what CUPA proposed.

13. At the public input hearings, customers alleged the following service-related concerns:

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Tamiment Service Territory	<u>Water Service</u>
	Broken Shut-Off Valve
	Low Water Pressure
	Water Quality, Drinkability, and Sediment
	Issues
	Cost of Water
Penn Estates Service Territory	Lack of Fire Protection
	<u>Wastewater Service</u>
	Odor from Lift Station
	Sewer Back Flow and
	Grinder Pumps
Westgate Service Territory	Water Quality, Drinkability
	Low Water Pressure
	Fluctuating Bills
	Boil Water Advisories
	Third-Party Deliveries of Water
	Forecasting and Budgeting for Future Projects
Westgate Service Territory	Water Quality, Drinkability
	High Bills
	Low Water Pressure
	Lack of Fire Protection

CUPA St. 4-R at 10:1-22.

14. In their testimonies, OCA and I&E also raised various issues regarding CUPA's service, including issues related to unaccounted for water, system pressure, isolation valves, fire hydrants, and boil water advisories. *See* CUPA St. 4-R at 1:9-13. Based on the testimony heard at the public input hearings, the OCA also recommended that the Company address the issues raised by consumers. OCA St. 1 at 18:3-5.

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15. In rebuttal and rejoinder testimony, CUPA provided its perspective of its service record, steps taken to resolve service issues, and ongoing work to upgrade service, as detailed in the following paragraphs.

Customer Communications

16. OCA witness Fought reviewed the Company's customer complaint logs for the period August 1, 2023, through January 21, 2024, and found that CUPA adequately addressed customer complaints. OCA St. 5 at 23:14-17.

17. When a customer calls customer service their complaint is logged within the company's customer database ("CC&B"). Customer service may address the complaint as appropriate. If customer service is unable to resolve the complaint, a Field Activity ("FA") is generated and dispatched to operations. Operations receives the FA through their field-based platform ("OMS") and contacts the customer. The complaint is addressed and escalated to management if needed. The FA is updated with corrective actions taken and closed out. The completed FA remains in CC&B and OMS. The Company requires that field operators complete and close out FAs at a rate of 95% or greater per quarter. CUPA St. 4-RJ at 2:14-22.

18. 2023 FA completion rates for Tamiment are as follows:

Tamiment	
Quarter	FA Completion Rate
2023, Q1	100%
2023, Q2	98%
2023, Q3	100%
2023, Q4	99%

CUPA's 2023 FA completion rates for Penn Estates are as follows:

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Penn Estates	
Quarter	FA Completion Rate
2023, Q1	99%
2023, Q2	99%
2023, Q3	99%
2023, Q4	99%

CUPA's 2023 FA completion rates for Westgate are as follows:

Westgate	
Quarter	FA Completion Rate
2023, Q1	99%
2023, Q2	100%
2023, Q3	98%
2023, Q4	98%

CUPA's 2023 FA completion rates for Broad Run are as follows:

Broad Run	
Quarter	FA Completion Rate
2023, Q1	100%
2023, Q2	100%
2023, Q3	96%
2023, Q4	100%

The average 2023 CUPA FA completion rate for all systems is 99%. CUPA St. 4-RJ at 2:22 – 3:4.

19. The Company can also be contacted 24/7 by customers experiencing issues with their water service. When the Company receives a water quality complaint, if the investigation indicates flushing will address the complaint, it is common practice to flush the water pipes within the area the complaint was made. If the Company is notified that the issue still exists despite flushing, the Company investigates the complaint further. This investigation generally consists of, but is not restricted to, investigating: (1) the customer's internal plumbing and water related appurtenances; (2) historical water distribution and source maintenance and performance; (3) source, distribution, and customer water quality tests; and (4) similar complaints in the area, if any. CUPA St. 4-RJ at 5:16 – 6:4.

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20. CUPA has also provided additional information regarding its call center performance relative to Pennsylvania customers as part of this proceeding. CUPA St. 1, Exh. NS-1.

Tamiment Service Territory – Water Service

21. CUPA's Annual Water Quality Reports for the Tamiment System showed recordkeeping and monitoring violations for 2020 and 2021, which the Company has implemented steps to prevent in the future. CUPA St. 4-R at 12:8-12; *see also* Exh. EAL-2R at 16-24. The 2022 report for Tamiment shows that CUPA had a violation for maintaining chlorine residual, which was addressed with the installation of an on-line chlorine analyzer that notifies operations when chlorine reaches a specific residual. CUPA St. 4-R at 12:12-17; *see also* CUPA St. 4-RJ at 13:15-16.

22. Between January 1, 2022, and January 29, 2024, CUPA received five calls from customers concerning the water quality in Tamiment. The Company presented evidence detailing the nature of the calls and the Company's response. CUPA St. 4-R at 11:4-18; *see also* CUPA St. 4-RJ at 4:13-21.

23. Rick Hoover testified at the public input hearings that the Company had broke his shut off valve and never restored it. Tr. at 323:19-24. These concerns were not previously brought to the Company's attention. CUPA St. 4-R at 14:1-2. The Company presented evidence detailing the circumstances surrounding Mr. Hoover's issue and the steps the Company took to correct it. CUPA St. 4-R at 13:3-20.

24. Tamiment's normal operating pressure is within 25 pounds per square inch gauge ("p.s.i.g.") and 125 p.s.i.g from 2020 to 2023. CUPA St. 4-R at 14:8-10.

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25. The lowest pressure in the Tamiment water system is located at Tank 3 in The Glen. The tank located in The Glen has a rehabilitation project to be completed by end of 2024. CUPA St. 4-R at 14:13-19.

26. Hardness levels greater than 150 mg/L as CaCO₃ are considered hard water. CUPA St. 4-R at 15:1-4.

27. The hardness of Tamiment's water is 62.0 mg/l as CaCO₃. CUPA St. 4-R at 15:5.

28. Regarding concerns about sediment and discoloration of water in Tamiment, mineral content and discoloration is generally related to drinking water's hardness, iron and manganese content, total dissolved solids ("TDS"), and color. CUPA St. 4-R at 15:9-19.

29. The following are the results from the new well recently drilled a few feet from Tamiment's Well 1: hardness 62 mg/L as CaCO₃, iron non-detect (ND), manganese 0.011 mg/L, TDS 114 mg/L, and color <5 color units. CUPA St. 4-R at 16:1-4.

30. Regarding the chlorine content of water in its Tamiment system, CUPA operations strives to maintain Tamiment's well 1 and well 3 entry point chlorine minimums around 1.00 mg/L. In 2021, the distribution chlorine residual range was 0.90 - 2.10 mg/L, with 1.31 mg/L being the average. The 2021 chlorine residual entry point range was 1.0 - 2.21 mg/L.⁶ In 2022, the distribution chlorine residual range was 0.94 - 2.13 mg/L, with 1.36 mg/L being the average. The 2022 chlorine residual entry point range was 0.46 - 2.66 mg/L. CUPA St. 4-RJ at 14:1-7.

31. CUPA water systems are also flushed via hydrants at least once per year. CUPA St. 4-RJ at 5:13-15.

⁶ Entry point is the point at which the well water enters the distribution system. The purpose of entry point chlorine residual is to ensure that 4-log inactivation of microbes has taken place. The distribution chlorine residual is what it is out in the distribution system after entry point.

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32. In 2024, Tamiment’s Tank 3 will be taken offline, abrasive blast cleaned, repainted, and repairs will be made. A mixer will also be installed to circulate the water within the tank which will prevent ice from forming and enhance water quality by reducing sediment accumulation and water stagnation. CUPA St. 4-RJ at 6:16 – 7:2.

33. Scilianos Nikolaou raised a concern about his water filters that were used at his residence. Tr. at 333:3 – 337:15. The Company presented evidence responding to the concerns of Mr. Nikolaou and has offered to test his water before and after the filter. CUPA St. 4-R at 16:16 – 17:12; *see also* CUPA St. 4-RJ at 10:9-11.

34. John Oakes, a small business owner in the Tamiment service area raised concerns at the public input hearings about a Boil Water Advisory (“BWA”) that was issued in the Tamiment service territory on May 6, 2022. Tr. at 304:2 – 305:4.

35. A BWA was not issued for Tamiment on May 6, 2022. CUPA St. 4-RJ at 9:11-15.

Tamiment Service Territory – Wastewater Service

36. Two consumers raised concerns about an odor emanating from the Tamiment Drive Lift Station in the Company’s Tamiment service area at the public input hearings. *See, e.g.*, Tr. at 353:15 – 354:8.

37. The Company cleaned the Tamiment Drive Lift Station. CUPA St. 4-R at 18:15-21:14.

38. Dahlia Merritt raised a concern at the public input hearings that the flushing of the Company’s sewer system in her area may have caused a sewage backup in her home. Tr. at 255:8-11.

39. Dahlia Merritt’s residence has a grinder pump that discharges to the low-pressure sewer collection system in Tamiment. CUPA St. 4-RJ at 10:12-19.

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40. The Company has not flushed the Tamiment low-pressure sewer collection system since it acquired Tamiment. CUPA St. 4-RJ at 10:12-19.

41. Cindy Toscano raised concerns at the public input hearings about the Company's road patching practices when it conducts maintenance work that disturbs road pavement. OCA St. 1SR at 18:22-23. The Company presented evidence concerning Company practices and its communications with the local property associations. CUPA St. 4-RJ at 11:4-18

Penn Estates Service Territory

42. CUPA's Annual Water Quality Reports for the Penn Estates system showed one recordkeeping and monitoring violation for 2020, no violations for 2021, and one failure to maintain chlorine in 2022. Regarding the failure to maintain chlorine, on May 6, 2022, the chlorine entry point residual for Well 4 dropped to 0.00 mg/l for 10 minutes while operations was attempting to fix the chlorine pump. Distribution chlorine residual of 1.64 mg/l taken on May 6, 2022, showed sufficient chlorine residual was present in the water distribution system. All routine monthly testing of bacteria in the system showed no bacteria present. CUPA St. 4-R at 24:9-22.

43. The hardness of Penn Estate's water is 76.0 mg/l as CaCO₃. CUPA St. 4-R at 24:2.

44. Lorraine Mazzie, a consumer from Penn Estates, raised a concern that the Company's water has too much chlorine. Tr. at 120:10-18.

45. Per CUPA's water system Consumer Confidence Reports ("CCRs") from 2020, 2021, and 2022, the distribution free chlorine residual ranges from 0.3 to 2.86 mg/l with an overall average of 1.32 mg/l. CUPA St. 4-R at 11-15.

46. Regarding water pressure in Penn Estates, the Company has completed both a Water Distribution System Study and a Hydraulic Analysis to address system low and high pressures on its Penn Estates system. CUPA St. 4-R at 4:11-13.

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47. CUPA has begun work on its Penn Estates High Zone Booster Station Project with GHD. CUPA St. 4-R at 4:19-21.

48. Third party leak detection was performed November through December 2023 in Penn Estates. CUPA St. 4-R at 26:8-10.

49. The Company is continuing to investigate potential leak locations in Penn Estates CUPA St. 4-RJ at 15:22-23.

Westgate Service Territory

50. Westgate's normal operating pressure is within 25 p.s.i.g. and 125 p.s.i.g from 2013 to 2023.

51. CUPA purchases its water in the Westgate system from the City of Bethlehem. The 2020 and 2022 reports each indicate a single failure to monitor and report violation. The 2021 report indicates no violations. CUPA St. 4-R at 29:5-7.

Unaccounted for Water

52. The Westgate system's UFW stayed consistent in 2021 and 2022 at 13%. Westgate's UFW decreased to 8% in 2023. CUPA St. 4-RJ at 14-16.

53. Tamiment's UFW dropped from 55% to 44% from 2021 to 2022. The UFW continued to drop to 28% in 2023. CUPA St. 4-RJ at 17-19.

54. In 2021, 2022, and 2023, UFW in Penn Estates was 19%, 25%, and 27%, respectively. CUPA St. 4-RJ at 15:5-8; *see also* CUPA St. 4-R, Exh. EAL-1R at 2.

55. CUPA has an average UFW of 24.76%. OCA St. 1 at 12.

56. Penn Estates was surveyed for leaks by a third-party leak detection service in August 2023 and all discovered leaks were fixed. In late 2023, the Company had another third-

**APPENDIX A PROCEDURAL HISTORY, PROPOSED CONCLUSIONS OF LAW,
PROPOSED ORDERING PARAGRAPHS**

party leak detection service performed to identify leaks in the Penn Estates system. CUPA St. 4-R at 3:18-21.

Isolation Valves

57. The Company exercises 50 percent of its distribution and hydrant valves on a rotating schedule annually. Zone 1 valves are exercised on odd years and zone 2 valves are exercised on even years. CUPA St. 4 at 6:3-5; *see also* CUPA St. 4, Exh. EAL-2.

58. OCA witness Fought indicated that the Company's isolation valve exercise schedule was acceptable. OCA St. 5 at 15:18-19.

59. The Company replaced 38 distribution valves in Penn Estates, Westgate, and Tamiment from 2021 to 2023. CUPA St. 4-R at 6:1-3.

60. Tamiment and Penn Estates have capital projects to repair/replace valves scheduled in 2024. Westgate had valve replacements in 2021 and 2023. CUPA St. 4 at 6:9-13.

Fire Suppression

61. Westgate has 83 hydrants, seven of which are not capable of delivering 500 gallons per minute ("gpm") fire flow at 20 p.s.i.g. residual pressure for a 2-hour duration. The Westgate water main replacement projects will address hydrants within the replacement areas by making them capable of fire suppression. Penn Estates has 205 hydrants, fifteen of which are not capable of delivering 500 gpm fire flow at 20 p.s.i.g. residual pressure for a 2-hour duration. CUPA St. 4-R at 7:11-18.

62. CUPA acquired the Tamiment system in 2019 and did not construct or design the system. CUPA St. 4-R at 7:20-21.

**APPENDIX A PROCEDURAL HISTORY, PROPOSED CONCLUSIONS OF LAW,
PROPOSED ORDERING PARAGRAPHS**

63. Tamiment's water system was not designed or constructed to meet the current fire flow standards and the hydrants with Tamiment do not provide fire protective service. CUPA St. 4-R at 7:19-21.

64. All hydrants within Penn Estates, Westgate, and Tamiment unable to support fire suppression are visibly marked as flushing hydrants. The hydrants are marked with either a "FLUSHING ONLY" collar or with a band that says "FLUSHING HYDRANT". CUPA St. 4-R at 7:7-9.

65. The customer bill impacts resulting from the Settlement are attached as **Appendix F**.

**APPENDIX A PROCEDURAL HISTORY, PROPOSED CONCLUSIONS OF LAW,
PROPOSED ORDERING PARAGRAPHS**

PROPOSED CONCLUSIONS OF LAW

1. The Joint Petition for Full Settlement of Rate Proceedings is in the public interest.
2. The rates, terms, and conditions contained in Community Utilities of Pennsylvania, Inc.'s base rate increase filings of November 9, 2023, at Docket Nos. R-2023-3042804 (Water) and R-2023-3042805 (Wastewater), as modified by the Joint Petition for Full Settlement of Rate Proceedings, are, until changed on a going-forward basis as provided in the Public Utility Code, Commission-made, just and reasonable, and in the public interest.

**APPENDIX A PROCEDURAL HISTORY, PROPOSED CONCLUSIONS OF LAW,
PROPOSED ORDERING PARAGRAPHS
PROPOSED ORDERING PARAGRAPHS**

THEREFORE, IT IS ORDERED:

1. That the Joint Petition for Full Settlement of Rate Proceedings filed April 26, 2024, by Community Utilities of Pennsylvania, Inc., the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate is granted, and the Settlement is thereby adopted, in full, without modification or correction.

2. That Community Utilities of Pennsylvania, Inc. is authorized to file tariffs, tariff supplements or tariff revisions containing rates, rules and regulations, consistent with the Joint Petition for Full Settlement of Rate Proceedings, to produce a total increase of \$1,227,538.10 for its water operations and \$1,447,621 for its wastewater operations consistent with the rates, rules and regulations set forth in the tariff supplements included in the Joint Petition for Full Settlement of Rate Proceedings as Appendices B (Water) and C (Wastewater).

3. That Community Utilities of Pennsylvania, Inc. shall be permitted to file tariffs in the form set forth in Appendices B (Water) and C (Wastewater) to the Joint Petition for Settlement, to become effective upon at least one day's notice, for service rendered on and after August 9, 2024, so as to produce an annual increase in revenues consistent with this Order.

4. That Community Utilities of Pennsylvania, Inc., the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate shall comply with the terms of the Joint Petition for Full Settlement of Rate Proceedings submitted in this proceeding as though each term and condition stated therein had been the subject of an individual ordering paragraph.

5. That the complaints of the Office of Consumer Advocate at Docket Nos. C-2023-3044737 (Water) and C-2023-3044738 (Wastewater) are deemed satisfied and marked closed.

APPENDIX A PROCEDURAL HISTORY, PROPOSED CONCLUSIONS OF LAW, PROPOSED ORDERING PARAGRAPHS

6. That the complaints of the Office of Small Business Advocate Docket Nos. C-2024-3044494 (Water) and C-2023-3044528 (Wastewater) are deemed satisfied and marked closed.

7. That the following formal complaints at the respective docket numbers be dismissed and marked closed by the Commission's Secretary's Bureau:

Complainant	Docket Number (Water)
Joseph Albanese	C-2024-3045828
Gail Bechtold and Thomas Romano	C-2024-3045846
Joseph Bellantoni	C-2023-3045068
Christina Boers	C-2023-3044944
Mario Carlino	C-2024-3045937
Tom Chladny	C-2024-3046401
Oleg Chuchin	C-2023-3044483
Rose Cocklin	C-2023-3044507
Denise Cooper	C-2024-3045511
Christine Corbissero	C-2023-3044834
Nicholas Corforte	C-2024-3045975
Margaret Creo	C-2024-3046735
Nanette De Bartolo	C-2024-3045504
Linda DiGregorio	C-2024-3045856
Richard and Suan DiPiazza	C-2024-3045541
Ryan Ellison	C-2024-3045529
Rich Franzson	C-2024-3045982
Scott and Vicky Furey	C-2023-3044887
Catherine Gilchrist	C-2024-3045943
Ernesha Holloway	C-2024-3045359
John Hoopingarner	C-2023-3044502
Jenny Howard	C-2023-3044711
Rafail Kovalenko	C-2023-3044599
Steven and Carol Krauss	C-2024-3045910
Cassandra Kramer	C-2024-3045350
David Lambie	C-2024-3045801
Patricia Lathrop	C-2024-3045944
Gregory Leone	C-2023-3045126
George and Miriam Lingg	C-2023-3044979
Susan Maeri	C-2024-3045978
Anna Majewski	C-2024-3045535
Kristen Martin	C-2024-3045976
Peter Mauro	C-2024-3045861
Patricia Merrill	C-2024-3046298
Grace Moro	C-2024-3045802
Craig Morris	C-2024-3045534

**APPENDIX A PROCEDURAL HISTORY, PROPOSED CONCLUSIONS OF LAW,
PROPOSED ORDERING PARAGRAPHS**

Brian Morrison	C-2024-3045560
Suzie Napolitano	C-2024-3045876
Christ and Carol Nielsen	C-2024-3045553
Susan Nikolaou	C-2024-3045546
Natalie Ortiz	C-2024-3045142
Thomas and Patricia Parillo	C-2024-3045969
Anna Paryzki	C-2024-3045533
Grazyna Paryzka	C-2024-3045542
Penn Estates POA, Inc.	C-2024-3045863
Petricia Perville-Davy	C-2024-3045389
Antonia and Ramon Rivas	C-2024-3045980
Mary Rossetti	C-2023-3044561
Michael Sanfilippo	C-2023-3044480
Raju Shah	C-2024-3047313
Larissa Shin	C-2024-3045549
Angela Tam	C-2024-3045333
Monica Wagner	C-2024-3045352

Complainant	Docket Number (Wastewater)
Joseph Albanese	C-2024-3045837
Gail Bechtold and Thomas Romano	C-2024-3045847
Joseph Bellantoni	C-2023-3045149
Christina Boers	C-2023-3044945
Ernesha Bolden	C-2024-3045716
Laura Brennan	C-2024-3044709
Rene Bressant	C-2024-3045559
Lynn Buckingham	C-2024-3045354
Mario Carlino	C-2024-3045973
Oleg Chuchin	C-2023-3044484
Rose Cocklin	C-2023-3044508
Denise Cooper	C-2024-3045515
Christine Corbissero	C-2023-3044835
Nicholas Corforte	C-2024-3045974
Nanette De Bartolo	C-2024-3045510
Linda DiGregorio	C-2024-3045857
Richard and Suan DiPiazza	C-2024-3045556
Ryan Ellison	C-2024-3045531
David Fardig	C-2024-3045355
Brian Fenimore	C-2023-3044383
Rich Franzson	C-2024-3046077
Scott and Vicky Furey	C-2023-3044882
Catherine Gilchrist	C-2024-3045972

**APPENDIX A PROCEDURAL HISTORY, PROPOSED CONCLUSIONS OF LAW,
PROPOSED ORDERING PARAGRAPHS**

John Hoopingarner	C-2023-3044503
Jenny Howard	C-2023-3044712
Rafail Kovalenko	C-2023-3044649
Steven and Carol Krauss	C-2024-3045911
Cassandra Kramer	C-2024-3045356
Patricia Lathrop	C-2024-3045970
Gregory Leone	C-2023-3045127
George and Miriam Lingg	C-2023-3044993
Susan Maeri	C-2024-3045979
Anna Majewski	C-2024-3045547
Kristen Martin	C-2024-3045977
Peter Mauro	C-2024-3045862
Daniel McKoy	C-2024-3045480
Patricia Merrill	C-2024-3046299
Grace Moro	C-2024-3045803
Craig Morris	C-2024-3045782
Brian Morrison	C-2024-3045564
Suzie Napolitano	C-2024-3045877
Christ and Carol Nielsen	C-2024-3045563
Susan Nikolaou	C-2024-3045557
Thomas and Patricia Parillo	C-2024-3045971
Penn Estates POA, Inc.	C-2024-3045830
Tigron Petrosian	C-2024-3045833
Antonia and Ramon Rivas	C-2024-3045981
Mary Rossetti	C-2023-3044538
Michael Sanfilippo	C-2023-3044481
Larissa Shin	C-2024-3045561
Monica Wagner	C-2024-3045357
Christopher Williams	C-2024-3045561
Robert Zwahlen	C-2024-3045808

8. That upon acceptance and approval by the Commission of the tariffs and allocation of proposed settlement rate increase filed by Community Utilities of Pennsylvania, Inc. consistent with this Order, the Commission's investigation at Docket No. R-2023-3042804 (Water) and Docket No. R-2023-3042805 (Wastewater) shall be terminated and these dockets shall be marked closed.

APPENDIX B

SETTLEMENT WATER TARIFF

COMMUNITY UTILITIES OF PENNSYLVANIA INC.

RATES, RULES AND REGULATIONS GOVERNING

THE PROVISION OF WATER SERVICE

**TO THE PUBLIC IN STROUD AND POCONO TOWNSHIPS IN MONROE COUNTY, A
PORTION OF HANOVER TOWNSHIP IN NORTHAMPTON COUNTY, AND PORTIONS
OF LEHMAN TOWNSHIP IN PIKE COUNTY,**

PENNSYLVANIA

Service Territory Formally Known as Penn Estates Utilities, Inc., Utilities, Inc., and
Pennsylvania Utility Company

ISSUED: _____, 2024

EFFECTIVE: _____, 2024

ISSUED BY:

Nathaniel Spriggs, President
500 W. Monroe Suite 3600
Chicago, IL 60660
(800) 860-4512

NOTICE

**THIS TARIFF SUPPLEMENT INCREASES AND OR CHANGES THE SCHEDULE
OF RATES FOR ALL CUSTOMERS CONSISTENT WITH THE PUC'S ORDER AT
DOCKET NOS. R-2023-3042804 AND R-2023-3042805, RESETS THE STAS TO
ZERO, AND IMPLEMENTS THE COMPANY'S ARREARAGE MANAGEMENT
PROGRAM (SEE LEAF NO. 2)**

(C)
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Tariff Supplement No. XX increases and or changes the schedule of rates applicable to all customers consistent with the PUC’s Order at Docket Nos. R-2023-3042804 and R-2023-3042805, resets the State Tax Adjustment Surcharge (“STAS”) to zero, and implements the Company’s Arrearage Management Program (“AMP”). The increase in annual operating revenue is intended to produce an additional \$1,227,538.10 per year.

ISSUED: _____, 2024

EFFECTIVE: _____, 2024

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ISSUED: _____, 2024	EFFECTIVE: _____, 2024	

PART I: SCHEDULE OF RATES AND CHARGES
(Service Territory Formally Known as Penn Estates Utilities, Inc.)

All water supplied by the Company shall be metered and the water usage shall be paid for in accordance with the following schedule of rates:

Section A - Rates for Metered Service

Residential

1. **Customer Charge:** Each customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

<u>Meter Size</u>		
5/8 inch	\$18.18/per month	(I)
1 inch	\$30.43/per month	(D)
1 1/2 inch	\$50.90/per month	(D)
2 inch	\$75.45/per month	(D)

2. **Consumption Charge:** In addition to the customer charge, the following water consumption charges will apply:

Rate per 1,000 Gals.	\$21.12	(I)

3. **Consumption Charge (Low-Income):** In addition to the customer charge, the following water consumption charges will apply:

Rate per 1,000 Gals.	\$11.62	(I)

4. **Consumption Charge (Commercial):** In addition to the customer charge, the following water consumption charges will apply:

Rate per 1,000 Gals.	\$19.79	(C,I)

Pool

1. **Customer Charge:** Each customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

<u>Meter Size</u>		
5/8 inch	\$18.18/per month	(I)
1 inch	\$30.43/per month	(D)
1 1/2 inch	\$50.90/per month	(D)
2 inch	\$75.45/per month	(D)

2. **Consumption Charge:** In addition to the customer charge, the following water consumption charges will apply:

Rate per 1,000 Gals.	\$19.79	(I)

Rates will be payable in arrears and will be billed monthly.

(C) Indicates Change (I) Indicates Increase (D) Indicates Decrease

PART I: SCHEDULE OF RATES AND CHARGES (CONT'D)
(Service Territory Formally Known as Penn Estates Utilities, Inc.)

Clubhouse

1. Customer Charge: Each customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

Meter Size

5/8 inch	\$18.18/per month	(I)
1 inch	\$30.43/per month	(D)
1 1/2 inch	\$50.90/per month	(D)
2 inch	\$75.45/per month	(D)

2. Consumption Charge: In addition to the customer charge, the following water consumption charges will apply:

Rate per 1,000 Gals.	\$19.79	(I)

Section B - Fire Protection Rates

1. Private Fire Protection:

Not applicable.

2. Public Fire Protection:

No separate fee is charged for public fire protection.

Rates will be payable in arrears and will be billed monthly.

(C) Indicates Change (I) Indicates Increase (D) Indicates Decrease

ISSUED: _____, 2024

EFFECTIVE: _____, 2024

PART I: SCHEDULE OF RATES AND CHARGES (CONT'D)
(Service Territory Formally Known as Penn Estates Utilities, Inc.)

Section C - Returned Check Charge

A charge of \$25 will be assessed any time where a check which has been presented to the Company for payment on account has been returned by the payor's bank for any reason.

Section D - Availability Rates

The flat rate availability charge for a lot upon which no structure has been erected will be \$30.66 (I) per month. These charges will be payable in arrears and will be billed quarterly.

Section E - Service Termination or Resumption Rates

The fee for shut-off or turn-on of service at the curb stop shall be \$30.00 during regular business hours and \$75.00 during non-regular business hours.

Section F - Meter Test Rates

Consistent with Commission regulation at 52 Pa. Code §65.8(h), the fee schedule for testing of meters shall be as follows:

1 inch or less	\$10.00
1 1/4 inch - 2 inch	\$20.00

These amounts may vary without revision of this tariff so as to be consistent with Commission regulations.

Fees for testing meters over 2 inches or for testing meters so located that testing costs are disproportionate to the stated fees shall be as established by the Company based upon the actual cost of the test.

Section G – Tampering Fee

Unauthorized connections, repairs, or other tampering with the system will render the service subject to immediate discontinuation without notice and water service shall not be restored until such unauthorized connections, repairs, and other tampering with the system have been removed and unless settlement is made in full and for water service estimated by the Company to have been used by reason for such unauthorized connection. The fee for these unauthorized connections, repairs, and system tampering shall be \$200 plus any actual costs to repair.

(I) Indicates Increase

PART I: SCHEDULE OF RATES AND CHARGES (CONT'D)(Service Territory Formally Known as Utilities, Inc. - Westgate)

All water supplied by the Company shall be metered and the water usage shall be paid for in accordance with the following schedule of rates:

Section A - Rates for Metered Residential Service

1. Customer Charge: Each customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

Meter Size

5/8 inch	\$18.18/per month	(I)
1 inch	\$30.43/per month	(D)
1 1/2 inch	\$50.90/per month	(D)
2 inch	\$75.45/per month	(D)

2. Consumption Charge: In addition to the customer charge, the following water consumption charges will apply:

Rate per 1,000 Gals.	\$21.12	(I)

3. Consumption Charge (Low-Income): In addition to the customer charge, the following water consumption charges will apply:

Rate per 1,000 Gals.	\$11.62	(I)

Purchased Water Adjustment Clause

A Purchased Water Adjustment Clause of \$0.00 per 1,000 gallons is applied to metered sales.

Section B - Rates for Metered Commercial Service

1. Customer Charge: Each metered commercial customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

Meter SizeCustomer Charge per Month

5/8 inch	\$18.18/per month	(I)
1 inch	\$30.43/per month	(D)
1 1/2 inch	\$50.90/per month	(D)
2 inch	\$75.45/per month	(D)
6 inch	\$207.55/per month	(I)

2. Consumption Charge: In addition to the customer charge, the following water consumption charges will apply:

Rate per 1,000 Gals.	\$19.79	(I)

Purchased Water Adjustment Clause

A Purchased Water Adjustment Clause of \$0.00 per 1,000 gallons is applied to metered sales.

(C) Indicates Change (I) Indicates Increase (D) Indicates Decrease

Part I: SCHEDULE OF RATES AND CHARGES (CONT'D)
(Service Territory Formally Known as Public Utility Company – Lehman Township, Pike County)

Section A - Rates for Service

The charge per residential dwelling unit for water service per month as follows:

Residential (Metered Rate):

1. Customer Charge: Each customer will be assessed a customer service charge based upon the size of the customer's meter as follows: (C)

<u>Meter Size</u>		
5/8 inch	\$18.18/per month	(C)
1 inch	\$30.43/per month	(I)
1 1/2 inch	\$50.90/per month	(I)
2 inch	\$75.45/per month	(I)

2. Consumption Charge: In addition to the customer charge, the following water consumption charges will apply:
Rate per 1,000 Gals. \$21.12 (I)
3. Consumption Charge (Low-Income): In addition to the customer charge, the following water consumption charges will apply:
Rate per 1,000 Gals. \$11.62 (I)

Commercial (Metered Rate):

Customer Charge: Each metered commercial customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

<u>Meter Size</u>	<u>Customer Charge per Month</u>	
5/8 inch	\$18.18/per month	(D)
1 inch	\$30.43/per month	(D)
1 1/2 inch	\$50.90/per month	(D)
2 inch	\$75.45/per month	(D)
6-inch	\$207.55/per month	(I)

2. Consumption Charge: In addition to the customer charge, the following water consumption charges will apply:
Rate per 1,000 Gals. \$19.79 (I)

(C) Indicates Change (D) Indicates Decrease (I) Indicates Increase

Part I: SCHEDULE OF RATES AND CHARGES (CONT'D)
(Service Territory Formally Known as Public Utility Company – Lehman Township, Pike
County)

Booster Pumps. In certain sections of the development, customers will be required to install booster pumps to maintain adequate pressures. In such circumstances where booster pumps are required, it shall be the customer's responsibility to purchase, install, operate, maintain, repair and replace the booster pump at each residential premises.

Section B - Availability Rates

The flat rate availability charge for a lot upon which no structure has been erected will be \$18.11 (I)
per month. These charges will be payable in arrears and will be billed quarterly.

(C) Indicates Change (I) Indicates Increase (D) Indicates Decrease

PART I: SURCHARGE

STATE TAX ADJUSTMENT SURCHARGE

In addition to the charges provided in this tariff, a surcharge of 0.00% will apply to all charges for (I) service rendered on or after the effective date of this tariff.

The above surcharge will be recomputed, using the same elements prescribed by the Commission.

- a. Whenever any of the tax rates used in the calculation of the surcharge are changed.
- b. Whenever the utility makes effective any increased or decreased rates; and
- c. On March 31, 1999, and each year thereafter.

The above recalculation will be submitted to the Commission within 10 days after the occurrence of the event or date which occasions such recomputation; and, if the recomputed surcharge is less than the one then in effect, the Company will, and if the recomputed surcharge is more than the one in effect, the Company may, submit with such recomputation a tariff or supplement to reflect such recomputed surcharge, the effective date of which shall be 10 days after filing.

(C) Indicates Change (I) Indicates Increase (D) Indicates Decrease

ISSUED: _____, 2024

EFFECTIVE: _____, 2024

PART I: RECOUPMENT SURCHARGE

Pursuant to Paragraph No. 8 of the Joint Petition for Full Settlement of Rate Proceedings that was approved by the Commission's Final Order entered _____, 2024 at Docket Nos. R-2023-3042804 and R-2023-3042805 ("Rate Case Final Order"), the Company is entitled to recoup the revenue increase not billed from August 9, 2024 through the effective date of new rates in the above-referenced proceeding. The Company will calculate the recoupment period as the base rate revenues not billed between August 9, 2024, and the effective date of new rates.

(C)

This surcharge will apply to all customers' bills, excluding public fire protection service, for a six month period. The surcharge will be billed equally to the Company's customer classes, exclusive of amounts billed for public fire protection service, the State Tax Adjustment Surcharge revenues, Deferred Tax Credit and automatic adjustment clause revenues.

The recoupment surcharge shall not take effect if the Commission's Final Order is entered on or before August 9, 2024.

(C)

(C) Indicates Change (I) Indicates Increase (D) Indicates Decrease

ISSUED: _____, 2024

EFFECTIVE: _____, 2024

ARREARAGE MANAGEMENT PLAN

Customers approved for CUPA's low-income rate and with a past-due balance greater than \$400 can participate in CUPA's Arrearage Management Plan ("AMP"). CUPA's AMP allows eligible customers to have a portion of their past-due balances forgiven after demonstrating an ability to cover current bills. See below for details.

- The AMP will be comprised of the total past due balance for all services – water and/or wastewater. The past due balance threshold of \$400 for participation in the AMP will be based upon this combined balance.
- AMP customers will be enrolled in a multi-month Deferred Payment Arrangement ("DPA"). A DPA allows customers to take their past-due balance and split their past-due balance over equal monthly installments.
- The default AMP period for low-income customers will be 12 months. While these terms may be default periods, CUPA will allow good faith flexibility by including consideration of ability of the customer to pay, length of time over which the past due balance accumulated, payment history, and size of unpaid balance.
- AMP customers who make timely payments and stay current with their monthly water/wastewater bill, including the DPA portion of their bill, for half of the months of the AMP term will have the remaining monthly DPA payments forgiven.
- If the customer defaults on the DPA, normal collections processes apply. The customer may request to establish a new DPA (not an AMP DPA) for any then-current past due balance. The customer may be eligible for an AMP DPA to be implemented 12 months after default of a previous AMP DPA.
- If the customer defaults on the DPA, then all payments made by the customer to satisfy the customer's obligations under the DPA will contribute towards satisfying the customer's overall arrearage (e.g., if a customer makes monthly payments totaling \$250 of their \$500 requirement under the AMP with a \$1,000 overall arrearage balance, then the customers arrearage balance upon default would be \$750.)
- The AMP will be indifferent as to how or who makes payments on the balance.
- Customers who apply for or are approved for the Low-Income Program will be informed of the AMP and offered an opportunity to participate in the AMP in conjunction with the Low-Income Program outreach.
- If a CUPA customer contacts CUPA or DEF regarding an issue with paying their bill or signing up for either the AMP or the low-income program, the customer shall be informed of both programs, including eligibility requirements.

(C) Indicates Change (I) Indicates Increase (D) Indicates Decrease

APPENDIX C

SETTLEMENT WASTEWATER TARIFF

COMMUNITY UTILITIES OF PENNSYLVANIA INC.

RATES, RULES AND REGULATIONS GOVERNING

**THE PROVISION OF WASTEWATER COLLECTION, TREATMENT
AND/OR DISPOSAL SERVICE TO THE PUBLIC IN**

**STROUD AND POCONO TOWNSHIPS IN MONROE COUNTY, A PORTION OF WEST
BRADFORD TOWNSHIP IN CHESTER COUNTY, AND PORTIONS OF LEHMAN
TOWNSHIP IN PIKE COUNTY,**

PENNSYLVANIA

Service Territory Formally Known as Penn Estates Utilities, Inc., Utilities, Inc., and
Pennsylvania Utility Company

ISSUED: _____, 2024

EFFECTIVE: _____, 2024

ISSUED BY:

Nathaniel Spriggs, President
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NOTICE

THIS TARIFF SUPPLEMENT INCREASES AND OR CHANGES THE SCHEDULE
OF RATES FOR ALL CUSTOMERS CONSISTENT WITH THE PUC'S ORDER AT
DOCKET NOS. R-2023-3042804 AND R-2023-3042805, RESETS THE STAS TO
ZERO, AND IMPLEMENTS THE COMPANY'S LOW-INCOME RATE FOR
WASTEWATER CUSTOMERS AND ARREARAGE MANAGEMENT PROGRAM
(SEE LEAF NO. 2)

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LIST OF CHANGES

Tariff Supplement No. XX increases and or changes the schedule of rates applicable to all customers consistent with the PUC’s Order at Docket Nos. R-2023-3042804 and R-2023-3042805, resets the State Tax Adjustment Surcharge (“STAS”) to zero, and implements the Company’s low-income rate for wastewater customers and Arrearage Management Program (“AMP”). The increase in annual operating revenue is intended to produce an additional \$1,447,621 per year. (C)

(C) Indicates Change (I) Indicates Increase (D) Indicates Decrease

ISSUED: _____, 2024

EFFECTIVE: _____, 2024

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PART I: SCHEDULE OF RATES AND CHARGES

Section A - Rates for Metered Service

Metered rate of \$18.00 per thousand gallons for residential flow, \$17.82 per thousand gallons for commercial flow, or \$9.90 per thousand gallons for low-income flow. All wastewater customers are subject to base charges listed within Part I, Section B. (C,I)

Section B - Customer Charges

In addition to the metered rate, a monthly customer charge of \$39.90 applies to each customer account or \$21.94 for each low-income customer account. (C,D)

Section C - Returned Check Charge

A charge of \$25 will be assessed any time where a check which has been presented to the Company for payment on account has been returned by the payor's bank for any reason.

Section D - Availability

\$22.30 per month per lot if located within Penn Estates and upon which no structure has been erected for an availability charge. This rate will continue to be billed quarterly. (D)

Section E – Tampering Fee

Unauthorized connections, repairs, or other tampering with the system will render the service subject to immediate discontinuation without notice and wastewater service shall not be restored until such unauthorized connections, repairs, and other tampering with the system have been removed and unless settlement is made in full and for wastewater service estimated by the Company to have been used by reason for such unauthorized connection. The fee for these unauthorized connections, repairs, and system tampering shall be \$200 plus any actual costs to repair.

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ISSUED: _____, 2024

EFFECTIVE: _____, 2024

PART I: SCHEDULE OF RATES AND CHARGESSection A - Rates for Metered Service

Metered rate of \$18.00 per thousand gallons for residential flow, \$17.82 per thousand gallons for (C,I) commercial flow, or \$9.90 per thousand gallons for low-income flow.

Section B - Customer Charges

In addition to the metered rate, the following customer charges apply:

Residential

Per month, per household	\$ 39.90	(C,D)

Low-Income

Per month, per household	\$21.94	(C,D)

School

Per month	\$ 771.45	(D)

All Other (Customers not identified as Residential or School)

Per month	\$ 39.90	(D)

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ISSUED: _____, 2024

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Part I: SCHEDULE OF RATES AND CHARGES (CONT'D)
(Service Territory Formally Known as Public Utility Company – Lehman Township, Pike
County)

Section A - Rates for Service

The charge per residential dwelling unit for sewer service is as follows:

Residential (Metered Rate):Customer Charge

Eagle Village (Monthly)	\$39.90	(I)
Eagle Village - Office (Monthly)	\$39.90	(I)
The Glen at Tamiment (Monthly)	\$39.90	(I)
Eagle Point (Monthly)	\$39.90	(I)

Consumption Charge	\$18.00 per thousand gallons	(I)

Consumption Charge (Low-Income)	\$9.90 per thousand gallons	(C,D)

<u>Availability Charge for Unoccupied Lots</u>	\$22.30 per Month	(I)

Commercial (Metered Rate):

Customer Charge (Monthly)	\$39.90	(I)

Consumption Charge	\$17.82 per thousand gallons	(I)

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PART I: SURCHARGE

STATE TAX ADJUSTMENT SURCHARGE

In addition to the charges provided in this tariff, a surcharge of 0.00% will apply to all charges for (I) service rendered on or after the effective date of this tariff.

The above surcharge will be recomputed, using the same elements prescribed by the Commission.

- a. Whenever any of the tax rates used in the calculation of the surcharge are changed.
- b. Whenever the utility makes effective any increased or decreased rates; and
- c. On March 31, 1999, and each year thereafter.

The above recalculation will be submitted to the Commission within 10 days after the occurrence of the event or date which occasions such recomputation; and, if the recomputed surcharge is less than the one then in effect, the Company will, and if the recomputed surcharge is more than the one in effect, the Company may, submit with such recomputation a tariff or supplement to reflect such recomputed surcharge, the effective date of which shall be 10 days after filing.

(C) Indicates Change (I) Indicates Increase (D) Indicates Decrease

ISSUED: _____, 2024

EFFECTIVE: _____, 2024

PART I: RECOUPMENT SURCHARGE

Pursuant to Paragraph No. 8 of the Joint Petition for Full Settlement of Rate Proceedings that was approved by the Commission's Final Order entered _____, 2024, at Docket Nos. R-2023-3042804 and R-2023-3042805 ("Rate Case Final Order"), the Company is entitled to recoup the revenue increase not billed from August 9, 2024, through the effective date of new rates in the above-referenced proceeding. The Company will calculate the recoupment period as the base rate revenues not billed between August 9, 2024, and the effective date of new rates.

(C)

This surcharge will apply to all customers' bills, excluding public fire protection service, for a six month period. The surcharge will be billed equally to the Company's customer classes, exclusive of amounts billed for public fire protection service, the State Tax Adjustment Surcharge revenues, Deferred Tax Credit and automatic adjustment clause revenues.

The recoupment surcharge shall not take effect if the Commission's Final Order is entered on or before August 9, 2024.

(C)

(C) Indicates Change (I) Indicates Increase (D) Indicates Decrease

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EFFECTIVE: _____, 2024

ARREARAGE MANAGEMENT PLAN

Customers approved for CUPA's low-income rate and with a past-due balance greater than \$400 can participate in CUPA's Arrearage Management Plan ("AMP"). CUPA's AMP allows eligible customers to have a portion of their past-due balances forgiven after demonstrating an ability to cover current bills. See below for details.

(C)

- The AMP will be comprised of the total past due balance for all services – water and/or wastewater. The past due balance threshold of \$400 for participation in the AMP will be based upon this combined balance.
- AMP customers will be enrolled in a multi-month Deferred Payment Arrangement ("DPA"). A DPA allows customers to take their past-due balance and split their past-due balance over equal monthly installments.
- The default AMP period for low-income customers will be 12 months. While these terms may be default periods, CUPA will allow good faith flexibility by including consideration of ability of the customer to pay, length of time over which the past due balance accumulated, payment history, and size of unpaid balance.
- AMP customers who make timely payments and stay current with their monthly water/wastewater bill, including the DPA portion of their bill, for half of the months of the AMP term will have the remaining monthly DPA payments forgiven.
- If the customer defaults on the DPA, normal collections processes apply. The customer may request to establish a new DPA (not an AMP DPA) for any then-current past due balance. The customer may be eligible for an AMP DPA to be implemented 12 months after default of a previous AMP DPA.
- If the customer defaults on the DPA, then all payments made by the customer to satisfy the customer's obligations under the DPA will contribute towards satisfying the customer's overall arrearage (e.g., if a customer makes monthly payments totaling \$250 of their \$500 requirement under the AMP with a \$1,000 overall arrearage balance, then the customers arrearage balance upon default would be \$750.)
- The AMP will be indifferent as to how or who makes payments on the balance.
- Customers who apply for or are approved for the Low-Income Program will be informed of the AMP and offered an opportunity to participate in the AMP in conjunction with the Low-Income Program outreach.
- If a CUPA customer contacts CUPA or DEF regarding an issue with paying their bill or signing up for either the AMP or the low-income program, the customer shall be informed of both programs, including eligibility requirements.

(C) Indicates Change (I) Indicates Increase (D) Indicates Decrease

ISSUED: _____, 2024

EFFECTIVE: _____, 2024

APPENDIX D

WATER PROOF OF REVENUE

**COMMUNITY UTILITIES OF PENNSYLVANIA, INC.
CONSOLIDATED WATER SERVICES**

**PRO FORMA ANNUAL OPERATING REVENUE AT ADJUSTED
RATES AND CHARGES BASED UPON ALLOCATED COST OF SERVICE**

	Percent of Use	Billing Determinants Pro Forma Consumption (1) (1,000's Gallons)	Bills	Allocated Cost of Service Rates	Pro Forma Revenue Under Adjusted Rates
<u>All Customers:</u>					
Base Charge:					
Residential:					
5/8 inch meter			36,036	\$18.18	\$655,134
1 inch meter			12	30.43	365
1 1/2 inch meter			12	50.90	611
2 inch meter			12	75.45	905
6 inch meter (2)			-	-	-
Commercial:					
5/8 inch meter			360	18.18	6,545
1 inch meter			48	30.43	1,461
1 1/2 inch meter			-	-	-
2 inch meter			24	75.45	1,811
6 inch meter (2)			12	207.55	2,491
Low-Income:					
5/8 inch meter			1,440	10.00	14,400
Availability Fee - Consolidated			528	30.66	16,188
Availability Fee - Tamiment			3,240	18.11	58,676
Volume Charge:					
All Other Flow		127,654.0		21.12	2,696,052
Low-Income Flow		5,235.0		11.62	60,831
Commercial		1,946.4		19.79	38,519
Hydrants			912	56.67	51,683
Totals	0.00%	134,835.4	42,636		\$3,605,672
Control					\$3,605,880
Variance					(\$208)
Percent Variance					-0.01%

(1) Based on the assumption of a decline of 1.16% from the Historical Test Year consumption levels to the Future Test Year ("FTY") consumption levels and an additional decline of 1.16% from the FTY to the Fully Projected Future Test Year consumption levels.

(2) Proposed rate capped at current rate of \$158.41 plus 39.8% increase rounded up to the next nickle.

(See Accountants' Special Purpose Report)

APPENDIX E

WASTEWATER PROOF OF REVENUE

**COMMUNITY UTILITIES OF PENNSYLVANIA, INC.
CONSOLIDATED WASTEWATER SERVICES**

**PRO FORMA ANNUAL OPERATING REVENUE AT ADJUSTED
RATES AND CHARGES BASED UPON ALLOCATED COST OF SERVICE**

	Pro Forma Flow (1)	Number of Bills	Proposed Rate	Pro Forma Revenue Under Proposed Rates
<u>Consolidated Service:</u>				
Residential		37,908	\$ 39.90 /mo.	\$1,512,347
Commercial		84	39.90 /mo.	3,351
Low-Income		1,440	21.94 /mo.	31,594
Residential Flow	162,734,000		18.00 /1,000 gals.	2,929,212
Commercial Flow	991,700		17.82 /1,000 gals.	17,672
Low-Income Flow	5,235,000		9.90 /1,000 gals.	51,827
School (unmetered)		24	771.45 /mo.	18,515
Availability Fee (unmetered)		528	22.30 /mo.	11,774
<u>Tamiment:</u>				
Residential		5,868	39.90 /mo.	234,105
Commercial		48	39.90 /mo.	1,915
Low-Income			21.94 /mo.	0
All Other Flow			18.00 /1,000 gals.	0
Low-Income Flow			9.90 /1,000 gals.	0
Availability Fee (unmetered)		3,240	22.30 /mo.	72,252
Totals	<u>168,960,700</u>	<u>49,140</u>		<u>\$4,884,564</u>
Control				<u>\$4,884,592</u>
Variance				<u>(\$28)</u>
Percent Variance				<u>0.00%</u>

(1) Based on the assumption of a decline of 1.16% from the Historical Test Year consumption levels to the Future Test Year ("FTY") consumption levels and an additional decline of 1.16% from the FTY to the Fully Projected Future Test Year consumption levels.

APPENDIX F

CUSTOMER BILL IMPACTS

**COMMUNITY UTILITIES OF PENNSYLVANIA, INC.
CONSOLIDATED WATER SERVICES**

CUSTOMER BILL IMPACT

		Test Year	Current	Filed	Settlement	Increase/(Decrease)		Increase/(Decrease)	
		Count (1)	Rates	Rates	Rates	Filed (%)	Settlement (%)	Filed (\$)	Settlement (\$)
<u>Westgate (Residential) and Penn Estates (Residential and Commercial):</u>									
5/8 Inch Meter									
	1,000 Gallons	6,360	\$30.76	\$45.99	\$39.30	49.51%	27.76%	\$15.23	\$8.54
	2,000 Gallons	6,051	44.28	68.58	60.42	54.88%	36.45%	24.30	16.14
	3,000 Gallons	6,038	57.79	91.17	81.54	57.76%	41.10%	33.38	23.75
	4,000 Gallons	5,070	71.31	113.76	102.66	59.53%	43.96%	42.45	31.35
	5,000 Gallons	3,730	84.82	136.35	123.78	60.75%	45.93%	51.53	38.96
	10,000 Gallons	6,340	152.39	249.30	229.38	63.59%	50.52%	96.91	76.99
	80,000 Gallons	(2) 5	1,098.37	1,830.60	1,707.78	66.67%	55.48%	732.23	609.41
	90,000 Gallons	(2) 1	1,233.51	2,056.50	1,918.98	66.72%	55.57%	822.99	685.47
	130,000 Gallons	(2) 1	1,774.07	2,960.10	2,763.78	66.85%	55.79%	1,186.03	989.71
	150,000 Gallons	(2) 1	2,044.35	3,411.90	3,186.18	66.89%	55.85%	1,367.55	1,141.83
	180,000 Gallons	(2) 1	2,449.77	4,089.60	3,819.78	66.94%	55.92%	1,639.83	1,370.01
1 Inch Meter									
	20,000 Gallons	1,076	\$313.41	\$493.05	\$452.83	57.32%	44.48%	\$179.64	\$139.42
	30,000 Gallons	131	448.55	718.95	664.03	60.28%	48.04%	270.40	215.48
1 1/2 Inch Meter									
	40,000 Gallons	33	\$626.81	\$974.55	\$895.70	55.48%	42.90%	\$347.74	\$268.89
	50,000 Gallons	11	761.95	1,200.45	1,106.90	57.55%	45.27%	438.50	344.95
2 Inch Meter									
	60,000 Gallons	9	\$948.84	\$1,462.00	\$1,342.65	54.08%	41.50%	\$513.16	\$393.81
	70,000 Gallons	7	1,083.98	1,687.90	1,553.85	55.71%	43.35%	603.92	469.87
	80,000 Gallons	2	1,219.12	1,913.80	1,765.05	56.98%	44.78%	694.68	545.93

(1) Unless otherwise stated, meter sizes are assumed to be 5/8 inch up to 10,000 gallons, 1 inch up to 30,000 gallons, 1 1/2 inch up to 50,000 gallons, 2 inch up to 80,000 gallons, and 6 inch for all other gallonages.

(2) Based on actual test year meter size.

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**COMMUNITY UTILITIES OF PENNSYLVANIA, INC.
CONSOLIDATED WATER SERVICES**

(Cont'd)

CUSTOMER BILL IMPACT

		Test Year	Current	Filed	Settlement	Increase/(Decrease)		Increase/(Decrease)	
		Count (1)	Rates	Rates	Rates	Filed (%)	Settlement (%)	Filed (\$)	Settlement (\$)
<u>Westgate (Commercial):</u>									
5/8 Inch Meter									
	1,000 Gallons	146	\$30.13	\$45.99	\$37.97	52.64%	26.02%	\$15.86	\$7.84
	2,000 Gallons	59	43.00	68.58	57.76	59.49%	34.33%	25.58	14.76
	3,000 Gallons	35	55.88	91.17	77.55	63.15%	38.78%	35.29	21.67
	4,000 Gallons	11	68.75	113.76	97.34	65.47%	41.59%	45.01	28.59
	5,000 Gallons	16	81.63	136.35	117.13	67.03%	43.49%	54.72	35.50
	10,000 Gallons	15	146.01	249.30	216.08	70.74%	47.99%	103.29	70.07
1 Inch Meter									
	20,000 Gallons	4	\$300.65	\$493.05	\$426.23	63.99%	41.77%	\$192.40	\$125.58
	30,000 Gallons	1	429.41	718.95	624.13	67.43%	45.35%	289.54	194.72
1 1/2 Inch Meter									
	40,000 Gallons	1	\$601.29	\$974.55	\$791.60	62.08%	31.65%	\$373.26	\$190.31
	50,000 Gallons	1	730.05	1,200.45	989.50	64.43%	35.54%	470.40	259.45
2 Inch Meter									
	70,000 Gallons	1	\$1,039.32	\$1,687.90	\$1,460.75	62.40%	40.55%	\$648.58	\$421.43
	80,000 Gallons	1	1,168.08	1,913.80	1,658.65	63.84%	42.00%	745.72	490.57
	90,000 Gallons	(2)	1,296.84	2,139.70	1,856.55	64.99%	43.16%	842.86	559.71
	100,000 Gallons	(2)	1,425.60	2,365.60	2,054.45	65.94%	44.11%	940.00	628.85

(1) Unless otherwise stated, meter sizes are assumed to be 5/8 inch up to 10,000 gallons, 1 inch up to 30,000 gallons, 1 1/2 inch up to 50,000 gallons, 2 inch up to 80,000 gallons, and 6 inch for all other gallonages.

(2) Based on actual test year meter size.

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**COMMUNITY UTILITIES OF PENNSYLVANIA, INC.
CONSOLIDATED WATER SERVICES**

(Cont'd)

CUSTOMER BILL IMPACT

		Test Year	Current	Filed	Settlement	Increase/(Decrease)		Increase/(Decrease)	
		Count (1)	Rates	Rates	Rates	Filed (%)	Settlement (%)	Filed (\$)	Settlement (\$)
<u>Tamiment (Residential):</u>									
5/8 Inch Meter									
	1,000 Gallons	2,434	\$29.63	\$45.99	\$39.30	55.21%	32.64%	\$16.36	\$9.67
	2,000 Gallons	1,331	41.08	68.58	60.42	66.94%	47.08%	27.50	19.34
	3,000 Gallons	1,118	52.54	91.17	81.54	73.52%	55.20%	38.63	29.00
	4,000 Gallons	764	63.99	113.76	102.66	77.78%	60.43%	49.77	38.67
	5,000 Gallons	481	75.44	136.35	123.78	80.74%	64.08%	60.91	48.34
	10,000 Gallons	577	132.70	249.30	229.38	87.87%	72.86%	116.60	96.68
	80,000 Gallons	(2) 2	934.34	1,830.60	1,707.78	95.92%	82.78%	896.26	773.44
	100,000 Gallons	(2) 1	1,163.38	2,282.40	2,130.18	96.19%	83.10%	1,119.02	966.80
	110,000 Gallons	(2) 1	1,277.90	2,508.30	2,341.38	96.28%	83.22%	1,230.40	1,063.48
	140,000 Gallons	(2) 2	1,621.46	3,186.00	2,974.98	96.49%	83.48%	1,564.54	1,353.52
	160,000 Gallons	(2) 1	1,850.50	3,637.80	3,397.38	96.58%	83.59%	1,787.30	1,546.88
	170,000 Gallons	(2) 1	1,965.02	3,863.70	3,608.58	96.62%	83.64%	1,898.68	1,643.56
	420,000 Gallons	(2) 1	4,828.02	9,511.20	8,888.58	97.00%	84.10%	4,683.18	4,060.56
1 Inch Meter									
	20,000 Gallons	98	\$247.22	\$493.05	\$452.83	99.44%	83.17%	\$245.83	\$205.61
	30,000 Gallons	16	361.74	718.95	664.03	98.75%	83.57%	357.21	302.29
1 1/2 Inch Meter									
	40,000 Gallons	5	\$476.26	\$974.55	\$895.70	104.63%	88.07%	\$498.29	\$419.44
	50,000 Gallons	6	590.78	1,200.45	1,106.90	103.20%	87.36%	609.67	516.12
2 Inch Meter									
	60,000 Gallons	2	\$705.30	\$1,462.00	\$1,342.65	107.29%	90.37%	\$756.70	\$637.35
	70,000 Gallons	2	819.82	1,687.90	1,553.85	105.89%	89.54%	868.08	734.03
	80,000 Gallons	4	934.34	1,913.80	1,765.05	104.83%	88.91%	979.46	830.71

(1) Unless otherwise stated, meter sizes are assumed to be 5/8 inch up to 10,000 gallons, 1 inch up to 30,000 gallons, 1 1/2 inch up to 50,000 gallons, 2 inch up to 80,000 gallons, and 6 inch for all other gallonages.

(2) Based on actual test year meter size.

(Continued on next page)

**COMMUNITY UTILITIES OF PENNSYLVANIA, INC.
CONSOLIDATED WATER SERVICES**

(Cont'd)

CUSTOMER BILL IMPACT

			Test Year	Current	Filed	Settlement	Increase/(Decrease)		Increase/(Decrease)	
			Count (1)	Rates	Rates	Rates	Filed (%)	Settlement (%)	Filed (\$)	Settlement (\$)
<u>Tamiment (Commercial):</u>										
5/8 Inch Meter										
	1,000 Gallons		4	\$132.07	\$45.99	\$37.97	-65.18%	-71.25%	(\$86.08)	(\$94.10)
	2,000 Gallons		6	142.88	68.58	57.76	-52.00%	-59.57%	(74.30)	(85.12)
	3,000 Gallons		8	153.70	91.17	77.55	-40.68%	-49.54%	(62.53)	(76.15)
	4,000 Gallons		4	164.51	113.76	97.34	-30.85%	-40.83%	(50.75)	(67.17)
	5,000 Gallons		7	175.33	136.35	117.13	-22.23%	-33.19%	(38.98)	(58.20)
	10,000 Gallons		10	229.40	249.30	216.08	8.67%	-5.81%	19.90	(13.32)
1 Inch Meter										
	20,000 Gallons		9	\$337.55	\$493.05	\$426.23	46.07%	26.27%	\$155.50	\$88.68
	30,000 Gallons		1	445.70	718.95	624.13	61.31%	40.03%	273.25	178.43
2 Inch Meter										
	60,000 Gallons		1	\$770.15	\$1,462.00	\$1,262.85	89.83%	63.97%	\$691.85	\$492.70
	70,000 Gallons		1	878.30	1,687.90	1,460.75	92.18%	66.32%	809.60	582.45
6 Inch Meter										
	390,000 Gallons	(2)	1	\$4,376.26	\$9,415.80	\$7,925.65	115.16%	81.11%	\$5,039.54	\$3,549.39

(1) Unless otherwise stated, meter sizes are assumed to be 5/8 inch up to 10,000 gallons, 1 inch up to 30,000 gallons, 1 1/2 inch up to 50,000 gallons, 2 inch up to 80,000 gallons, and 6 inch for all other gallonages.

(2) Based on actual test year meter size.

COMMUNITY UTILITIES OF PENNSYLVANIA, INC.
CONSOLIDATED WASTEWATER SERVICES

CUSTOMER BILL IMPACT

	Test Year Count	Current Rates	Filed Rates	Settlement Rates	Increase/(Decrease)		Increase/(Decrease)	
					Filed (%)	Settlement (%)	Filed (\$)	Settlement (\$)
<u>Consolidated Service:</u>								
1,000 Gallons	4,987	\$74.73	\$69.55	\$57.90	-6.93%	-22.52%	(\$5.18)	(\$16.83)
2,000 Gallons	5,714	74.73	87.45	75.90	17.02%	1.57%	12.72	1.17
3,000 Gallons	7,423	74.73	105.35	93.90	40.97%	25.65%	30.62	19.17
4,000 Gallons	7,061	74.73	123.25	111.90	64.93%	49.74%	48.52	37.17
5,000 Gallons	5,732	74.73	141.15	129.90	88.88%	73.83%	66.42	55.17
10,000 Gallons	9,149	74.73	230.65	219.90	208.64%	194.26%	155.92	145.17
20,000 Gallons	1,123	74.73	409.65	399.90	448.17%	435.13%	334.92	325.17
30,000 Gallons	145	74.73	588.65	579.90	687.70%	675.99%	513.92	505.17
40,000 Gallons	33	74.73	767.65	759.90	927.23%	916.86%	692.92	685.17
50,000 Gallons	12	74.73	946.65	939.90	1166.76%	1157.73%	871.92	865.17
60,000 Gallons	8	74.73	1,125.65	1,119.90	1406.29%	1398.59%	1,050.92	1,045.17
70,000 Gallons	8	74.73	1,304.65	1,299.90	1645.82%	1639.46%	1,229.92	1,225.17
80,000 Gallons	6	74.73	1,483.65	1,479.90	1885.35%	1880.33%	1,408.92	1,405.17
90,000 Gallons	6	74.73	1,662.65	1,659.90	2124.88%	2121.20%	1,587.92	1,585.17
100,000 Gallons	4	74.73	1,841.65	1,839.90	2364.41%	2362.06%	1,766.92	1,765.17

Tamiment:

1,000 Gallons	2,432	\$40.13	\$69.55	\$57.90	73.31%	44.28%	\$29.42	\$17.77
2,000 Gallons	1,337	54.11	87.45	75.90	61.62%	40.27%	33.34	21.79
3,000 Gallons	1,118	68.09	105.35	93.90	54.72%	37.91%	37.26	25.81
4,000 Gallons	762	82.07	123.25	111.90	50.18%	36.35%	41.18	29.83
5,000 Gallons	486	96.05	141.15	129.90	46.95%	35.24%	45.10	33.85
10,000 Gallons	586	165.95	230.65	219.90	38.99%	32.51%	64.70	53.95
20,000 Gallons	106	305.75	409.65	399.90	33.98%	30.79%	103.90	94.15
30,000 Gallons	17	445.55	588.65	579.90	32.12%	30.15%	143.10	134.35
40,000 Gallons	5	585.35	767.65	759.90	31.14%	29.82%	182.30	174.55
50,000 Gallons	6	725.15	946.65	939.90	30.55%	29.61%	221.50	214.75
60,000 Gallons	3	864.95	1,125.65	1,119.90	30.14%	29.48%	260.70	254.95
70,000 Gallons	2	1,004.75	1,304.65	1,299.90	29.85%	29.38%	299.90	295.15
80,000 Gallons	3	1,144.55	1,483.65	1,479.90	29.63%	29.30%	339.10	335.35
90,000 Gallons	2	1,284.35	1,662.65	1,659.90	29.45%	29.24%	378.30	375.55
100,000 Gallons	8	1,424.15	1,841.65	1,839.90	29.32%	29.19%	417.50	415.75

APPENDIX G

**COMMUNITY UTILITIES OF PENNSYLVANIA INC.
STATEMENT IN SUPPORT**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2023-3042804
	:	R-2023-3042805
Community Utilities of Pennsylvania Inc.	:	

**STATEMENT OF COMMUNITY UTILITIES OF PENNSYLVANIA, INC.
IN SUPPORT OF THE
JOINT PETITION FOR FULL SETTLEMENT OF RATE PROCEEDINGS**

I. INTRODUCTION AND OVERALL REASONS IN SUPPORT OF SETTLEMENT

1. Community Utilities of Pennsylvania, Inc. (“Company” or “CUPA”) hereby submits this Statement in Support of the Joint Petition for Full Settlement of Rate Proceedings (“Joint Petition” or “Settlement”) filed by CUPA, the Bureau of Investigation & Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission” or “PUC”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”) in the above-captioned consolidated proceedings (I&E, OCA, and OSBA, collectively, “Statutory Parties”). As indicated in the Joint Petition,¹ if approved, the Settlement resolves all issues in the proceeding. Accordingly, as discussed more fully below, CUPA supports the Settlement because it is in the public interest and produces just and reasonable rates. CUPA requests that Administrative Law Judges Steven K. Haas (“ALJ Haas”) and Alphonso Arnold III (“ALJ Arnold”) (collectively, the “Presiding Officers”) and the Commission approve the Settlement as

¹ A Stipulation of Facts is provided in Section III of the Joint Petition and incorporated herein as if set forth at length. A procedural history is included in Appendix A to the Joint Petition and incorporated herein as if set forth at length.

submitted, without modification, and find that the terms and conditions of the Settlement are consistent with the law and in the public interest.

2. The Settlement establishes rates which are just and reasonable and incorporates principles of gradualism. These rates economically benefit the Company's customers by setting lower rates than originally requested. The Settlement also benefits customers because it provides the Company with additional revenues that will continue to enhance its ability to (1) modernize its water and wastewater systems that CUPA acquired and (2) provide high quality of service to its customers. These rate cases were driven primarily by expenses and capital investment in necessary infrastructure. CUPA and its indirect parent corporation, Corix Infrastructure Inc. ("CII") n/k/a Nexus Water Group, operate utility systems throughout the country and provide service to modernize rural water and sewer systems, including those at the system formerly known as Public Utility Company ("Tamiment"), which were troubled systems when acquired. CUPA has already made substantial investment in its systems and is planning substantial additional investments through the Fully Projected Future Test Year ("FPFTY"). CUPA St. No. 5 at 5:18 – 19:11. In addition to the amount agreed-to in the Settlement being less than originally proposed, approving the Settlement provides revenue and rate gradualism through a voluntary rate case stay-out provision. Additionally, it saves the cost of litigating rate cases—which are borne by ratepayers under Pennsylvania law—over the next two years.

3. The Settlement also helps mitigate the effect of the rate increase on consumers, especially on low-income customers. In particular, the Settlement (1) adopts the Company's proposal to establish a low-income rate for wastewater customers that qualify, (2) modifies the Company's discount proposal by providing a forty-five percent (45%) discount on the fixed and volumetric portion of customer bills as opposed to a thirty-five percent (35%) discount to only the

volumetric portion of the customer bill, and (3) adopts the Company's proposed Arrearage Management Program ("AMP"), subject to certain modifications as set forth in the Settlement, which will provide a path for qualifying customers to receive arrearage forgiveness.

4. The Settlement also achieves, in large part, full consolidation of the Company's water and wastewater rates amongst its various divisions, while also mitigating impacts to customers in various ways.² First, by virtue of the reduced revenue requirement, rates are lower than originally proposed. Moreover, a larger amount of the increase has been assigned to the volumetric charges, rather than the fixed customer charge, thus ensuring customers have greater control over their monthly bills should they choose to conserve water. Lastly, there are the additional measures described above that will mitigate the rate impacts to low-income customers that qualify for the Company's Low-Income Program.

5. Many of the service issues raised at the public input hearings were dispelled as incorrect or otherwise addressed through CUPA's responsive evidence. The Settlement provides for further resolution of those issues, reflecting CUPA's agreement to various requests I&E and OCA made in their testimony to address these issues, including:

a. mitigation and reporting requirements to address unaccounted for water, including, but not limited to, performing annual system wide leak detection and repairs until each individual system has a UFW that is below 20%, updating the Statutory Parties regarding the Company's efforts to implement virtual district metering areas ("vDMAs") in the system formerly known as Penn Estates Utilities Inc. ("Penn Estates"), and other reporting requirements;

² Based upon principles of gradualism, the Joint Petitioners have agreed not to consolidate the availability fee applied to customers of Penn Estates and Tamiment. *See* App. B, Pg. 6, 11A. The Penn Estates availability fee is increasing by \$12.48, from \$18.18 to \$30.66, or by approximately 69%, The Tamiment availability fee is increasing by \$8.87, from \$9.31 to \$18.18, or by approximately 95%.

- b. reporting on the implementation of the recommendations from the engineering study and hydraulic analysis to address low and high pressure in Penn Estates;
- c. reporting that identifies the isolation valves that need to be located, uncovered, repaired and/or replaced in the following year;
- d. developing a hydraulic model for the Company's Tamiment system to evaluate fire suppression flows before the Company's next base rate case; and
- e. presenting a no-fee payment option for online payments in the next base rate case.

6. The Settlement is also in the public interest because it amicably and expeditiously resolves a number of important and potentially contentious issues which would have been very expensive and time-consuming to litigate before this Commission, and likely would have spawned expensive and time-consuming appeals, including CUPA's right under *Hope*³ and *Bluefield*⁴ to full recovery of its return of and return on its capital investment. This Settlement represents a mutually acceptable and reasonable compromise, and will conserve the time, effort and rate case expense of all parties, as well as those of the Commission, the Presiding Officer and the Company's customers. Notably, the Commission's policy is to "encourage settlement." 52 Pa. Code §§ 5.231, 69.391, 69.401. The Joint Petitioners arrived at the Settlement terms after extensive review of discovery by the Statutory Parties, presentation of testimony and exhibits, and engaging in extensive, in-depth settlement discussions. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated give and take on the issues addressed herein—including terms addressing modifications to the Company's Low-Income Program, AMP, and quality of service issues raised during the proceeding. Thus, the Settlement, including its

³ *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

⁴ *Bluefield Water Works Improvement Co. v. Public Serv. Comm'n*, 262 U.S. 679 (1922).

terms and conditions and just and reasonable rates, is consistent with the Commission's rules, practices and procedures encouraging negotiated settlements, and is, therefore, in the public interest. *See* 52 Pa. Code §§ 5.231, 69.391, 69.401.

7. Significantly, three of the signatories, I&E, OCA, and OSBA are charged with specific legal obligations to scrutinize all aspects of a utility's request to increase rates. I&E functions as an independent prosecutorial bureau within the Commission and, as such, is charged with representing the public interest in utility rate proceedings.⁵ The OCA has a statutory obligation to protect the interest of residential consumers of public utility service.⁶ OSBA represents the interests of small business consumers of utility services.⁷ As evidenced by their active and extensive participation and zealous advocacy in all aspects of this case, these Statutory Parties have fulfilled their statutory obligations. Their joining in, and fully supporting the Settlement, is strong evidence that the Settlement's rates, terms and conditions are just, reasonable and in the public interest.

8. As explained in the Joint Petition, the Settlement was achieved only after a comprehensive investigation by the Statutory Parties into the Company's request and an analysis of the filing, discovery (thousands of pages of detailed information in response to hundreds of questions (including subparts) or document requests from the Statutory Parties regarding all aspects of the requested increase), and the parties' testimony. Here, the Settlement represents a reasonable compromise on the issues supported by the substantial testimony and evidence presented in this proceeding.

⁵ *See Implementation of Act 129 of 2008 Organization of Bureaus and Offices*, Dkt. No. M-2008-2071852 (Final Order entered August 11, 2011), p.5 ("BI&E will serve as the prosecutory bureau for purposes of representing the public interest in ratemaking and service matters...").

⁶ *See* 71 Pa. C.S. §§ 309-1 *et seq.*

⁷ *See* Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 – 399.50.

9. The Settlement is also without prejudice or admission to any position any party, including CUPA, may take in any subsequent or different proceeding.

II. REASONS WHY SPECIFIC PROVISIONS OF THE SETTLEMENT ARE IN THE PUBLIC INTEREST

A & B. Revenue Requirement Increases - Water and Wastewater (Settlement ¶¶ 4-5)

10. Instead of the \$1,470,360 increase to water revenues requested in the filing, the Settlement Rates are designed to produce an increase of annual water revenue of approximately \$1,227,538. Settlement ¶ 4.

11. Instead of the \$1,738,944 increase to wastewater requested in the filing, the Settlement Rates are designed to produce an increase of annual wastewater revenue of 1,447,621. Settlement ¶ 5.

12. The Company has spent significant time and funds in maintaining and investing in the water and wastewater systems' plant since the Company's last rate case. As CUPA witness Capwen testified in her direct testimony:

As recorded in the initial filing of the Company's last rate case, CUPA proposed a total spend of \$5,165,026 distributed over 24 total projects. By July 31st, 2023, those same 24 projects equated to a 2.5-year total spend of \$5,630,556, reflecting an overspend of approximately 9% as compared to initial estimates. An additional 15 projects were also completed within that period, representing an additional spend of \$1,577,096.

CUPA St. 5 at 5:18 – 6:2.

13. CUPA made multiple water and wastewater infrastructure improvements in the past year with more planned through the end of the Fully Projected Future Test Year ("FPFTY"). See CUPA St. 5 at 6:7 – 19:11. These improvements are a reasonable and necessary cost of providing service and are appropriately included in the revenue requirement presented by the Company. Without appropriate rate relief, CUPA's ability to continue to provide environmentally

safe, reliable and efficient water and sewer utility services to its customers and meet its financial obligations will be placed in jeopardy. Notably, the Joint Petition at paragraphs 36 - 37 provides for periodic reports and confirmation of capital project investment.

14. In addition, CUPA witness Mr. Gray provided the accounting schedules that supported the original rate request in this proceeding. *See* Base Rate Case Filing, Lead Filing Schedules. Mr. Gray also explained the projections incorporated in the FPFTY developed by the Company and explained their reasonableness. *See* CUPA St. 2 at 6:14 – 13:12. Mr. Gray’s testimony fully supports the Company’s original revenue requests.

15. While the Company believes its testimony supported the full amount of its proposed increase, the Settlement balances the economic interests of customers by providing for a lower rate increase. The increase under the Joint Petition, while is less than what the Company requested, will allow Company to cover its expenses and to continue to invest in facilities ensuring the Company can to continue to provide a high quality of service and water to its customers, as well as implement the terms and conditions agreed to in this Settlement and the regulatory requirements of the Pennsylvania Department of Environmental Protection (“DEP”).

16. It is also without prejudice or admission to any position that any party, including CUPA, may take in any subsequent or different proceeding, except to the extent necessary to enforce the terms agreed to herein. Settlement ¶ 39.

C. Stay Out (Settlement ¶ 6)

17. The Joint Petition provides that CUPA will not file for a general increase pursuant to 66 Pa C.S. § 1308(d) to water or wastewater base rates earlier than February 9, 2026.⁸

⁸ This paragraph does not apply to extraordinary or emergency rate relief pursuant to 66 Pa. C.S. § 1308(e) (or upon a petition for emergency rate increase), tariff changes required by Commission order or industry-wide changes in regulatory policy which affect CUPA’s rates.

18. This benefits customers with rate stability and benefits the Joint Petitioners and the Commission in that the time and expense of litigating another rate case will be avoided for approximately one and a half years. This will also delay the effective date of any new general rate increase for approximately two years when considering the statutory suspension period under Section 1308(d) of the Public Utility Code. 66 Pa. C.S. § 1308(d).

D. Effective Date (Settlement ¶¶ 7-8)

19. The Joint Petition contains a surcharge methodology previously approved by the Commission at Docket Nos. R-2021-3025206, *et al.*, to allow CUPA to recover revenue increases from the initial suspension date of August 9, 2024, to the date of Commission approval of the Joint Petition.⁹ Settlement ¶ 8.

20. This provision and surcharge methodology is the result an agreement between the Joint Petitioners in exchange for the Company agreeing to voluntarily extend the suspension period of new rates from August 9, 2024, to August 22, 2024, which was granted by the Presiding Officers in their Scheduling Order dated January 25, 2024. Scheduling Order at 4.

21. The voluntary extension of the suspension period provided the Joint Petitioners additional time to investigate and present evidence regarding the Company's rate case filing, while still allowing the Commission sufficient time for subsequent order drafting and review. This was a significant benefit to all parties and the Commission as it allowed for a more fulsome record without straining Commission and party resources.

22. Lastly, the surcharge and recovery of revenue will only occur if the Commission enters an Order approving the Settlement after August 9, 2024. Settlement ¶ 8. Should the surcharge methodology be applied, the revenue increases not billed from the effective date of

⁹ *Pa. Pub. Util. Comm'n, et al., v. Community Utilities of Pennsylvania Inc. – Water Div., et al.*, Docket Nos. R-2021-3025206, *et al.* (Opinion and Order entered Jan. 13, 2022), at 49-50, 93 (*CUPA BRC 2021*).

August 9, 2024, through the date of PUC approval of new rates will be recovered over a six-month period that shall be applied proportionately to all customer classes via a surcharge on each monthly bill during the six-month recovery period. *Id.*

E. COVID-19 Regulatory Asset (Settlement ¶¶ 9-12)

23. The Settlement contains various provisions that govern the recovery of the Company's COVID-19 Regulatory Asset, including an allowance to recover \$114,185 over five years, that no amount of the COVID-19 Regulatory Asset shall be included in rate base, that to the extent the Company files for a rate case prior to recognizing full recovery of the COVID-19 Regulatory Asset, it shall be entitled to recover the remaining amounts, and that the Company will no longer continue recording a regulatory asset for ongoing COVID-19 related bad debt and expenses after the effective date of new rates. Settlement ¶¶ 9-12.

24. As part of its rate case filing, the Company originally proposed recovery on and of approximately \$194,812 in incurred costs during the COVID-19 pandemic with a proposed amortized recovery over five years and inclusion of the unamortized balance in rate base. CUPA St. 2 at 10:17 – 11:4. Among the costs proposed to be recovered were extraordinary and non-recurring expenses related to incremental bad debt, foregone late payment charges, foregone reconnection fees, and other expenses incurred during the COVID-19 pandemic. *See* Base Rate Case Filing, Lead Financial Exhibits, Supplement to Schedule A-10 & B-9.

25. In their direct testimonies, OCA witness Rogers and I&E witness Walker proposed adjustments to the Company's proposed recovery of the COVID-19 Regulatory Asset, including recommending that the Company be disallowed from including the unamortized portion of the asset in rate base and each recommending removal of a portion of the expenses from the COVID-19 Regulatory Asset for various reasons. *See* OCA St. 2 at 16:1 – 17:4; I&E St. 1 at 26:11 – 27:2. I&E also recommended that the Company no longer be allowed to continue recording a regulatory

asset for ongoing COVID-19 related bad debt and expenses after the effective date of new rates. I&E St. 1 at 28:17 – 29:5.

26. In rebuttal testimony, Company witness Gray agreed to the recommendation to remove the unamortized portion of the COVID-19 Regulatory Asset from rate base, but disputed the OCA and I&E witness recommendations that certain amounts be removed from the regulatory asset entirely, which would deny the Company recovery of extraordinary and non-recurring expenses incurred during the COVID-19 pandemic. *See* CUPA St. 2-R at 8:3-9, 20:11 – 21:11.

27. The OCA and I&E continued to dispute the appropriate amounts for recovery in the COVID-19 Regulatory Asset. *See* OCA St. 2SR at 8:12-26; I&E St. 1-SR at 16:1 – 17:3.

28. These provisions of the Settlement are in the public interest as they represent a reasonable compromise amongst these competing positions, reducing the balance of the COVID-19 Regulatory Asset that the Company is entitled to recover, incorporates the Company's agreement to remove the unamortized portion from rate base, and adopts I&E's recommendation that the Company no longer continue recording a regulatory asset for ongoing COVID-19 related bad debt and expenses after the effective date of new rates. Settlement ¶¶ 9-12.

F. Low-Income Program (Settlement ¶¶ 13-17)

29. The Joint Petition incorporates several modifications to the Company's Low-Income Program, including adopting the Company's proposal to expand eligibility of the Low-Income Program to 200 percent of the Federal Poverty Level ("FPL"). Additionally, the Settlement incorporates changes to the Company's website to make it easier for customers to apply for the Low-Income Program, annual meetings with its customers to advise them of the Low-Income Program, and additional reporting requirements. Settlement ¶¶ 13-17.

30. In his direct testimony, CUPA witness Gray testified that the Company proposed to increase the income eligibility requirement from 100% to 200% of the FPL, which was a part

of the stipulation approved by the Commission at Docket Nos. A-2022-3036744, *et al.*, and the prior rate case settlement at Docket No. R-2021-3025206. CUPA St. 2 at 15:4-9. CUPA witness Lubertozzi also outlined the training the Company had undertaken to educate its service staff about the Low-Income Program, informational pamphlets that were mailed to customers, and changes to the Company’s website to inform customers of the Low-Income Program. CUPA St. 6 at 5:13 – 6:7; *see also* CUPA St. 6, Att. C, D, and E.

31. In his Direct Testimony, OCA witness DeMarco made several recommendations regarding the Company’s Low-Income Program. Namely, that the Company should be required to, among other things, create a separate low-income section of its website that is clear, transparent, and accessible from the home page in a format that is easily accessible to the customer. OCA St. 1 at 27:8 – 28:7. OCA witness DeMarco also recommended that CUPA should begin to contact Community Based Organizations (“CBOs”) in the service area, make informational handouts available in English and Spanish, and sent low-income information to customers via bill inserts. OCA St. 1 at 29:3-10.

a. The Joint Petition contains provisions that addresses the concerns raised by the OCA requiring that the Company make the following changes to its website: (1) the Company will make the low-income section on its website a permanent news item that is visible as soon as the customer enters the website; (2) the separate, low-income page will include a link to the application form, as well as all information about the sign-up process and eligibility qualification requirements; and (3) the Company will change the existing “URL” link to the application page to say “Application” or “Click here to apply”. Settlement ¶ 14(a) – (c). Additionally, the Company will utilize its voice reach system to send automated voice messages to customers on a quarterly basis about the existence of the Low-Income Program and ensure that print copies of the Low-

Income handouts are available in English and Spanish. Settlement ¶ 14(d) – (e). The Company also agreed to hold annual customer meetings in each of its service territories where topics, such as the Low-Income Program, will be discussed until the Commission issues an order in CUPA’s next base rate case. Settlement ¶ 17.

32. Furthermore, the Settlement provides for transparency by requiring the Company to continue providing quarterly report updates detailing participation, usage, and revenue shortfalls/surpluses associated with the Low-Income Program. Settlement ¶ 15. The Company also agreed to track all costs associated with the administration of its Low-Income Program, if those costs are dedicated to administering the Program, and state these amounts in the quarterly reports. Settlement ¶ 16.

33. These enhancements to the Low-Income Program are in the public interest as it will result in increased awareness and transparency of the program to its customers.

G. Rate Design and Structure (Settlement ¶¶ 18-19)

34. Rate design and structure were contested issues in this proceeding with the Joint Petitioners adopting various positions on the issues. The Joint Petitioners continued to disagree on these issues throughout testimony, including through the rejoinder testimony stage. The agreement reached on these issues balances the various positions of the Joint Petitioners and benefits ratepayers and mitigates impacts to customers in various ways. The customer bill impact analysis for water and wastewater customers is attached as **Appendix G** to the Joint Petition.

35. In its filing, the Company originally proposed to fully consolidate the rates among its water and wastewater divisions. CUPA St. 7, Exh. SAM-2 at 20, Exh. SAM-3 at 14. The Joint Petitioners have adopted a rate design that moves, in large part, towards full consolidation of its water and wastewater rates amongst its divisions. Consolidation is in the public interest because it equalizes the presently disparate rates amongst the Company’s divisions. Moreover, under the

Settlement, consolidation is achieved while at the same time resulting in monthly bill impacts that are lower than originally proposed. This is achieved as a result of the reduced revenue requirement and the resulting rate design. The Settlement appropriately balances the Commission-favored concept of consolidation with principles of gradualism.¹⁰

36. Moreover, the Settlement benefits customers by placing a larger proportion of the increase in the volumetric rate and adopts the Company's proposal to establish metered rates for all wastewater customers. This benefits ratepayers in that they have greater control over their bills should they decide to conserve water and benefits the public by encouraging conservation.

37. For low-income customers impacted by the rate increase, the Joint Petition further enhances the Low-Income Program. Settlement ¶ 18(a). Specifically, the Settlement proposes a 45% discount to both the volumetric and fixed monthly portion of the bill for all participants of the Low-Income Program, regardless of their income relative to the FPL, for both water and wastewater bills. *Id.* Under the proposed Settlement, this modification will demonstrably reduce the impacts of the rate increase for those most affected.

38. The Settlement also reasonably addresses rate design issues raised by the OSBA in this proceeding. In particular, the Settlement ensures that rates are designed to implement a 6.3% water and a 1% wastewater differential between commercial and residential volumetric charges. Settlement ¶ 18(b). Additionally, the Settlement provides that CUPA shall utilize a consumption decline of 1.16% from the Historical Test Year ("HTY") consumption levels to the Future Test

¹⁰ *Superior Water Co., Inc.*, 2009 WL 2501938 at *12 (Pa. P.U.C. 2009) ("[F]or years the Commission's policies and determinations have supported single tariff pricing and rate consolidation in acquisitions and rate cases. As we have often noted, the benefits of single tariff pricing outweigh its negative aspect."); *see also Pennsylvania Pub. Util. Comm'n et al. v. CUPA*, Docket Nos. R-2016-2538660 et al, Recommended Decision (recognizing move towards unitized rates in settlement in public interest when approving settlement) (RD adopted in full by Order dated Nov. 9, 2016).

Year (“FTY”) consumption levels and an additional decline of 1.16% from the FTY to the FPFTY consumption levels when developing settlement rates. Settlement ¶ 18(c).

39. Lastly, the Settlement reasonably addresses the OCA’s recommendation to establish tiered discount rates for the Low-Income Program. *See* OCA St. 1 at 33:6 – 34:5. The Company has agreed to present a tiered discount income-based plan with tiers at 50% and 75% of the Federal Poverty Level (“FPL”) in its next base rate proceeding. Settlement ¶ 19. Should a tiered discount plan be approved, it will only be applied to and recovered from residential customers. *Id.*

H. Arrearage Management Program (Settlement ¶¶ 20 – 29)

40. As part of the Joint Petition for Full Settlement approved by the Commission at Docket Nos. A-2022-3036745 and A-2022-3036744, the Company agreed to various commitments, including an agreement to propose an AMP that would allow eligible customers to have a portion of their past-due balances forgiven after demonstrating an ability to cover current bills.¹¹ CUPA St. 6 at 6:8 – 7:15. Consistent with this commitment, CUPA proposed the AMP as part of its base rate case filing. *Id.* In response, the OCA recommended several modifications to the Company’s proposed AMP, including, among other things, flexibility as to payment timing and longer payment periods. *See* OCA St. 1 at 36:13 – 38:17.

41. The Settlement achieves a reasonable compromise among the Company’s proposal and the OCA’s recommendations. The Settlement modifies the proposed AMP by, among other things, combining water and wastewater arrearages for purposes of determining eligibility for the AMP (Settlement ¶ 21), providing the Company discretion to establish longer payment periods

¹¹ *Application of Community Utilities of Pennsylvania Inc., for Certificates of Public Convenience under Sections 1102(a)(3) and 1103 of the Public Utility Code and All Other Approvals Necessary Under the Public Utility for Approval of a Merger Of Equals Transaction*, Docket Nos. A-2022-3036744, *et al.* (Recommended Decision entered Jul. 31, 2023), at 9 (approving the Joint Petition for Full Settlement without modification), *aff’d*, (Final Order entered Sept. 8, 2023) (*CUPA Merger*).

based upon various factors (Settlement ¶ 23), requiring the Company to present an analysis of costs to implement changes to its billing system that would allow active AMP customers the ability to select an alternative due date for AMP payments (Settlement ¶ 24), ensuring customers receive credit for payments made if they later default under the AMP (Settlement ¶ 26), and ensuring the Company communicates the existence of the AMP when a customer applies for or is approved for the Low-Income Program (Settlement ¶ 28).

42. Collectively, these provisions enhance the Company's proposed AMP and are in the public interest.

I. Integration Customer Protection Deferral Mechanism (Settlement ¶ 30)

43. The Company proposed its Integration Customer Protection Deferral Mechanism ("ICPDM") as part of its base rate case filing, which seeks to capture the accrued costs and integration benefits associated with the merger of SW Merger Acquisition Corp. ("SWMAC") and Corix Infrastructure (US) Inc. ("Corix US"), a subsidiary of CII and an indirect parent of CUPA, and the creation of Intermediate Newco, a subsidiary of the newly merged SWMAC and Corix US, which will acquire indirect control of CUPA ("Merger"). CUPA St. 6 at 10:6-7. As part of its proposal, the Company was not seeking to reflect any integration benefits and costs to achieve those benefits in this proceeding, but was seeking to establish a deferral mechanism that will accumulate the benefits and costs to achieve the benefits of integration, recovery of which would then be addressed in future rate cases. CUPA St. 6-RJ at 3:11-16.

44. I&E witness Walker recommended that the Commission disallow the Company from establishing the ICPDM because, in his opinion, pursuant to the settlement approved by the

Commission in *CUPA Merger*, the Company was not entitled to recover transaction costs as defined in the settlement.¹² I&E St. 1 at 35:14 – 37:8.

45. The Company disagreed with I&E’s position and I&E witness Walker’s interpretation of the Merger settlement, in part, because integration benefits and costs, which are associated with the efficiencies and savings gained from integrating two businesses, is fundamentally different than a transaction cost as defined in the Merger settlement. CUPA St. No. 6-R at 3:16 – 5:20.

46. The Company and I&E continued to disagree on the interpretation of the Merger settlement through the remainder of testimony. *See, e.g.*, CUPA St. 6-RJ at 3:1 – 6:4.

47. The Settlement achieves an outcome that reasonably addresses the differences between the Company and I&E. Specifically, the Settlement allows the Company to establish a deferral account, “Integration Customer Protection Deferral Mechanism,” which will capture accrued costs and benefits of integration that occur for five years after the closing date, but all parties reserve their rights to challenge recovery of any deferred amounts in future rate proceedings. Settlement ¶ 30.

J. Service-Related Commitments (Settlement ¶¶ 31 – 35)

48. During these consolidated proceedings, customers raised quality of service concerns at the public input hearings. Moreover, the OCA and I&E each raised concerns related to, among other things, unaccounted for water, system pressure, and lack of fire suppression. In response, the Company provided highly detailed testimony and evidence specifically addressing the quality-of-service issues raised by consumers and the parties to the proceedings. *See* CUPA St. 4-R and CUPA St. 4-RJ. Thus, many of the service issues raised at the public input hearings and

¹² *See CUPA Merger*, at 10.

by the OCA and I&E were dispelled as incorrect or addressed through CUPA’s responsive evidence. As to any issues that remain in dispute, the Settlement provides for resolution of those issues, reflecting CUPA’s agreement to various requests made by I&E and the OCA.

1. CUPA Response to Public Input Hearing Concerns

49. The Company will first recount its response to many of the issues raised by consumers at the public input hearings. At the public input hearings, customers alleged the following service-related concerns:

Tamiment Service Territory	<u>Water Service</u> Broken Shut-Off Valve Low Water Pressure Water Quality, Drinkability, and Sediment Issues Cost of Water Lack of Fire Protection <u>Wastewater Service</u> Odor from Lift Station Sewer Back Flow and Grinder Pumps
Penn Estates Service Territory	Water Quality, Drinkability Low Water Pressure Fluctuating Bills Boil Water Advisories Third-Party Deliveries of Water Forecasting and Budgeting for Future Projects
Utilities Inc. - Westgate Service Territory (“Westgate”)	Water Quality, Drinkability High Bills Low Water Pressure Lack of Fire Protection

Settlement, App. A, Proposed Findings of Fact ¶ 13.

50. First, as the Company demonstrated in testimony, the customer complaint logs show a reasonably low number of customer complaints received from January 1, 2022, to January 29, 2024, in light of the number of customers served. CUPA St. 4-R at 11:1-18. OCA witness Fought likewise reviewed the Company's customer complaint logs for the period August 1, 2023, through January 21, 2024, and found that CUPA adequately addressed customer complaints. OCA St. 5 at 23:14-17; *see also* Settlement, App. A, Proposed Findings of Fact ¶ 16.

51. The Company provided evidence demonstrating its process when receiving, logging, and responding to customer complaints. Settlement, App. A, Proposed Findings of Fact ¶ 17. The Company also provided evidence showing the Company's completion and closeout rates for customer complaints by the Company's operations team, with CUPA's current completion rate for all systems currently at 99%. Settlement, App. A, Proposed Findings of Fact ¶ 18.

52. The Company also detailed its process that it undertakes when it receives a water quality complaint. Settlement, App. A, Proposed Findings of Fact ¶ 19.

53. Regarding complaints by consumers at the public input hearings for its Tamiment system, the Company provided evidence of its annual water quality reports showing recordkeeping and monitoring violations for 2020 and 2021, having already taken steps to prevent their reoccurrence in the future, and evidence demonstrating the Company's efforts to address a 2022 violation for failing to maintain chlorine residual by installing an on-line chlorine analyzer. Settlement, App. A, Proposed Findings of Fact ¶ 21.

54. The Company also provided evidence addressing the five customer calls that CUPA received concerning water quality in Tamiment. *See* Settlement, App. A, Proposed Findings of Fact ¶ 22. Specifically, Emily Long, CUPA's Operations Manager testified that one customer called requesting her water be tested for bacteria. CUPA had samples run by a third-party

laboratory. The results were negative and a copy was given to the customer. One customer called due to discolored water. When operations called the customer, she stated the water was cloudy and that it had already cleared up. The operator asked her to call back if she experienced cloudy water again; she did not call back. Two dirty water calls were by the same customer in one day concerning the same issue. The first time the customer called, the operator ran their water and it cleared up. The customer called later in the day with dirty water again. Another operator came out and flushed their service line from within the outside meter pit and then ran the water inside the house. The water cleared up. This customer's water curb stop had been repaired a few days prior which caused the temporarily cloudy water for that customer. The fifth call was to investigate sediment in the customer's toilet. Operations investigated the issue and proactively flushed hydrants near the customer in the distribution system. The customer did not call back with further issues. CUPA St. 4-R at 11:4-18; *see also* CUPA St. 4-RJ at 4:13-21.

55. In response to Rick Hoover testifying at the public input hearing that the Company had broke his shut off valve and never restored it, concerns that were not previously brought to the Company's attention, the Company investigated Mr. Hoover's concerns. Settlement, App. A, Proposed Findings of Fact ¶ 23; *see also* CUPA St. 4-R at 13:3-5. CUPA had a third party, Saks Metering, perform meter changes in 2022. Saks Metering changed Mr. Hoover's water meter in July 2022. Mr. Hoover stated that Saks Metering's technician broke the shut off valve when changing his meter. Mr. Hoover stated that this technician said he would come back to fix it. Mr. Hoover stated the technician did not come back and he was not contacted about this matter by Saks Metering or CUPA. CUPA St. 4-R at 13:7-11. Saks Metering did not inform CUPA of this issue. CUPA St. 4-R at 13:21-23. On February 6, 2024, the Company confirmed that the shut off valve was broken and severely rusted. The Company also discovered that the curb stop did not work

properly. CUPA St. 4-R at 13:11-15. The Company fixed the curb stop on March 4, 2024, and scheduled a plumber to fix the shut off valve. CUPA St. 4-R at 13:19-20.

56. Regarding concerns about low pressure at Tamiment, the Company provided evidence that the Tamiment system is compliant with 52 Pa. Code, § 65.6(a). Specifically, per DI-X-2, Tamiment’s normal operating pressure was within 25 pounds per square inch gauge (“p.s.i.g.”) and 125 p.s.i.g from 2020 to 2023. CUPA St. 4-R at 14:8-10; *see also* Settlement, App. A, Proposed Findings of Fact ¶ 24.

57. The Company also provided evidence that the tank located in The Glen, which has the lowest pressure in the Tamiment water system, has a rehabilitation project to be completed by the end of 2024. Settlement, App. A, Proposed Findings of Fact ¶ 25. When the rehabilitation is complete, the tank level set points can be increased from current tank level set points which should raise system water pressure within The Glen. *Id.*; *see also* CUPA St. 4-R at 14:13-19.

58. Regarding concerns of hard water in the Tamiment system, there are no health standards for hardness in water and CUPA is not required to test or treat it. The Company provided evidence that the hardness of Tamiment’s water is 62.0 mg/l as CaCO₃, which is below the threshold considered hard water, or 150 mg/L as CaCO₃. *See* Settlement, App. A, Proposed Findings of Fact ¶¶ 26-27; *see also* CUPA St. 4-R at 15:5.

59. Regarding concerns about sediment and discoloration of water in Tamiment, Ms. Long testified that mineral content and discoloration is generally related to drinking water’s hardness, iron and manganese content, total dissolved solids (“TDS”), and color. She stated that these characteristics do not fall under the National Primary Drinking Water Standards (“NPDWRs”). NPDWRs are legally enforceable standards that apply to public water systems. Public water systems are required to test their water for contaminants listed in the NPDWRs and

abide by their maximum contaminant levels (“MCLs”). Drinking water’s iron and manganese content, TDS, and color do not fall within NPDWRs, but fall within the National Secondary Drinking Water Regulations (“NSDWRs”). NSDWRs are non-enforceable guidelines regulating contaminants that may cause cosmetic effects or aesthetic effects in drinking water. The EPA recommends secondary standards but does not require systems to comply with secondary MCLs. Drinking water hardness is not covered within NPDWRs or NSDWRs. CUPA St. 4-R at 15:9-19.

60. Ms. Long further testified that Pennsylvania Department of Environmental Protection (DEP) enforces the following NSDWRs MCLs: color 15 color units, iron 0.3 mg/L, manganese 0.05 mg/L, and TDS 500 mg/L. CUPA is not required by DEP to monitor for hardness, iron, manganese, total dissolved solids (“TDS”), and color. CUPA St. 4-R at 15:20 – 16:1.

61. The Company further provided evidence that test results from the new well recently drilled a few feet from Tamiment’s Well 1 were within these limits. Settlement, App. A, Proposed Findings of Fact ¶ 29.

62. Thus, the Company provided evidence that it was compliant in meeting all primary and secondary Maximum Contaminant Limits (“MCLs”). *See* CUPA St. 4-RJ at 5:10-11.

63. Regarding the chlorine content of water in its Tamiment system, the Company provided evidence showing that chlorine residuals were within reasonable limits. Settlement, App. A, Proposed Findings of Fact ¶ 30.

64. The Company also provided evidence that CUPA flushes its water systems via hydrants at least once per year, the purpose of which is to remove mineral deposits that may occur inside the water distribution pipes, thus, enhancing water quality. CUPA St. 4-RJ at 5:13-15.

65. The Company also provided evidence that Tamiment’s Tank 3 will be taken offline, abrasive blast cleaned, repainted, and repairs will be made. A mixer will also be installed to

circulate the water within the tank which will prevent ice from forming and enhance water quality by reducing sediment accumulation and water stagnation. Settlement, App. A, Proposed Findings of Fact ¶ 32; *see also* CUPA St. 4-RJ at 6:16 – 7:2.

66. Regarding Scilianos Nikolaou’s concerns about his water filters, the Company presented evidence that it is not responsible for the installation, maintenance, and operation of customer-owned filtration equipment. *See* Settlement, App. A, Proposed Findings of Fact ¶ 33; *see also* CUPA St. 4-RJ at 6-7. The lifespan and performance of consumer-owned filtration systems can be affected by many factors, including, the type of filtration system, such as a whole home filter versus a single point of use such as a kitchen faucet, the location the filter, the specific months these filters are being used within a filtration system, whether CUPA has recently flushed its hydrants, whether a main break occurred and was fixed during use, whether CUPA has undertaken other water distribution maintenance, whether the filtration system is being maintained according to the manufacturer’s specifications. CUPA St. 4-R at 16:16 – 17:13.

67. CUPA witness Ms. Long also testified that hydrant flushing, main breaks, and distribution maintenance can result in discolored water. CUPA St. 4-R at 16:21 – 17:1. During these events, CUPA notifies affected customers via its voice reach system about the possibility of them experiencing discolored water. If a customer chooses to use water during these times, they could pull discolored water into their house’s plumbing and through any filter they may have. CUPA St. 4-R at 17:1-4. Multiple water distribution activities, such as hydrant flushing and pipe and valve repairs, have occurred in the vicinity of Mr. Nikolaou that would have impacted his water and his filters if water was used during these times. CUPA St. 4-R at 17:4-6.

68. While the details of Mr. Nikolaou’s filtration system and how it was used are not known, CUPA St. 4-R at 17:11-12, CUPA witness Ms. Long stated in testimony that the Company

will offer to test the water of Mr. Nikolaou before and after the filter to ensure the water meets DEP water contaminant requirements. CUPA St. 4-RJ at 10:9-11.

69. Moreover, regarding the concern of John Oakes, a small business owner within the Tamiment system¹³, that he received a Boil Water Advisory (“BWA”) on May 6, 2022, after CUPA had already corrected the problem, CUPA provided evidence that it did not issue a BWA in Tamiment for a previously corrected violation occurring on May 6, 2022. *See* Base Rate Case Filing, Exh. DIX-1ai. The public notice Mr. Oakes was referring to was for the Penn Estates system. CUPA St. 4-RJ at 9:11-15; *see also* Settlement, App. A, Proposed Findings of Fact ¶¶ 34-35.

70. Regarding concerns that the price of water from CUPA is higher than store prices, CUPA provided evidence that the average usage for a single-family residence in Tamiment is 2,270 gallons per month. At current CUPA water rates, that is \$0.01946 per gallon. CUPA St. 4-R at 17:18-22. As of March 4, 2024, Walmart’s website lists one gallon of Great Value Spring Water for \$1.34. For \$1.34, a Tamiment water customer would get 68.859 gallons of water. CUPA St. 4-R at 18:3-5.

71. Regarding concerns of an odor from the Tamiment Drive Lift Station, the Company provided evidence that between February 12, 2024, and February 16, 2024, Tamiment operators called 13 customers that have residences near the Tamiment Drive Lift Station. *See* Settlement, App. A, Proposed Findings of Fact ¶ 36. After multiple phone call attempts, 4 of the 13 were non-responsive. Operators spoke with 9 of the 13 customers, 2 of which complained about the odor of the lift station at the public input hearings. CUPA St. 4-R at 3-6. Of the nine customers that the Company spoke with, six customers stated that they did not experience any odor issues recently.

¹³ Tr. at 304:1-3, 310:6-10.

CUPA St. 4-R at 20:11-15-17. Of the nine customers that the Company spoke with, three customers stated that they have experienced odor issues recently. CUPA St. 4-R at 20:11-15-17.

72. The customers that stated they experienced an odor issue were located at 107 Bindale Road, 108 Bindale Road, and 101 Brandyshire Road. CUPA St. 4-R at 20:21 – 21:6. The customer located at 107 Bindale Road also complained about the odor at the public input hearings. CUPA St. 4-R at 19:7-9. Additionally, a customer at 103 Bindale Road complained about the odor at the Public Input Hearings. CUPA St. 4-R at 19:7-9.

73. The Company called 103 Bindale Road on February 16, 2024, and on February 21, 2024, and left a voicemail on both days. The customer called back and spoke with operations on February 28, 2024. The customer stated that he has not smelled anything recently. He stated he noticed an odor last winter when he was outside and that he has not smelled any odor this winter. He stated he would call CUPA if he noticed an odor. Operations spoke with the customer at 107 Bindale Road on February 15, 2024. She stated she has smelled odor only one time in the past week but otherwise there has been no smell and will let CUPA know if she smells an odor. CUPA St. 4-R at 19:13-20.

74. There was a power outage in the area around the time that 107 Bindale Road smelled the odor at the lift station. CUPA St. 4-R at 20:1-2.

75. The sewer collection system in The Glen is a low-pressure collection system. All customers in The Glen have individual grinder pump pits where the waste from their home is stored. When it reaches a certain level, the waste is discharged into CUPA's low-pressure collection system via the customer's grinder pump. During a power outage, grinder pumps will not run unless they are powered by a back-up generator. Thus, waste in the grinder pit could cause

an odor. During a power outage, it is possible the Tamiment Drive Lift Station could have an odor. CUPA St. 4-R at 20:4-10.

76. The customer at 108 Bindale Road stated that once in a while he smells it and had to quickly get off the phone. Thus, operations could not acquire further information. The customer at 101 Brandyshire Drive stated once in a blue moon there is a smell, but it is much better now and they will contact customer service if there is any issues. CUPA St. 4-R at 21:3-6.

77. 108 Bindale Road had not made an odor complaint to the Company prior to the public input hearings. 101 Brandyshire Drive and 103 Bindale Road made one odor complaint in July 2020. CUPA St. 4-R at 21:7-11.

78. CUPA investigated the odor at the lift station and it resulted in the Company having the lift station cleaned. CUPA St. 4-R at 21:13-14; *see also* Settlement, App. A, Proposed Findings of Fact ¶ 37.

79. Regarding Dahlia Merritt's concern that the flushing of the sewer system may have caused a sewage backup in her home, the Company provided evidence that since CUPA acquired the Tamiment system in 2019, the low-pressure sewer collections system Dahlia Merritt's grinder pump discharges to has not been flushed. Settlement, App. A, Proposed Findings of Fact ¶¶ 38-40; *see also* CUPA St. 4-RJ at 10:17-19. Moreover, while customers are responsible for operating and maintaining their grinder pumps, CUPA St. 4-R at 22:12-13; *see also* OCA St. 5 at 19:5-8, the Company provided evidence that new customers with a grinder pump receive a grinder pump brochure with operation and maintenance information and that CUPA also sends a grinder pump brochure with operation and maintenance information twice a year. CUPA St. 4-R at 22:19 – 23:2.

80. Regarding Cindy Toscano's testimony raising concerns about the Company's road patching practices, the Company provided evidence that the Glen Property Owner's Association

at Tamiment has never expressed discontent over road excavation repair work. After disturbing road pavement due to work on the water or sewer system, CUPA's contractors repair roads and perform site restoration as quickly as possible. Road repair and site restoration is site specific and weather dependent. In the winter, contractors do not repair road excavations with asphalt because it is not best practice and they cannot acquire asphalt at that time of year. Cold patch or packed gravel is used until asphalt is available. Contractor's return to areas where cold patch and gravel were previously used and then pave with asphalt. The Penn Estates Property Owner's Association has contacted CUPA about road repair concerns on multiple occasions and CUPA quickly investigated and addressed those concerns. CUPA St. 4-RJ at 11:9-18; *see also* Settlement, App. A, Proposed Findings of Fact ¶ 41.

81. Regarding quality of service issues within Penn Estates, the Company provided its Annual Water Quality Reports for the Penn Estates system showing only one recordkeeping and monitoring violation for 2020, no violations for 2021, and one failure to maintain chlorine in 2022. Settlement, App. A, Proposed Findings of Fact ¶ 42. The 2022 violation and the facts and circumstances surrounding the 2022 violation were detailed at length by Ms. Long in her testimony. CUPA St. 4-R at 24:9-22. Ultimately, the occurrence happened at one well out of 7 wells that supply the water system in Penn Estates, lasted less than 15 minutes, and all routine monthly testing showed no bacteria present. *Id.*

82. The Company provided evidence that the hardness of Penn Estates water is below the threshold considered to be hard water. Settlement, App. A, Proposed Findings of Fact ¶¶ 26, 43; *see also* CUPA St. 4-R at 24:2.

83. The Company provided evidence that it plans to take Tanks 5 and 6 of Penn Estates offline in 2024, to be cleaned by high pressure water, repainted, and repaired, which will remove

sediment accumulated on the bottom of the tanks, enhancing water quality within the distribution system. Similar repairs were made to Tanks 1 and 2 in 2020. Settlement ¶ 81; *see also* CUPA St. 4-RJ at 6:16 – 7:2.

84. Regarding Lorraine Mazzie’s testimony that CUPA’s water has too much chlorine, the Company provided evidence that CUPA has not reached or exceeded DEP’s distribution maximum free chlorine residual of 4.00 mg/l. Per CUPA’s water system Consumer Confidence Reports (“CCRs”) from 2020, 2021, and 2022, the distribution free chlorine residual ranges from 0.3 to 2.86 mg/l with an overall average of 1.32 mg/l. CUPA St. 4-R at 11-15; *see* Settlement, App. A, Proposed Findings of Fact ¶¶ 44-45.

85. The Company also provided evidence of its Penn Estates High Zone Booster Station Project with GHD, which is expected to be completed in June 2025 and address system low and high pressures in the Penn Estates system. Settlement, App. A, Proposed Findings of Fact ¶ 47; *see also* CUPA St. 4-R at 4:19-21.

86. Regarding Delores Hart’s concerns about her fluctuating bill without varying usage, the Company provided evidence that CUPA operations performed a meter report. The meter report interval data shows about a gallon per hour of consistent usage. This interval data indicates there is a leak on customer-owned property. Operations called the customer to inform her of their findings and left a message on her phone. CUPA St. 4-R at 23:4-10.

87. Regarding Mr. Stoerrle’s concern about his high-water bill, the Company provided evidence that it performed a water meter audit and printed the audit report. The operator tagged his door with the audit report, a tag advising him the audit shows a leak on customer-owned property and to contact the operator, his business card with his contact information, and toilet leak detection tablets with instructions how to use them. CUPA St. 4-R at 27:1-5. Upon getting into

contact with Mr. Stoerrle, the operator offered to go to the house and check for leaks. Mr. Stoerrle declined his offer and stated he was getting a plumber to come to the house and check for leaks. Mr. Stoerrle told the operator he would call him if he had any further questions or concerns. CUPA St. 4-R at 27:11-18. Leaks located after the meter are the responsibility of the customer, but the Company does provide educational materials and assistance to customers regarding leaks as it did with Mr. Stoerrle. CUPA St. 4-R at 28:4-6.

88. Regarding George Flagg's concerns regarding the use of Palmeri Water Service to transport water to Penn Estates, the Company provided evidence that there was a combination of customer water service line leaks and system leaks, issues with Well 2, and increased system usage due to the holidays, which resulted in water storage tanks becoming low. CUPA St. 4-R at 25:6-8. DEP was notified and Palmeri Water Service was called. Palmeri Water Service hauled water to Penn Estates on December 25, 26, 27, and 29, 2023. The issue with Well 2 was corrected before December 24, 2023. Starting December 25, 2023, multiple customer water service line leaks were identified and were fixed. A limited-duration emergency bulk water hauling permit application was sent to DEP on December 26, 2023, and the permit was issued December 27, 2023. CUPA St. 4-R at 25:13-18. CUPA issued an automated voice message to all customers in Penn Estates on December 24, 2023, and sent the same automated voice message on December 25, 2023. The notice stated that CUPA has noticed a sudden drop in water storage level, that customers should check for leaks in their area, call CUPA to report a suspected leak, immediately begin taking measures to conserve water where possible, and that customers may experience low water pressure during this time. CUPA St. 4-R at 26:1-6.

89. The Company also provided evidence that third party leak detection was performed from November through December 2023 in Penn Estates. CUPA St. 4-R at 26:8-10; Settlement, App. A, Proposed Findings of Fact ¶ 48.

90. CUPA also provided evidence that it is evaluating whether to implement vDMAs within Penn Estates. Due to Penn Estate's size, topography changes, soil composition, and pipe material, finding a leak is very difficult and time consuming. Implementing vDMAs will compartmentalize Penn Estates water flow to smaller areas. This method will alert operations of a leak faster, narrow the search area of the leak, and decrease the amount of time it takes to find the leak and fix it. CUPA St. 4-RJ at 8-15.

91. Regarding Jeffrey Van Pelt's concern with how CUPA is utilizing money and forecasting projects, the Company provided Mr. Van Pelt with CUPA witness Long's direct testimony, CUPA St. No. 4, and CUPA witness Capwen's direct testimony, CUPA St. No. 5, so that he could understand how CUPA is utilizing money and forecasting for projects. CUPA St. 4-R at 10-12.

92. Regarding the price of water, the Company provided evidence that the average usage for a single-family residence in Penn Estates and Westgate is 3,452 gallons per month. At current CUPA water rates, that is \$0.01851 per gallon. CUPA St. 4-R at 17:18-22. As of March 4, 2024, Walmart's website lists one gallon of Great Value Spring Water for \$1.34. For \$1.34, a Penn Estates or Westgate water customer would get 72.393 gallons of water. CUPA St. 4-R at 18:3-5.

93. Regarding system pressure in Westgate, the Company provided evidence that Westgate's normal operating pressure is within 25 p.s.i.g. and 125 p.s.i.g from 2013 to 2023. Settlement, App. A, Proposed Findings of Fact ¶ 50. Thus, the Company's Westgate system is compliant with 52 Pa. Code, § 65.6(a).

94. The Company also provided its Annual Water Quality reports for its Westgate system from 2020 through 2022. The 2020 and 2022 reports each indicated a single failure to monitor and report violation. The 2021 report indicates no violations. CUPA St. 4-R at 29:5-7.

95. Lastly, CUPA provided sufficient evidence demonstrating that it timely issued all required boil water advisory notices. Regarding one specific incident, Ms. Long testified that in the Tamiment water system, CUPA discovered that chlorine levels were below the Pennsylvania Department of Environmental Protection requirements on August 4, 2022, at 09:35 AM. DEP was notified August 4, 2022, at 10:03 AM. An automated voice message was sent to all affected customers on August 4, 2022, at 10:19 AM. In addition to the automated voice message, CUPA's Operations Manager, Ms. Long personally called the Eagle Village Property Owner Association's Manager at 09:50 AM, the Eagle Point Property Owner Association's Manager at 09:56 AM, and the Pocono Parks Vice President of Operations at 10:16 AM. By 12:00 PM, or approximately two hours and twenty-five minutes after discovery, chlorine levels were within DEP requirements. Ms. Long worked closely with the DEP water sanitarian to ensure all compliance and all operational corrections requirements were met. DEP approved a BWA rescind be issued on August 8, 2022, at 03:43 PM. CUPA sent an automated voice message to all affected customers on August 8, 2022, at 05:06 PM. CUPA St. 4-R at 8:19 – 9:10.

96. Regarding the failure to maintain chlorine on May 6, 2022, the Company provided evidence showing that the chlorine entry point residual for Well 4 dropped to 0.00 mg/l for 10 minutes while operations was attempting to fix the chlorine pump. DEP requires the entry point chlorine residual be monitored and recorded continuously with a recording frequency of at least 15 minutes. CUPA records at a frequency of every 1 minute. DEP required a Tier 2 public notification be issued for this because the chlorine residual was 0.00 mg/l, despite it lasting less

than the DEP standard 15-minute frequency. The occurrence happened at one well out of 7 wells that supply the water system. Distribution chlorine residual of 1.64 mg/l taken on May 6, 2022, shows sufficient chlorine residual was present in the water distribution system. All routine monthly testing of bacteria in the system showed no bacteria present. CUPA St. 4-R at 24:13-22.

97. Accordingly, the Company sufficiently addressed each of the quality of service concerns raised by customers at the public input hearings.

2. Unaccounted for Water (Settlement ¶ 31)

98. Both the OCA and I&E set forth recommendations in their direct testimony regarding the level of the Company's unaccounted for water ("UFW"). I&E recommended making an expense adjustment to reduce the Company's revenue requirement to account for the cost per gallon to the Company to produce UFW in excess of 20 percent. I&E St. 3 (Water) at 13:1-6. Additionally, OCA made several recommendations seeking additional reporting requirements regarding the Company's progress in addressing UFW. *See* OCA St. 1 at 13:7-8; *see also* OCA St. 5 at 7:15-22.

99. In Ms. Long's rebuttal and rejoinder testimony, the Company provided evidence addressing the Company's efforts to reduce UFW. Specifically, Ms. Long testified that The Westgate system's UFW stayed consistent in 2021 and 2022 at 13%. Settlement, App. A, Proposed Findings of Fact ¶ 52. Westgate's UFW decreased to 8% in 2023. *Id.* This reduction to UFW was successfully achieved through main replacement projects, leak detecting, and subsequent fixes. CUPA St. 4-RJ at 14-16. Tamiment's UFW dropped from 55% to 44% from 2021 to 2022. Settlement, App. A, Proposed Findings of Fact ¶ 53. The UFW continued to drop to 28% in 2023. *Id.* That is a 27% UFW decrease in three years. This 27% decrease was achieved through capital investment in leak detection and subsequent fixes. CUPA St. 4-RJ at 17-19. Ms. Long recognized that Penn Estates is the only system where UFW has been increasing despite CUPA's efforts. In

2021, 2022, and 2023, UFW was 19%, 25%, and 27%, respectively. Settlement, App. A, Proposed Findings of Fact ¶ 54.. However, the Company presented evidence that Penn Estates was surveyed for leaks by a third-party leak detection service in August 2023 and all discovered leaks were fixed. In late 2023, the Company had another third-party leak detection service performed to identify leaks in the Penn Estates system. CUPA St. 4-R at 3:18-21. Ms. Long also stated that the Company is also evaluating whether to implement vDMAs within Penn Estates, which will alert operations of a leak faster, narrow the search area of the leak, and decrease the amount of time it takes to find the leak and fix it. CUPA St. 4-RJ at 8-15.

100. CUPA witness Gray also disagreed with I&E's recommendation to make an expense adjustment related to UFW given the Company's comprehensive efforts to address UFW, which was showing demonstrated improvements. CUPA St. 2-R at 13:18 – 15:9.

101. The Joint Petition resolves the issues between the parties in a reasonable manner. While the Settlement is without any admission to the Parties' positions as to revenue requirement, the Settlement comprehensively addresses UFW reporting and mitigation efforts by requiring the Company to perform annual system wide leak detection and any associated repairs until the individual system has an average UFW that is below 20% for the previous 6 months, to provide OCA, I&E, and OSBA with an update on the implementation of the vDMA project in Penn Estates, and adopting the OCA's additional reporting recommendations. Settlement ¶ 31.

3. System Pressure (Settlement ¶ 32)

102. While the Company addressed the Company's system pressure in response to concerns raised by consumers at public input hearings, in direct testimony, OCA witness Fought also noted that CUPA completed an engineering study for the Penn Estates system to comply with PUC minimum pressure requirements and a hydraulic analysis on how to address low and high pressures within Penn Estates. OCA St. 5 at 12:1-14. Based on this, the OCA recommended that

CUPA inform the OCA and the other parties of what it proposes to implement to address system pressure in Penn Estates. OCA St. 5 at 12:16-19.

103. In response the Company provided evidence that it has begun work on the High Zone Booster Station Project with GHD, expected to be completed in June 2025, which will address low pressure within Penn Estates and result in approximately seven additional hydrants being able to begin providing fire protection service. CUPA St. 4-R at 4:8 – 5:4, 7:16-18.

104. Nevertheless, the Settlement adopts the recommendation of the OCA as CUPA has agreed to provide an update to OCA, I&E, and OSBA on the implementation of the recommendations from the engineering study and hydraulic analysis to address low and high pressure in Penn Estates before its next base rate case. Settlement ¶ 32.

4. Isolation Valves (Settlement ¶ 33)

105. In its base rate case filing, the Company presented evidence that it exercises 50 percent of its distribution and hydrant valves on a rotating schedule annually. Zone 1 valves are exercised on odd years and zone 2 valves are exercised on even years. CUPA St. 4 at 6:3-5; *see also* CUPA St. 4, Exh. EAL-2. Moreover, the Company presented evidence that it replaced 38 distribution valves in Penn Estates, Westgate, and Tamiment from 2021 to 2023. CUPA St. 4-R at 6:1-3. The Company also indicated that Tamiment and Penn Estates have capital projects to repair/replace valves scheduled in 2024. Westgate had valve replacements in 2021 and 2023. Westgate has watermain replacement projects scheduled in 2024, 2026, and 2028. These projects will replace watermains, hydrants, and valves in areas containing older or the oldest infrastructure within the system. CUPA St. 4 at 6:9-13.

106. OCA witness Fought indicated that the Company's isolation valve exercise schedule was acceptable. OCA St. 5 at 15:18-19. However, OCA witness Fought recommended that a summary report should be submitted to the Statutory Parties annually identifying the

isolation valves that need to be located, uncovered, repaired, and or replaced with an approximate date for doing so. OCA St. 5 at 16:1-5.

107. The Settlement reaches a reasonable compromise given the concerns raised by the OCA regarding reporting on isolation valves and the Company has agreed to submit with its next rate case documentation that identifies the isolation valves that need to be located, uncovered, repaired and/or replaced in the following year. Settlement ¶ 33.

5. Fire Suppression (Settlement ¶ 34)

108. During the proceeding, several consumers raised concern about the lack of fire protection in CUPA's systems. *See, e.g.*, Tr. at 45:15-21, 136:20 – 137:1, 305:15-16. The OCA likewise raised concerns about fire suppression recommending that any fire hydrants that cannot provide the minimum fire flow should be painted black or otherwise identified to be used as a blow-off valve only. OCA St. 5 at 16:181-22. OCA witness DeMarco recommended that the Company must address the lack of fire protection in the Tamiment system before the Company's next base rate case. OCA St. 1 at 16:15-22.

109. While investor-owned water companies are not required to provide fire protection services, the Company presented specific evidence addressing concerns regarding lack of fire protection.¹⁴ The Company clarified that Westgate has 83 hydrants, seven of which are not capable of delivering 500 gallons per minute ("gpm") fire flow at 20 pounds per square inch gauge (p.s.i.g.) residual pressure for a 2-hour duration. CUPA St. 4-R at 7:11-13. The Company also indicated

¹⁴ *Staff Report Re: Service Quality of Total Environmental Solutions, Inc.- Beech Mountain Lakes Div.*, Docket No. M-00061938, 2006 WL 3103057, at *3 (Tentative Order entered Oct. 24, 2006); *see also Policy Statement on Public and Private Fire Protection*, 52 Pa. Code §§ 69.1501-69.1504, Docket No. M-2022-3033054 (Final Policy Statement entered Jan. 9, 2024), at 5 ("To clarify that the language of Section 69.xx1(a) is intended to encourage, rather than require, water public utilities to provide reasonable fire protection service throughout the Commonwealth..."), available at <https://www.puc.pa.gov/pcdocs/1811681.pdf>.

that its Westgate water main replacement projects will address hydrants within the replacement areas by making them capable of fire suppression. CUPA St. 4-R at 7:13-14.

110. Regarding Penn Estates, the Company presented evidence that it has 205 hydrants, fifteen of which are not capable of delivering 500 gpm fire flow at 20 p.s.i.g. residual pressure for a 2-hour duration. With the addition of the booster station in 2025, approximately 7 hydrants in the low-pressure zone will be able to begin providing fire protection service. CUPA St. 4-R at 7:14-18.

111. Regarding Tamiment, Company witness Long testified that CUPA acquired the Tamiment system in 2019 and did not construct or design the system. CUPA St. 4-R at 7:20-21. Furthermore, Tamiment's water system was not designed or constructed to meet the current fire flow standards and the hydrants with Tamiment do not provide fire protective service. CUPA St. 4-R at 7:19-21.

112. In response to OCA Fought's concerns, the Company clarified that all hydrants within Penn Estates, Westgate, and Tamiment unable to support fire suppression are visibly marked as flushing hydrants. The hydrants are marked with either a "FLUSHING ONLY" collar or with a band that says "FLUSHING HYDRANT". CUPA St. 4-R at 7:7-9. In response, to OCA witness DeMarco, the Company noted that it understands the important public safety benefits of fire suppression service and is willing to have GHD perform a Fire Flow Study of the Tamiment system. CUPA St. 4-R at 8:1-5.

113. Based on the views of the parties and the evidence presented, the Settlement provides that the Company will have GHD develop a hydraulic model utilizing existing data for

its Tamiment system. The hydraulic model will then be used to evaluate the fire suppression flows available throughout the Tamiment system before the next base rate case.¹⁵ Settlement ¶ 34.

6. Service Fees (Settlement ¶ 35)

114. OCA witness Rogers raised concern with the service fees that are applied to online payments of customer bills, recommending that the Company offer no-fee payment methods for all customers. OCA St. 2 at 24:8 – 25:9. Ms. Rogers recommended that CUPA recover these expenses directly from customers as an operations and maintenance expense. OCA St. 2 at 25:6-9. Ms. Rogers further recommended that the Company present a cost proposal in its rebuttal testimony to implement these recommendations. OCA St. 2 at 24:20-21.

115. While the Company raised equity concerns regarding the OCA’s proposal, the Company agreed as part of the Settlement to present a no-fee payment option for online payments in the next base rate case. Settlement ¶ 35. Under this methodology, customers would not be directly charged an additional fee at the time of payment. Instead, these expenses will be recovered by CUPA directly under the O&M expenses in the cost of service. Settlement ¶ 35.

116. This provision is in the public interest as it reasonably addresses the concerns of the OCA and will allow for the presentation of appropriate evidence in the next base rate case from which the Commission can make a more informed decision on this issue.

K. Capital Reporting Requirements (Settlement ¶¶ 36-37)

117. The Settlement contains various reporting requirements requested by the Statutory Parties that promote the public interest.

¹⁵ The Settlement also provides that monthly unmetered public fire protection rates will not be decreased in the next rate case. Settlement ¶ 34. This addresses a rate design concern raised by I&E in testimony that reducing the public fire rates to comport with the 25% ceiling specified in the Public Utility Code violates Section 1328, 66 Pa. C.S. § 1328(c). I&E St. 3 (Water) at 24:7-24. Such agreement is consistent with Section 1328 and, thus, is in the public interest. 66 Pa. C.S. § 1328(c) (“The legal rates charged to municipalities for public fire hydrants in effect on the effective date of this section shall remain frozen and shall not be changed until the present rates for those public fire hydrants are determined to be below the 25% ceiling established under subsection (b).”).

118. CUPA has agreed to file and serve upon the Commission’s Bureau of Investigation and Enforcement and the Office of Consumer Advocate an updated CUPA Schedule A-1, Columns A-G, lines 1-50 (water) and 51-119 (wastewater) no later than November 1, 2024, that will include actual capital expenditures, plant additions, and retirements by month for the twelve months ending July 31, 2024. Settlement ¶ 36.

119. CUPA has also agreed to provide an additional update for the 12 months ending July 31, 2025, no later than November 1, 2025. Settlement ¶ 37.

L. Standard Terms (Settlement ¶¶ 38 – 44)

120. The Settlement contains conditions pertaining to interpretation of its terms, the parties’ reservation of rights in the event the Settlement is modified by the Commission, and the procedures that apply. In particular, the Settlement provides that it is conditioned upon the Commission’s approval of the terms and conditions contained in this Settlement without modification, and that if the Commission modifies the Settlement, a party may withdraw from the Settlement and proceed with litigation. The Settlement also provides that if the ALJs recommend that the Commission approve the Settlement without modification, the Joint Petitioners waive their right to file exceptions. These terms are similar to terms approved by the Commission in past CUPA base rate case.¹⁶

¹⁶ CUPA BRC 2021, at 75-76.

III. CONCLUSION

For all of these reasons, and those stated in the Joint Petition, Community Utilities of Pennsylvania, Inc. believes that the Settlement is in the public interest and requests that the Presiding Officers and the Commission approve the Settlement as submitted, without modification, and find that the terms and conditions of the Settlement are consistent with the law and in the public interest.

Respectfully submitted,

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Counsel for Community Utilities of Pennsylvania Inc.

Dated: April 26, 2024

APPENDIX H

OFFICE OF CONSUMER ADVOCATE STATEMENT IN SUPPORT

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	
	:	
v.	:	Docket Nos. R-2023-3042804 (Water)
	:	R-2023-3042805 (Wastewater)
Community Utilities of Pennsylvania, Inc.	:	
	:	
	:	
	:	

STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE
IN SUPPORT OF THE JOINT PETITION FOR
FULL SETTLEMENT OF RATE PROCEEDING

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Full Settlement of Rate Proceeding (Settlement) submitted by Community Utilities of Pennsylvania, Inc. (CUPA or Company) before the Pennsylvania Public Utility Commission (Commission), hereby submits this Statement in Support of Settlement to demonstrate that the OCA finds the terms and conditions of the Settlement to be in the public interest and in the interest of CUPA’s consumers. The OCA respectfully requests that the Commission approve the Settlement, without modification, for the reasons set forth herein.

I. BACKGROUND

On November 9, 2023, CUPA filed proposed Supplement No. 13 to its Water Service Tariff – Pa. P.U.C. No. 1 (Supplement No. 13) and Supplement No. 11 to its Wastewater Service Tariff – Pa. P.U.C. No. 1 (Supplement No. 11), with effective dates of January 9, 2024. CUPA requested an overall increase in annual operating revenues of approximately \$3,169,708, or 56%. OCA St. 2 at 3. Of the proposed increase, \$1,470,360 will come from an increase in water revenues, and \$1,738,944 will come from an increase in wastewater revenues. *Id.* For both water and wastewater

service, CUPA used a historic test year ending July 31, 2023 (HTY), future test year ending July 31, 2024 (FTY), and fully projected future test year ending July 31, 2025 (FPFTY).

As part of its filings in this proceeding, CUPA proposed to consolidate rates of the Tamiment service territory with the rates of the already consolidated territories, which includes the Penn Estates and Westgate service territories for water service and the Penn Estates and Utilities, Inc. of Pennsylvania (UIP) for wastewater service. OCA St. 4 at 7, 17. Further, to comply with the terms of the settlements in its previous rate case (Docket Nos. R-2021-3022506 (water) and R-2021-3022507 (wastewater)) and merger case (Docket Nos. A-2022-3036744 (water) and A-2022-3036745 (wastewater)), the Company also proposed expanding its low-income program to wastewater customers, increasing the income qualification threshold to 200% of the Federal Poverty Line (FPL), and offering an Arrearage Management Program (AMP). CUPA St. 2 at 15; CUPA St. 6 at 6. In conjunction with the merger, the Company has also proposed a cost-tracking mechanism, which will track all costs and benefits the Company receives associated with the merger. CUPA St. 6 at 8.

On December 8, 2023, the OCA filed a Formal Complaint and Public Statement in both the water and wastewater general rate increase requests. In its investigation of the rate filing and development of its position, the OCA analyzed the Company's claims, written testimony, and discovery responses. 58 unique consumers also filed formal complaints in these proceedings.

Public Input Hearings were held telephonically and in-person in Bethlehem and in Tamiment on January 30-31 and February 1, 2024. 47 customers, as well as Pennsylvania Senator Baker and Pennsylvania Representative Probst, testified at the Public Input Hearings expressing opposition to the proposed rate increase, raising affordability concerns, as well as quality of service

concerns regarding hyper-chlorinated water, lack of adequate pressure, and lack of adequate fire protection.

On February 6, 2024, the OCA filed its direct testimony: OCA Statement 1, the Direct Testimony of Nicholas A. DeMarco; OCA Statement 2, the Direct Testimony of Jennifer L. Rogers; OCA Statement 3, the Direct Testimony of Morgan N. DeAngelo; OCA Statement 4, the Direct Testimony of Jerome D. Mierzwa; and OCA Statement 5, the Direct Testimony of Terry L. Fought. The OCA also filed timely rebuttal testimony on March 5, 2024, and surrebuttal testimony on March 19, 2024.

Additional procedural history is provided in Appendix A to the proposed Settlement.

II. SETTLEMENT TERMS AND CONDITIONS

A. Overall

The terms and conditions of the Settlement address the issues raised in the OCA's Formal Complaints and testimony. The OCA recognizes that this Settlement contains modifications from the original recommendations proposed by the OCA. The OCA submits, however, that the agreed-upon Settlement achieves a reasonable resolution of the many complex issues presented in this proceeding.

In this Statement in Support, the OCA addresses those areas of the Settlement that specifically relate to issues that the OCA raised in this case. The OCA expects that other parties will discuss how the Settlement's terms and conditions address their respective issues and how those parts of the Settlement support the public interest standard required for Commission approval.

For these reasons, and those that are discussed in greater detail below, the OCA submits that the Settlement is in the public interest, in the interest of CUPA's consumers, and should be approved by the Commission without modification.

B. Revenue Requirement Increase (Settlement ¶¶ 4-5).

CUPA initially proposed to increase its annual operating revenues for its water operations by approximately \$1,470,360 per year, or 62%, over the amount of annual revenues at present rates. OCA St. 2 at 3. Similarly, CUPA proposed to increase its annual operating revenues for its wastewater operations by approximately \$1,738,944 per year, or 51%, over the amount of annual revenues at present rates. *Id.*

In the OCA's direct testimony, the OCA recommended that the Company receive an increase no higher than \$1,161,538 (\$308,822 less than the Company's requested increase of \$1,470,360) for its water operations and \$1,201,945 (\$536,999 less than the Company's requested increase of \$1,738,944) for its wastewater operations. OCA St. 2 at 3-4. The OCA's adjusted revenue requirement increase reflected the OCA's recommended adjustments to address the primary drivers of CUPA's case, along with other recommendations related to other issues that the OCA has raised.

Under the Settlement, CUPA will be permitted a total annual revenue increase of \$1,227,538.10 for the Company's water division and \$1,447,621 for the Company's wastewater division. Settlement ¶¶ 4-5. Overall, this represents an increase of approximately 52% over present water division revenues and approximately 42.3% over present wastewater division revenues. Combined, this is approximately 9.2% less than the total amount requested by CUPA.

The Settlement represents a "black box" approach to the revenue requirement including cost of capital issues. Black box settlements avoid the need for protracted disputes over the merits

of individual revenue requirement adjustments and avoid the need for a diverse group of stakeholders to attempt to reach a consensus on each of the disputed accounting and ratemaking issues raised in this matter, as policy and legal positions can differ. As such, the parties have not specified a dollar amount for each issue or adjustment raised in this case. Attempting to reach agreement regarding each adjustment in this proceeding would have likely prevented any settlement from being reached.

The total increase authorized under the Settlement is less than 3% higher than the OCA's litigation position. Based on the OCA's analysis of CUPA's filing, discovery responses received, and testimony by all parties, the revenue increase under the Settlement represents a result that would be within the range of likely outcomes in the event of full litigation of the case, especially when accompanied by other important conditions contained in the Settlement.

C. Stay Out (Settlement ¶ 6).

Under the terms of the Settlement, CUPA will not file for another general rate increase for water or wastewater service prior to February 9, 2026. Settlement ¶ 6. If the case were fully litigated, CUPA could potentially file for another general rate increase at any time. This Settlement provision is in the public interest as it ensures stability in the customers' newly established rates, such that CUPA cannot file a rate general request until at least February 9, 2026.

D. Effective Date (Settlement ¶¶ 7-8).

At the prehearing conference on January 11, 2024, CUPA voluntarily offered to extend the suspension period for the Company's general rate increase from August 9, 2024 to August 22, 2024 contingent upon CUPA being permitted to recover approved rates from the original suspension deadline date through the effective date of Commission approved rates. No parties

objected to this request. On January 25, 2024, the ALJs entered a Scheduling Order modifying the procedural suspension date from August 9, 2024, to August 22, 2024.

Under the terms of the Settlement, upon the entry of a Commission Order approving the Settlement, the Company will be permitted to file a tariff for water service, in the form attached hereto as Appendix B, and a tariff for wastewater service, in the form attached hereto as Appendix C, reflecting the agreed-upon additional operating revenue. Settlement ¶ 7. The parties also agreed to the implementation of the water and wastewater settlement rates on August 9, 2024, when the original statutory suspension period was to expire, if the Commission enters an Order approving the Settlement prior to or on that date. *Id.*

If the Commission's approval of this Settlement occurs after August 9, 2024, the parties agree that CUPA shall be entitled to recoup the revenue increase not billed from the effective date of August 9, 2024, through the date of any PUC approval of new rates in the manner set forth in the Commission's final Order in this proceeding. Settlement ¶ 8. The revenue increases not billed from the effective date of August 9, 2024, through the date of Commission approval of new rates will be recovered over a six-month period that shall be applied proportionately to all customer classes via a surcharge on each monthly bill during the six-month recovery period. *Id.* The Company will be permitted to file revised water and wastewater tariff pages to implement the surcharge, as set forth in Appendices B and C, respectively. *Id.*

By having the effective date of new rates match the Company's proposal, no additional surcharges will be charged to CUPA's customers to recover for the period between the original August 9, 2024 suspension date and the modified suspension date of August 22, 2024. An additional surcharge to recover rates for approximately thirteen days is unnecessarily complicated

and could potentially lead to customer confusion. As such, it is in the public interest to use the original effective date of August 9, 2024 as it would simplify the imposition of new rates.

E. COVID-19 Regulatory Asset (Settlement ¶¶ 9-12).

As part of its filing, CUPA included deferred charges in rate base that are comprised mainly of expense items, including rate case expense, multi-year tank maintenance, multi-year testing costs, and costs related to the COVID-19 pandemic. OCA St. 2 at 6. The amount that CUPA included in the FPFTY totals \$499,071 for water, and \$422,322. *Id.* In testimony, the OCA opposed the inclusion of CUPA's COVID-19 deferred charges in rate base as CUPA had not sought Commission approval to include these deferred charges in rate base. OCA St. 2 at 6.

As discussed in the OCA's testimony, inclusion of deferred costs in rate base needs to first be authorized by the Commission. OCA St. 2 at 6. Deferred charges are generally expenses incurred in prior periods that are recorded in a temporary asset account to be written off as expenses in the future. OCA St. 2 at 6. In proceedings specifically petitioning the Commission for deferral accounting, the utility "has been required to show that the expense item appears to be within the scope of the type of items that the Commission has allowed as an exception to the general rule against retroactive recovery of past expenses." *Petition Requesting Initiation of a Proceeding on Federal Funding Opportunities for Utilities Under the Infrastructure Investment and Jobs Act*, 2023 PA. PUC LEXIS 193, *12.

Under the terms of the Settlement, CUPA will remove the deferred charges related to the COVID-19 pandemic from rate base. Settlement ¶ 10. CUPA also agreed to no longer continue recording a regulatory asset for ongoing COVID-19 related incremental bad debt (other than reductions to bad debt in the regulatory asset associated with late recovery of such reflatd bad

debt) and other COVID-19 related expenses after the effective date of new rates for the instant proceeding. Settlement ¶ 12.

The Settlement ensures that CUPA will not be permitted to include these deferred expense items in rate base, but instead will be able to recover the COVID-19 regulatory asset amount of \$114,185 over a 5 year period. Settlement ¶ 9. The deferred charges included here are not capital investments, but rather reflect what the Company describes as costs incurred through normal operations. OCA St. 2 at 7. Expenses are to be recovered without profit. *Id.* Including these charges in the rate base would allow the Company to inappropriately earn a return on these expenses, which is not permitted. *Id.* As such, the Settlement's removal of the deferred charges related to the COVID-19 pandemic from rate base should be adopted.

F. Rate Design and Structure (Settlement ¶ 18).

1. Water Availability Rates (Settlement App. D).

CUPA proposed increasing availability charges for water customers from \$18.81 for Consolidated customers and \$9.31 for Tamiment customers to \$45.60 for all customers. OCA St. 4 at 14. This request represents a 250% increase for Consolidated customers and nearly 500% for Tamiment customers. *Id.* The OCA opposed this level of increase as being inconsistent with the concept of gradualism and recommended movement toward consolidation in this rate case rather than full consolidation, with regard to availability charges for water customers. *Id.* OCA witness Mierzwa recommended a lesser level of increase, closer to 1.5 to 2.0 times the system average increase. *Id.*

The proposed Settlement adopts the recommendations presented by Mr. Mierzwa. Settlement App'x D. Specifically, the OCA recommended adopting availability charges of \$30.66 for Consolidated customers and \$18.11 for Tamiment customers. OCA St. 4R at 4-5. These

increases represent an increase of approximately 1.3 and 2.0 times the system average increase under the settlement rates, respectively. While still an increase of substantial size, the increased availability charges, under the OCA's recommendation, can be considered consistent with the concept of gradualism. OCA St. 4 at 9. Further, this increase moves the Tamiment rate district's availability rates towards consolidation with the Consolidated rate district, in line with how the rate districts have been consolidated for all non-availability rates for both water and wastewater customers.

2. Customer Charges – Water (Settlement App. D).

CUPA proposed increasing the customer charge for all water customers to \$23.40, up from \$17.25 (a \$6.15 or 36% increase) for Consolidated customers and from \$18.18 (a \$5.22 or 29% increase) for Tamiment customers. OCA St. 4 at 9-10. The OCA argued that CUPA's proposed customer charges were too high and exceeded the direct customer cost-of-service. *Id.* The OCA proposed, instead, that the fixed customer charge for all water customers should be set at \$17.25, which would create no increase for Consolidated customers and a decrease of \$0.93 (5%) for Tamiment customers. *Id.* at 13.

Under the terms of the Settlement, the fixed customer charge for all water customers will be set at \$18.18, meaning that Tamiment customers will see no increase in their customer charge while Consolidated customers will see a \$0.93, or 5%, increase. Settlement App'x D. While \$18.18 is still above the actual direct customer cost of providing water service to CUPA's customers of \$13.05, having a slightly higher customer charge requires less increase to volumetric charges in order to satisfy the Company's revenue requirement. OCA St. 4 at 13. The Settlement rate design, as a result, limits the increase to fixed customer charges while having a relatively similar rate impact to the OCA's litigation position of \$17.25 for residential customers at all usage levels. As

such, customers will have greater ability to control their bills through conservation than under the Company's initial proposal, and a similar ability as at present rates.

3. Customer Charge – Wastewater (Settlement App. E).

CUPA proposed increasing the customer charge for all water customers to \$51.65, up from \$26.15 (a \$25.50 or 98% increase) for Tamiment customers. OCA St. 4 at 17. The OCA argued that CUPA's proposed customer charges were too high and exceeded the direct customer cost-of-service. *Id.* at 19. The OCA proposed, instead, that the fixed customer charge for all wastewater customers should be set at \$26.15, which is the customer charge currently in effect for Tamiment customers. *Id.* CUPA also proposed transitioning the Consolidated rate district from flat to metered service, which the OCA supports. *Id.* at 17.

Under the terms of the Settlement, the fixed customer charge for all water customers will be set at \$39.90, meaning that Tamiment customers will see an increase of \$13.75, or 53%. Settlement App'x E. While \$39.90 is still above the actual direct customer cost of providing water service to CUPA's customers of \$11.55, having a higher customer charge requires less increase to volumetric charges in order to satisfy the Company's revenue requirement. OCA St. 4 at 19. The Settlement rate design, as a result, gives customers a greater ability to control their bills through conservation than under the Company's initial proposal, while still gradually transitioning Consolidated wastewater customers towards a rate design responsive to water usage.

4. Conclusion

Based on the foregoing, the OCA submits that the portion of this Settlement pertaining to rate design is in the public interest. With regard to water availability rates, the Joint Petitioners adopted the OCA's litigation position, which represents a gradual increase for availability customers by falling within the Commission's accepted metric of 1.5 to 2.0 times the system average increase. OCA St. 4 at 14. Water customer charges are only a slight increase over current

charges for Consolidated customers with no increase for Tamiment customers, meaning that customers' control over their bills is largely identical to present rates, preserving incentives for conservation, and remaining closer to the actual cost of service of \$13.05 than under the Company's proposed rates. *Id.* at 13.

Similarly, wastewater customer charges will remain closer to the actual cost of service of \$11.55 than under CUPA's proposed rates than under the Company's initial proposal. *Id.* at 19. While wastewater customer charges will increase substantially under the terms of the Settlement for Tamiment customers, the Settlement's rate design represents a period of transition for Consolidated customers, who are currently receiving flat rate service. This Settlement represents a step towards providing CUPA wastewater customers with cost-of-service based customer charges rooted in direct customer costs without inducing rate shock as Consolidated customers begin paying volumetric rates.

Therefore, the Settlement's rate design is in the public interest because it balances CUPA's interest in maximizing recovery through fixed rates with the Commission's policies which favor rate designs that incentivize conservation and move gradually towards cost-of-service.

G. Low-Income Consumer Issues (Settlement ¶¶ 13-29)

1. Increased Discount (Settlement ¶ 18.a)

CUPA proposed expanding access to its low-income discount program of 35% to qualifying customers' volumetric rate from only water customers to also include wastewater customers. OCA St. 1 at 19, 21. CUPA also proposed that customers would qualify for the low-income program if they have household incomes of at or below 200% of the Federal Poverty Level (FPL), an increase from the current maximum income level of 100% FPL. *Id.* at 21. No party submitted testimony opposing CUPA's proposed expansions, and CUPA agreed in rebuttal to

apply the discount to both volumetric and customer charges, which was not contested in I&E's or OSBA's surrebuttal testimony. CUPA St. 2R at 12.

While the OCA supported CUPA's proposals, due to the affordability concerns identified by OCA witness DeMarco and myriad witnesses at the public input hearings in this case, the OCA argued that CUPA should expand the low-income discount even further to increase bill affordability for CUPA's low-income customers. OCA St. 1 at 18. Specifically, the OCA recommended that CUPA should implement a tiered bill discount program which provides greater discounts at lower-income levels for qualifying customers, including a 40% discount at 150% - 200% FPL, a 60% discount to customers between 100% and 150% FPL, and an 80% discount to customers at or below 100% FPL. *Id.* at 33-34. In the alternative, Mr. DeMarco recommended that customers receive a 60% discount to volumetric and customer charges. OCA St. 1SR at 15.

In the Settlement, CUPA agreed to implement a 45% discount program for volumetric and customer charges, for water and wastewater customers who qualify at or below 200% FPL. Settlement ¶ 18.a. The 45% discount presents a reasonable compromise between the OCA's position of a 60% discount and CUPA's proposed 35% discount. As Mr. DeMarco provided in his testimony, the target for bill affordability, according to the United States Environmental Protection Agency (EPA), is 2% of a household's monthly income for water service and 2.5% for wastewater service. OCA St. 1 at 31. Under CUPA's proposed rate and discount design, no customer at or below 200% FPL would fall within the EPA's affordability metric, and applying the discount to both customer and volumetric charges would still leave water service unaffordable for all customers at or below 200% FPL. *Id.* at 31-33. While a tiered discount program would increase affordability at all income levels for qualifying customers, applying a 45% discount puts customers above 150% FPL within the EPA's affordability metric, which is a step towards ensuring all CUPA

customers can afford their monthly water and wastewater bills. *Id.* at 34. Further, CUPA committed to proposing an additional discount tier in its base rate case for customers at or below 75% FPL, making its bills more affordable for its lowest income customers. Settlement ¶ 19.

Bill affordability is a significant concern, particularly given the magnitude of CUPA's proposed increases to water and wastewater bills. This concern is raised in the direct testimony of OCA witness DeMarco. The proposed low-income program expansion would help to make bills more affordable and mitigate the impact of the increase. As Mr. DeMarco noted, other water utilities have a customer assistance program in place. OCA St. 1SR at 12. Consistent with the OCA's recommendation, the proposed Settlement will provide more affordable bills to CUPA's low-income customers.

2. Low-income Outreach (Settlement ¶¶ 14.e, 17)

CUPA proposed no changes to its current outreach efforts to inform its customers regarding its low-income program. Instead, CUPA indicated that the efforts undertaken for the settlements in its 2021 base rate proceeding and 2022 merger proceeding were sufficient. OCA St. 1 at 25-28. However, the OCA was concerned that CUPA's outreach efforts are not sufficient; OCA witness DeMarco estimated that approximately 350 households at or below 100% FPL could reside in CUPA's service territory, while only seven customers are currently enrolled in CUPA's low-income program. *Id.* at 23. While it is likely that some of the 59 customers who had previously applied but have not been enrolled in the low-income program may qualify under the increased income threshold of 200%, it is unlikely that the Company's current outreach strategy would result in additional applications for its low-income program. OCA St. 1SR at 14.

Under the terms of the Settlement, however, the Company is required to conduct two different outreach activities that, absent the Settlement, it would not likely have undertaken. First,

CUPA will provide quarterly bill inserts with information regarding its low-income program in English and in Spanish. Settlement ¶ 14.e. Second, CUPA will have annual, in-person meetings in each of its four service territories to discuss, among other topics, the low-income program. *Id.* at ¶ 17.

These two commitments, in addition to CUPA's suggestion made in its Rebuttal testimony that it provide quarterly updates regarding its low-income program through its existing Voice Reach system, provide a well-rounded approach to consumer outreach. CUPA argued that the Voice Reach system is cost-effective and that its customers are used to receiving information from the Voice Reach system, making it a good tool to use to promote the low-income program. CUPA St. 2RJ at 18. However, the Voice Reach system is most effective when paired with other forms of consumer access, such as in-person events and mailings, to ensure that as many qualifying customers are reached as possible. OCA St. 1SR at 9. Many customers who may qualify for the low-income discount may not have consistent access to phone or internet service, making it difficult to contact them through the Voice Reach system, which uses phone calls, texts, and emails to provide information to customers. *Id.*

As a result, requiring CUPA to issue quarterly mailings and hold annual customer meetings is a step in the right direction. While potentially not as effective of forms of outreach as partnering with community-based organizations – such as places of worship, community centers, and public libraries – which may be able to better communicate information regarding CUPA's low-income program than the Company to CUPA's customers, customers should be given information regarding the low-income program in as many media as possible. OCA St. 1 at 29. Adding two forms of outreach to CUPA's current practices is more likely to result in customers knowing about,

understanding, and applying for CUPA's low-income program than at present or under the Company's proposals made during litigation.

3. AMP Outreach (Settlement ¶¶ 28, 29)

Similarly, CUPA provided no information regarding specific outreach measures for the Arrearage Management Program (AMP) it proposed in this proceeding. The OCA argued that customers contacting CUPA, or the administrator of CUPA's low-income program, Dollar Energy Fund (DEF), regarding difficulty paying their bills, then CUPA should attempt to enroll the customer in the low-income program and the AMP, if they would qualify. OCA St. 1 at 38. CUPA did not accept the OCA's position in rebuttal and rejoinder and did not specifically respond to the OCA's arguments why customers should not be informed of both programs. CUPA St. 6R at 7; CUPA St. 6RJ at 6. As a result, the Settlement ensures that, if a customer contacts CUPA or DEF about being potentially payment-troubled, then the customer will be informed of both the low-income program and AMP, including the eligibility requirements, as recommended by the OCA. Settlement ¶ 29. In addition, customers who are enrolled in the low-income program will be automatically offered participation in the AMP program, if they have sufficient arrearage balance. *Id.* at ¶ 28.

As with CUPA's low-income program, outreach opportunities are imperative to ensure that the Company administers an effective program which will, in the long-term, reduce customers' uncollectible expense while putting them on track to pay monthly bills on-time and in-full. Notifying customers who indicate they may be payment-troubled cuts provides CUPA with direct access to the customers most in need of enrollment in the low-income program and AMP, if they should qualify. Similarly, as only customers enrolled in the low-income program can participate in the AMP, notifying customers regarding the AMP as they are enrolled in the low-income

program is the most effective way to ensure that all AMP-qualifying customers are aware of their ability to participate in the AMP. By improving outreach opportunities for the AMP program, the Settlement places CUPA on a path to providing its customers with an effective course to participation in the AMP and relief from past-due balances for qualifying customers.

4. AMP Protections (Settlement ¶¶ 23, 24, 26)

CUPA's proposed AMP contained no explicit protections for participants regarding the customers' ability to afford AMP payments under the proposed, the customers' ability to make late or partial payments, or how their contributions to the AMP would affect their arrearage balance in case of default. Supplement No. 13 at 12B; Supplement No. 11 at 6B. The OCA proposed several protections, including increasing the length of time of the payment arrangement, setting a lower arrearage balance as qualifying for the AMP, and providing that late or partial payments should not constitute non-compliance for the purpose of removing a participant from the AMP. OCA St. 1 at 37-38; *see also* 52 Pa. Code § 56.97 (when establishing a payment arrangement, the utility should consider "the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated."). CUPA rejected these proposals during litigation, providing instead that the AMP, as proposed, adequately balanced the interests of customers' ability to receive arrearage forgiveness with the Company's interest in on-time payments in-full, without incurring additional costs for administering the program. CUPA St. 6RJ at 7.

However, the Settlement captures some of the OCA's recommendations. Under the terms of the Settlement, CUPA guaranteed it will allow for good faith flexibility with regard to the customer's ability to pay, the length of time over which the balance accumulated, the payment history of the customer, and the size of the unpaid balance. Settlement ¶ 23. While not adopting

the OCA's recommendation in full, the Settlement permits CUPA to deviate from the established "default" AMP articulated in its proposed tariff supplements, a guarantee which was not likely to be established through the litigation process and brings the AMP in line with the Commission's regulations regarding payment arrangements. As a result, the OCA submits that this provision puts qualifying customers in a better "position to maintain good payment habits and avoid accruing utility debt" without compromising CUPA's ability to recover AMP payments, which the Commission has stated is one of its aims with enrolling customers in customer assistance programs, such as CUPA's proposed AMP. *2019 Amendments to Policy Statement on Customer Assistance Program*, 52 Pa. Code § 69.261–69.267, Docket No. M-2019-3012599, Final Policy Statement and Order, Docket M-2019-3012599 (September 19, 2019) at 46.

Similarly, the Settlement requires CUPA to submit with its next general rate increase "an analysis and costs to implement changes to its billing system" which would permit greater flexibility for AMP customers to select a billing date other than CUPA's monthly designated billing date. Settlement ¶ 24. Bill payment flexibility is essential for customer assistance programs. OCA St. 1 at 38. As argued by Mr. DeMarco, "[i]f a customer is late, they should not lose forgiveness. For example, if a customer who is on Social Security receives their check on the first of the month, but their bill is due at the end of the month, that customer could be chronically late." *Id.* A number of witnesses at the public input hearings testified that they are on fixed income and/or depend on social security for their cost of living. Tr. 53-57, 64-66, 111-15, 115-25, 127-31, 241-44, 265-66, 354-55, 365-67, 382-84, 385-91, and 410. While not all of these customers may currently qualify for CUPA's low-income program, or might qualify under the increased income threshold, it is imperative to consider how a customer on a fixed income may function within the constraints of CUPA's proposed AMP, which would not allow for late payments to qualify for

arrearage forgiveness. Such customers must be given latitude, and the Settlement puts CUPA on a path to be able to give latitude to customers on fixed incomes – or who otherwise may be chronically late in paying their utility bills – following the analysis of costs associated with billing system upgrades in its next base rate proceeding.

Finally, the Settlement ensures that all customer contributions towards arrearage forgiveness will constitute progress towards their arrearage balance if the customer defaults on the AMP. Settlement ¶ 26. In his testimony, Mr. DeMarco suggested that, in the event of default, a customer should not lose their progress towards arrearage forgiveness. OCA St. 1 at 38. However, Mr. DeMarco's recommendation would not be effective under the AMP implemented in the Settlement, as customers are removed from the AMP upon default and cannot reapply for 12 months. Settlement ¶ 25. As a result, the guarantee that all contributions will reduce a customer's overall arrearage balance provides the closest reasonable alternative to Mr. DeMarco's recommendation, ensuring that customers' contributions are still going to assist the customer in reducing their utility debt, even if they do not receive total forgiveness.

5. Conclusion

The terms of the Settlement regarding the low-income and AMP programs are in the public interest. CUPA would not be required to implement the OCA's recommendations regarding an increased discount for low-income customers, low-income or AMP outreach, or consumer protections for the AMP program absent the Settlement. CUPA's obligations under the terms of the Settlement will provide significant benefit to CUPA's current qualifying low-income customers, while providing more customers with critical information regarding CUPA's low-income program. While the Settlement does not adopt the entirety of the OCA's recommendation with regard to improvements to the low-income or AMP programs, the Settlement does constitute

a marked improvement in CUPA's programs and progresses CUPA towards offering a more comprehensive and overall robust low-income program. Therefore, the portions of the Settlement regarding CUPA's low-income and AMP programs are in the public interest.

H. Water Quality and Service Issues (Settlement ¶¶ 31-35).

1. Unaccounted For Water (UFW) Mitigation and Reporting (Settlement ¶ 31).

Rate increases caused by system inefficiencies are unfair to ratepayers. OCA witness DeMarco testified that high UFW can indicate poor management and infrastructure. OCA St. 1 at 12. When UFW is measured, non-revenue water can be reduced which reduces chemical and power costs, provides for water conservation, and helps improve operational efficiency. Id. The Commission considers levels of UFW above 20% to be excessive. 52 Pa. Code § 65.20(4).

CUPA has an average UFW of 24.76%. OCA St. 1 at 12. CUPA's UFW for each of its systems is:

Penn Estates: 30.92%

Westgate: Pumpage from 1st to 31st operator read 11.33%

Pumpage from City Bill read 9.98%:

Tamiment: 28.07%

OCA St. 1 at 12.

Under the terms of the Settlement, for all of CUPA's systems, the Company will perform annual system wide leak detection and any associated repairs unless the individual system has an average UFW that is below 20% for the previous 6 months. Settlement ¶ 31.a. For Penn Estates, CUPA is currently working with the engineering firm GHD to design and implement virtual district metering areas (vDMA) at Penn Estates utilizing the 6 existing hydraulic model. The vDMAs serve to split the system into smaller zones, which will allow for ongoing monitoring and

quicker response times to locate and repair leaks. Settlement ¶ 31.b. The efforts outlined in the Settlement to reduce UFW are in the public interest as they are active steps that the Company will take to attempt to mitigate CUPA's excessive UFW.

OCA witness Fought also recommended that CUPA continue to be required to submit a Section 500 UFW calculation for each of its water systems as other utilities that have multiple systems have agreed to do. OCA St. 5 at 7. Under the terms of the Settlement, CUPA will submit an individual form 500 for each of its systems. Settlement ¶ 31.d.

OCA witness Fought further noted in testimony that CUPA also was required to provide a breakdown of lost and unaccounted for water by system dealing all identified causes in the previous base rate case settlement. OCA St. 5 at 7. OCA witness Fought recommended that CUPA should continue providing this data in future rate cases as well. *Id.* Under the terms of the Settlement, in future rate cases, CUPA will continue to provide a breakdown of lost and unaccounted for water by system detailing all identified causes as per the previous base rate case settlement. Settlement ¶ 31.e. In the previous base rate case settlement, CUPA only agreed to provide this data until the next base rate case. With this provision, CUPA will continue providing this important data to interested stakeholders.

OCA witness DeMarco recommended that CUPA update the OCA quarterly on all progress made towards lowering UFW. OCA St. 1 at 13. Under the terms of the Settlement, CUPA will provide quarterly updates regarding their UFW by system to the OCA and the Commission until CUPA files its next base rate case. Settlement ¶ 31.f. This data could be used for comparison with future submittals to determine progress in reducing UFW, especially in the Tamiment system. These are reasonable recommendations that should be adopted because the reporting will permit the parties to determine whether CUPA is making progress on reducing UFW.

2. Pressure Surveys (Settlement ¶ 32).

Among the issues identified in this case, the OCA identified a need for CUPA to develop a plan to address pressure issues throughout its system. The Commission requires utilities to maintain normal operating pressures of no more than 125 pounds per square inch gauge at each main, with limited exceptions. 52 Pa. Code § 65.6(a). The Commission has a maximum and minimum pressure criterion while DEP has a minimum and normal working pressure criterion. OCA St. 5 at 9. The PUC has a minimum criterion of 25 psi at the main while DEP's minimum criteria is 20 psi at ground level. *Id.* Assuming the main is buried 4.5 feet below ground, DEP minimum criteria is equivalent to 22 psi at the main. *Id.*

CUPA is aware of the highest and lowest pressure in each of its pressure zones. CUPA stated in its filing that:

Westgate - Water distribution PSI meets 52 Pa. Code, § 65.6(a) and 65.6(d). Penn Estates - Water distribution PSI exceeds 125 PSI in the lower elevations and does not meet 25 PSI in the higher elevations of the community. Penn Estates is in compliance with 52 Pa. Code, § 65.6(d). Tamiment - Water distribution PSI meets 52 Pa. Code, § 65.6(a). Tamiment will be in full compliance of required annual pressure surveys with the 2023-2025 hydrant contract per 52 Pa. Code, § 65.6(d).

OCA St. 5 at 10-11 (internal citations omitted).

CUPA reported that the Penn Estates pressure issues listed above last longer than 5 days. OCA St. 5 at 11. CUPA also noted that, per the 2021 Rate Case Settlement, a study was conducted by GHD to assess the system pressure. The study showed that normal operating pressure could not be decreased below 125 PSI without adversely impacting some customers. *Id.* In dealing with the system's pressure issues, CUPA had an Engineering Study completed for the Penn Estates system to comply with PUC minimum pressure requirements and increase pressures so that it is suitable for all household pressures. OCA St. 5 at 12. CUPA also noted that there was a Hydraulic Analysis on how to address system low and high pressures and intends to implement its recommendations

during 2024. *Id.* The study made multiple recommendations on how to address system PSI, with certain benefits and disadvantages. OCA St. 5 at 11. CUPA noted that a capital project is slated for 2024 to address Penn Estate's system pressure. *Id.*

OCA witness Fought expressed concern regarding CUPA's low pressure and explained that some of CUPA's reported pressures are extremely low and could indicate that nearby areas may be subject to negative pressures during periods of high demands, flushing, and fires. OCA St. 5 at 11. OCA witness Fought noted that negative pressures will allow contaminated ground water to enter the water mains at pipe joints and unrepaired leaks. *Id.* Even very low pressures are a problem because they impair customers' ability to use the water for daily needs, like cleaning. *Id.*

OCA witness Fought also testified to his concern that CUPA's pressure survey data also shows high pressures in the Penn Estates system. See OCA St. 5 at 11. As noted by OCA witness Fought, high pressures can cause damage to customer service lines and also the inside plumbing if the pressure reducing valve installed inside the building fails. OCA St. 5 at 12. Higher pressure also results in larger volumes of unavoidable pipeline leakage and leakage during pipeline and service line breaks. *Id.*

OCA witness Fought recommended that, before the filing of CUPA's next base rate case, CUPA should inform the parties in this proceeding what CUPA plans to implement to address the system's pressure issues. OCA St. 5 at 12; OCA St. 5SR at 2-3. Under the terms of the Settlement, before the next base rate case, CUPA will provide an update to the OCA, I&E, and OSBA on the implementation of the recommendations from the engineering study and hydraulic analysis to address low and high pressure in Penn Estates. Settlement ¶ 32. The Settlement adopted OCA witness Fought's recommendations.

3. Isolation Valves (Settlement ¶ 33).

Isolation valves are installed on water mains so that the water can be shut off in sections of the distribution system in case of a water main break or for main repairs and replacements. OCA St. 5 at 13. Isolation valves are also used to isolate unsafe water and to separate different pressure zones. *Id.* It should be noted that CUPA has also included valves that isolate fire hydrants from the distribution system in its listing of valves to exercise. *Id.*

Mr. Fought explained the importance of exercising isolation valves:

It is important to exercise isolation valves to prevent the valves from seizing up and getting stuck from corrosion or other deposits adjacent to the valve. An isolation valve that cannot be fully closed will increase the water loss during a water main break and increase the number of customers affected while the utility finds working valves to isolate a main break.

OCA St. 5 at 13-14. If an isolation valve becomes inoperable due to lack of being exercised, the valve will have to be repaired or replaced which can be very expensive. OCA St. 5 at 14.

CUPA exercises 50% of its distribution and hydrant valves on a rotating schedule annually. OCA St. 5 at 15. Zone 1 valves are exercised on odd years and Zone 2 valves are exercised on even years. *Id.* There are 342, 254, and 114 isolation and hydrant valves in the Penn Estates, Westgate, and Tamiment systems, respectively. OCA St. 5 at 15; OCA Exh. TLF-W2.

PUC auditors have recently encouraged water utilities to exercise critical valves on a one- to three-year cycle and the remaining non-critical valves on a seven- to ten-year cycle since AWWA's distribution valve exercising recommended guidelines can be resource intensive. OCA St. 5 at 14. OCA witness Fought testified that he agrees with the PUC Auditors' schedule. OCA St. 5 at 14-15.

OCA witness Fought noted that CUPA's valve exercising schedule was acceptable, but that CUPA should be required to provide additional information regarding isolation valves in the

form of a summary report should be submitted to the parties annually that identifies the valves that need to be located, uncovered, repaired and/or replaced. OCA St. 5 at 15-16; OCA St. 5SR at 4.

Under the terms of the Settlement, CUPA will submit documentation with its next rate case that identifies isolation valves that need to be located, uncovered, repaired and/or replaced in the following year. Settlement ¶ 33. The Settlement adopts OCA witness Fought's engineering recommendation.

4. Fire Hydrants and Fire Suppression, Tamiment (Settlement ¶ 34).

CUPA is not providing fire protection in the Tamiment system until additional improvements are made. OCA St. 5 at 16. At the Public Input Hearings in Tamiment, multiple customers expressed their concern regarding public safety and increased insurance costs due to a lack of operable fire hydrants. Tr. 231, 286, 328-333, 341, 360, 366, 382, 393-394. In addition to public safety concerns, if fire companies use hydrants that cannot provide the minimum necessary flow, it may cause negative pressures that can contaminate the distribution system. OCA witness Fought recommended that the fire hydrants that cannot provide the minimum fire flow should be painted black or otherwise identified to be used only as blow-off valves. OCA St. 5 at 16.

In rebuttal testimony, CUPA witness Long stated that "all hydrants within Penn Estates, Westgate, and Tamiment unable to support fire suppression are visibly marked as flushing hydrants." CUPA St. 4R at 7. In response, OCA witness Fought agreed that marking fire hydrants unable to meet minimum flow was agreeable. OCA St. 5SR at 5.

CUPA witness Long also testified in rebuttal testimony that "CUPA is willing to explore investing in systems to provide fire protection services, but this will take time and raise future rates for customers given the substantial investment required for these system upgrades." CUPA St. 4R at 8. CUPA witness Long further stated that "CUPA would be willing to have GHD perform a Fire

Flow Study of the Tamiment system.” *Id.* OCA witness Fought agreed with this approach. OCA St. 5SR at 5. Under the terms of the Settlement, engineering firm GHD will develop a hydraulic model utilizing existing data. Settlement ¶ 34. The hydraulic model will then be used to evaluate the fire suppression flows available throughout the Tamiment system before the next base rate case. *Id.* Utilizing GHD to develop a hydraulic model utilizing existing data is a reasonable approach to address this issue in a cost-effective manner and is in the public interest.

5. Service Fees (Settlement ¶ 35).

CUPA’s ratepayers are charged a “service fee” by First Billing Services for eCheck, credit, and debit card payments made online or over the phone. OCA St. 2 at 24. The following fees are directly applied by First Billing services to CUPA ratepayers at the time of payment:

Residential:

eCheck/credit/debit: \$0 to \$75 = \$1.99 fee

eCheck/credit/debit: \$75.01 to \$5,000 = \$2.25 fee

Commercial:

eCheck = \$2.25 fee

credit/debit: \$1.00 to \$5,000 = 2.45% fee

Automated recurring payments:

eCheck = \$0.99 fee

OCA St. 2 at 24-25.

OCA witness Rogers recommended that the Company offer no-fee payment methods for all customers. OCA St. 2 at 25. Under this methodology, customers would not be directly charged an additional fee at the time of payment. *Id.* Instead, these expenses would be recovered by CUPA directly under the Operations & Maintenance expenses in the cost of service. *Id.* A no-fee

methodology increases customer convenience for these common payment methods, easing the process and removing a barrier to payment. *Id.*

Under the Settlement, CUPA will present a no-fee payment option for online payments in the next base rate case. Settlement ¶ 35. Under this methodology, customers will not be directly charged an additional fee at the time of payment. *Id.* Instead, these expenses will be recovered by CUPA directly under the O&M expenses in the cost of service. *Id.*

Electronic payment is not an irregular method of payment, but rather extremely and increasingly common. Per the Federal Reserve's Survey and Diary of Consumer Payment Choice, for U.S. Consumers in 2022 "[a]s a share of all payments by number, most payments were by credit card (31 percent) or debit card (29 percent). By value, 43 percent of payments value was made electronically from a bank account using one of two ACH methods and 35 percent were made using a card (debit, credit, or prepaid)." OCA St. 2SR at 17-18 (internal citations omitted). To allow an outside company to impose additional charges on this common method of doing business is inappropriate. Presenting a no-fee payment option for online payments in the next base rate case is a reasonable compromise in furtherance of settlement as CUPA did not present data in this case for OCA witness Rogers to make an adjustment given CUPA's response to OCA interrogatories indicating that the Company uses First Billing Services and that CUPA does not charge a service fee. OCA St. 2 at 25. CUPA's presentation of a no fee payment option for online payments in the next base rate case is a reasonable step forward.

6. Conclusion

The provisions of this Settlement pertaining to water quality and service issues is in the public interest. Regarding UFW, pressure surveys, isolation valves, and fire hydrants in Tamiment, CUPA has adopted the OCA's engineering recommendations. Moreover, while the OCA opposed

ratepayers being charged service fees by a third-party to pay their water and wastewater bills, CUPA's presentation of a service fee free payment option in the next base rate case is a reasonable attempt to move away from using a third-party billing system that charges fees to its customers merely for customers to be able to pay their bills.

III. CONCLUSION

The OCA submits that the terms and conditions of the proposed Settlement of these rate investigations, taken as a whole, represent a fair and reasonable resolution of the issues raised by the OCA in this matter. Therefore, the OCA submits that the Settlement should be approved by the Commission without modification as being in the public interest and in the interest of CUPA's ratepayers.

Respectfully submitted,

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APPENDIX I

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2023-3042804 (Water)
	:	R-2023-3042805 (Wastewater)
Community Utilities of Pennsylvania, Inc.	:	
Base Rates	:	

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF
JOINT PETITION FOR APPROVAL OF SETTLEMENT
OF ALL ISSUES**

**TO: ADMINISTRATIVE LAW JUDGES STEVEN K. HAAS
AND ALPHONSO ARNOLD III:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutor, Scott B. Granger, hereby respectfully submits that the terms and conditions of the foregoing Joint Petition for Approval of Settlement of All Issues (“Joint Petition” or “Settlement”) are in the public interest and represent a fair, just, and reasonable balance of the interests of the Community Utilities of Pennsylvania, Inc. (“CUPA” or the “Company”), I&E, the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), (parties in the above-captioned proceeding and hereinafter collectively referred to as “Joint Petitioners” or the “Parties”), as well as the CUPA ratepayers.¹

¹ Numerous CUPA ratepayers filed formal and informal complaints in this proceeding.

I. BACKGROUND

1. I&E is charged with representing the public interest in Commission proceedings related to rates, rate-related services, and applications affecting the public interest. In negotiated settlements, it is incumbent upon I&E to identify how amicable resolution of any such proceeding may benefit the public interest and to ensure that the public interest is served. Based upon I&E's analysis of the CUPA base rate filing, acceptance of this proposed Settlement is in the public interest and I&E recommends that the Administrative Law Judges and the Commission approve the Settlement in its entirety.

2. On November 9, 2023, Community Utilities of Pennsylvania, Inc. "(CUPA)" filed Supplement No. 13 to Tariff Water – Pa. PUC No. 1 ("Supplement 13") and Supplement No. 11 to Tariff Wastewater – Pa. PUC No. 1 ("Supplement 11") with the Commission, both to become effective January 9, 2024, for an increase in its water and wastewater rates. CUPA requested approval for revenue increases of \$1,470,360 for its water service and \$1,738,944 for its sewer service. CUPA stated the additional revenues are designed to produce \$3,830,944 and \$5,159,925 in annual water and sewer revenues.

3. As proposed, the average monthly bill for all 5/8-inch residential water customers, except for Tamiment, using 3,452 gallons would be \$101.37, representing an increase of approximately 59% over current bills. For customers in the Tamiment service territory, the average monthly bill for a 5/8-inch residential water customer using 2,270 gallons would be \$74.68, representing an increase of approximately 69%.

4. As proposed, the average monthly bill for residential wastewater customers, except for Tamiment, using 3,400 gallons would be \$112.51, representing an increase of approximately 50.5% over current bills. For customers in the Tamiment territory, the average monthly bill for a customer using 2,225 gallons would be \$91.48, representing an increase of approximately 59.79%.

5. CUPA's proposed increase was based on a fully projected future test year ("FPFTY") ending July 31, 2025, a Future Test Year ("FTY") ending July 31, 2024, and a historic test year ("HTY") ended July 31, 2023.

6. I&E filed its Notice of Appearance on November 13, 2023.

7. The OSBA filed a Notices of Appearance and a Formal Complaints in both the water and wastewater proceedings on November 29, 2023.

8. The OCA filed Formal Complaints in both the water and wastewater proceedings on December 8, 2023.

9. On December 15, 2023, the Commission entered an Order suspending the implementation of both CUPA's Supplement 13 (water) and Supplement 11 (wastewater) by operation of law until August 9, 2024, and opening an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in CUPA's proposed Supplement 13 and Supplement 11. The Commission also stated the investigation shall include consideration of the lawfulness, justness, and reasonableness of CUPA's existing rates, rules, and regulations.

10. The case was assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary, culminating in the issuance of a Recommended Decision.

11. A telephonic Prehearing Conference was held on January 11, 2024, at 10:00 a.m. before Administrative Law Judges Steven K. Haas and Alphonso Arnold III (the “ALJs”) during which the parties agreed to a schedule for the conduct of the case including the service of testimony among the parties and the dates for evidentiary hearings.

12. Six (6) public input hearings were held. Two (2) in-person hearings were held on January 30, 2024 at 1:00 p.m. and 6:00 p.m. in Bethlehem, Pa. Two (2) telephonic hearings were held on January 31, 2024 at 1:00 p.m. and 6:00 p.m. And, two (2) in-person public input hearings were held on February 1, 2024 at 1:00 p.m. and 6:00 p.m. in Tamiment, Pa.

13. All parties undertook comprehensive discovery in this proceeding after the filing was made and continued to conduct discovery throughout the litigation and settlement negotiation process.

14. After all parties agreed to waive all cross for all witnesses and all witnesses were excused, the evidentiary hearing scheduled for March 28-29, 2024 was cancelled. The parties requested and were granted the option of admitting all evidence (including all pre-served written testimony and exhibits) by joint stipulation and witness verification.

15. In accordance with the procedural schedule established at the prehearing conference, I&E served to all active parties the following nine (9) pieces of testimony and accompanying seven (7) exhibits from three (3) I&E witnesses:

Zachari Walker

I&E Statement No. 1 (PROPRIETARY/Non-Proprietary)

I&E Exhibit No. 1 (PROPRIETARY/Non-Proprietary)

I&E Statement No. 1-SR

I&E Exhibit No. 1-SR

D. C. Patel

I&E Statement No. 2

I&E Exhibit No. 2

I&E Statement No. 2-R

I&E Statement No. 2-SR

Esyan Sakaya

I&E Statement No. 3 (Water)

I&E Exhibit No. 3 (Water)

I&E Statement No. 3 (Wastewater)

I&E Exhibit No. 3 (Wastewater)

I&E Statement No. 3-SR (Water)

I&E Exhibit No. 3-SR (Water)

I&E Statement No. 3-SR (Wastewater)

I&E Exhibit No. 3-SR (Wastewater)

16. Additionally, in consideration of Commission policy encouraging settlements at 52 Pa. Code § 5.231 and § 69.401 as they often achieve results preferable to a fully litigated proceeding, I&E participated in settlement discussions with CUPA and the Parties. Following extensive settlement negotiations, the Joint Petitioners reached a full settlement of all issues as set forth in the Joint Petition.

II. SETTLEMENT TERMS AND CONDITIONS

A. General

17. As stated *supra*, I&E is charged with representing the public interest in Commission proceedings related to rates, rate-related services, and applications affecting the public interest. In negotiated settlements, it is incumbent upon I&E to identify how amicable resolution of any such proceeding may benefit the public interest and to ensure that the public interest is served.

18. “The prime determinant in the consideration of a proposed Settlement is whether the settlement is in the public interest.”² The Commission has recognized that a settlement “reflects a compromise of the positions held by the parties of interest, which, arguably fosters and promotes the public interest.”³

19. Settlements conserve precious administrative resources and provide regulatory certainty with respect to the disposition of issues with results that are often preferable to those achieved at the conclusion of a fully-litigated proceeding; and, provide a final resolution of adversarial proceedings which, in the Commission’s judgement, is preferable.⁴ The very nature of a settlement requires a review and discussion of all issues raised by the parties’ and a negotiated compromise on the part of all parties.

20. I&E submits that this Settlement balances the interests of the Company, its customers, and the Joint Petitioners in a fair and equitable manner and presents a

² *Pennsylvania Public Utility Commission v. Philadelphia Electric Company*, 60 PA PUC 1, 22 (1985).

³ *Pennsylvania Public Utility Commission v. C S Water and Sewer Associates*, 74 PA PUC 767, 771 (1991).

⁴ *See generally* 52 Pa. Code § 5.231 and § 69.401.

resolution for the Commission's adoption that best serves the public interest.

Furthermore, the negotiated Settlement demonstrates that compromises are evident throughout the Joint Petition. Accordingly, for the specific reasons articulated below to achieve the full scope of benefits addressed in the Settlement; I&E requests that the Settlement be recommended by ALJ Long, and approved by the Commission, without modification.

B. Revenue Requirement/Black Box Settlement (*Joint Petition* ¶ 2-5).

The Joint Petitioners agree that the terms of this Settlement reflect a carefully balanced “black box” compromise of the interests of all the active Parties in this proceeding. The Joint Petitioners also agree that CUPA's November 9, 2023, distribution base rate increase filing should be approved subject to the terms and conditions of the Settlement set forth in the Joint Petition.

More specifically, the Joint Petitioners agreed to settlement terms regarding the overall base rate revenue increase. The settlement as to revenue requirement shall also be a “black box” settlement, except for the items specifically set forth in the Joint Petition. Specifically, the settlement terms regarding revenue requirement are as follows.

Upon the entry of a Commission Order approving the Settlement, CUPA shall be permitted to file a tariff for water service and a tariff for wastewater service reflecting the agreed-to additional operating revenue. The Joint Petitioners request that the Commission make their determination during the August 1, 2024, public meeting so that the implementation of the Settlement Rates would occur on August 9, 2024, when the

original statutory suspension period was to expire. The agreed to Settlement revenue increases are as follows:

Water	Wastewater	TOTAL
\$1,227,538.10 ⁵	\$1,447,621.00 ⁶	\$2,675,159.10

I&E fully supports the negotiated level of overall base rate revenue increase as compared to CUPA’s original request. While the overall revenue requirement is a “black box” compromise, the overall revenue levels are within the levels advanced on the evidentiary record and reflect a full compromise of all revenue-related issues raised by the Parties.⁷ I&E’s final litigation position for the revenue increase for water was \$1,191,309⁸ and for wastewater was \$1,468,722.⁹ And, as a “black box” settlement, unless specifically addressed below, the Settlement does not reflect agreement upon individual issues. Therefore, in consideration of the extensive testimony presented by all of the Parties to this proceeding, I&E fully supports the negotiated level of overall base rate revenue increase as a full and fair compromise that provides CUPA, the Joint Petitioners, affected ratepayers, and the Commission with resolution of the overall revenue increase, all of which is in the public interest.

C. Stay Out (*Joint Petition* ¶ 6).

The Joint Petitioners agree that CUPA will not file, pursuant to 66 Pa. C.S. §

⁵ See Joint Petition, ¶ 4.

⁶ See Joint Petition, ¶ 5.

⁷ See I&E St. No. 1-SR, pp. 5-7.

⁸ *Id.*, p. 5.

⁹ *Id.*, p. 6. Both the negotiated settlement revenue increase for water and wastewater are essentially in line with I&E’s final litigation positions.

1308(d), for a general revenue increase to water or wastewater base rates earlier than February 9, 2026.

CUPA and the Joint Petitioners conducted good faith negotiations and as a result, a Stay Out was agreed to. I&E did not submit testimony on this issue. Parties other than I&E raised this issue during the settlement negotiations, and I&E did not oppose this proposition when it was raised. Therefore, in consideration of the result of the settlement negotiations, I&E does not oppose this settled upon stay out provision as a full and fair compromise that provides CUPA, the Joint Petitioners, the Commission, and the ratepayers with regulatory certainty and a resolution which is in the public interest.

D. Effective Date (*Joint Petition ¶¶ 7-8*).

In the Settlement the Joint Petitioners agree the Company will be permitted to file a tariff for water service, in the form attached to the Joint Petition as Appendix B, and a tariff for wastewater service, in the form attached to the Joint Petition as Appendix C, reflecting the agreed-upon additional operating revenue. The Joint Petitioners agree to the implementation of the Water Settlement Rates and Wastewater Settlement Rates on August 9, 2024, when the original statutory suspension period was to expire, if the Commission enters an Order approving the Joint Petition prior to or on that date.

As stated in the Joint Petition at footnote 4, the Joint Petitioners entered into an agreement to extend the procedural suspension date thereby extending the litigation schedule for the convenience of all parties. I&E supports this settlement term as part of the original agreement between the parties which was in the public interest then and is in the public interest now.

E. COVID-19 Regulatory Asset (*Joint Petition ¶¶ 9-12*).

In the Settlement, the Company has agreed to several provisions regarding recovery of the balance of the COVID-19 regulatory asset. To summarize, the Company has agreed that CUPA shall recover the COVID-19 balance of \$114,185 amortized over 5 years. Further, CUPA shall remove the deferred charges related to the COVID-19 pandemic from rate base.

I&E submitted extensive testimony regarding recovery of the balance of the COVID-19 regulatory asset¹⁰ ultimately agreeing the Company's proposed five-year amortization period.¹¹ On the other hand, however, I&E recommended rejection of the Company's proposal to allow rate base treatment of the unamortized COVID-19 regulatory asset.¹² Finally, I&E supports the Company's agreement s to no longer continue recording a regulatory asset for ongoing COVID-19 related incremental bad debt (other than reductions to bad debt in the regulatory asset associated with late recovery of such related bad debt) and other COVID-19 related expenses after the effective date of new rates for the instant proceeding.

I&E, CUPA and the Parties conducted good faith negotiations and as a result, the Joint Petitioners agreed to the settlement terms set forth in the Joint Petition. Therefore, in consideration of the record evidence presented by the parties and the results of the settlement negotiations, I&E supports the settled upon terms as a full and fair compromise that provides CUPA, the Joint Petitioners, CUPA ratepayers, and the

¹⁰ See I&E St. No. 1, pp. 22-29; I&E St. No. 1-SR, pp. 14-17.

¹¹ *Id.*, p. 26; *Id.*, p. 17.

¹² *Id.*, p. 25; *Id.*, p. 17.

Commission with regulatory certainty and a resolution which is in the public interest.

F. Low Income Program (*Joint Petition ¶¶ 13-17*).

In the Settlement, the Joint Petitioners have agreed to several settlement terms regarding the Company's low-income program. The Joint Petitioners have agreed that the Company will expand the eligibility of its Low-Income Program to income up to 200% of the Federal Poverty Level ("FPL"). Further, the Joint Petitioners agree the Company will make certain recommended changes to the Low-Income section of its website. Also, the Company agreed it will continue to provide quarterly report updates detailing participation, usage, and revenue shortfalls/surpluses. And finally, the Company agreed it will hold annual customer meetings in each of its service territories where topics including the Low-Income Program will be discussed.

I&E submitted limited testimony on the low-income issues.¹³ Parties other than I&E raised the bulk of these issues in testimony and during the settlement negotiations. And, while I&E shares the concerns of the other parties, I&E also has concerns regarding low-income discounts to monthly customer charges,¹⁴ volumetric charges, and the expansion of low-income programs. I&E's concerns are with regard to the possible increase in any additional costs that may be spread over the remaining ratepayers.¹⁵ Nevertheless, I&E did not oppose these issues as they were raised by the other parties. And now, in consideration of the results of the settlement negotiations, I&E does not oppose these settled upon terms as a full and fair compromise that provides CUPA, the

¹³ See I&E St. No. 3, pp. 19-26; I&E St. No. 3-SR, pp. 11-13.

¹⁴ See *Id.*, pp. 20-22; *Id.*

¹⁵ See 66 Pa. C.S. §§1401, 1402 regarding consumer protections for timely paying customers.

Joint Petitioners, the Commission, and the ratepayers with regulatory certainty and a resolution which is in the public interest.

G. Rate Design (*Joint Petition ¶¶ 18-19*).

In the Settlement the Joint Petitioners agreed to a comprehensive rate design as set forth in Appendix D¹⁶ for water customers and Appendix E¹⁷ for wastewater customers attached to the Joint Petition. More specifically, the Joint Petitioners agree that CUPA will apply a 45% discount to both the volumetric usage and customer charge for all participants in the Low-Income Program, regardless of their income relative to the FPL. Further, it is agreed that CUPA will implement a 6.3% water and a 1% wastewater differential between commercial and residential customer charges consistent with the current rate design. Additionally, it is agreed that CUPA will present a tiered discount income-based plan with tiers at 50% and 75% FPL in the next base rate case. This tiered income-based plan will only be applied to and recovered from residential customers. Finally, it is agreed that for the purposes of establishing the revenue requirement in this case, CUPA shall utilize a consumption decline of 1.16% from the Historic Test Year (“HTY”) consumption levels to the Future Test Year (“FTY”) consumption levels and an additional decline of 1.16% from the FTY to the Fully Projected Future Test Year (“FPFTY”) consumption levels.

¹⁶ See Joint Petition, Appendix D.

¹⁷ See Joint Petition Appendix E.

I&E submitted extensive testimony regarding rate design, including cost of service and revenue allocation.¹⁸ I&E carefully considered the monthly customer charges, the volumetric charges, the monthly availability charges, and the cost of service claims provided by the Company.¹⁹ I&E also considered the concepts of gradualism, rate shock, and scale back of rates across all of the CUPA service territories.²⁰

Additionally, while considering all of the rate design, cost of service analyses and revenue allocations presented by the various parties, the Joint Petitioners engaged in extensive negotiations regarding the ultimate revenue allocation among rate classes, and the applicable customer and volumetric charges for each rate class. Difficult choices had to be made. All due consideration was given to the application of relative rate of return concepts as well as gradualism and rate shock concepts. After extensive negotiations among the Joint Petitioners and in consideration of all of the record evidence presented, I&E fully supports the revenue allocation and rate design settlement terms as set forth in the Joint Petition and on Appendix D and E attached to the Joint Petition as a full and fair compromise that provides CUPA, the Joint Petitioners, ratepayers, and the Commission with regulatory certainty and resolution of the rate design and revenue allocation, all of which is in the public interest.

H. Arrearage Management Program (*Joint Petition* ¶¶ 20-29).

In the Settlement, the Joint Petitioners agree that the Company will implement

¹⁸ See I&E St. No. 3 (water), pp. 13-27; I&E St. No. 3 (wastewater), pp. 17-27; I&E St. No. 3-SR (water), pp. 6-18; I&E St. No. 3-SR (wastewater), pp. 10-11.

¹⁹ *Id.*, pp. 20-22; *Id.*, pp. 19-26; *Id.*, pp. 12-17; *Id.*, p. 11.

²⁰ See I&E St. No. 3 (water), pp. 23, 28; I&E St. No. 3-SR (water), pp. 12-13, 14-16, 19-20.

changes to CUPA's Arrearage Management Program ("AMP"). The Joint Petitioners negotiated extensive settlement terms regarding CUPA's AMP that are fully set forth in the Joint Petition at the paragraphs referenced above.²¹ To summarize, customers approved for CUPA's low-income rate and with a past-due balance greater than \$400 can participate in CUPA's AMP. Further, the AMP will be comprised of the total past due balance for all services (water and/or wastewater). The past due balance threshold of \$400 for participation in the AMP will be based upon this combined balance. Additionally, AMP customers will be enrolled in a multi-month Deferred Payment Arrangement ("DPA"). A DPA allows eligible customers to take their past-due balance and split their past-due balance over equal monthly installments. Further, the default AMP period for low-income customers will be 12 months.

I&E did not submit testimony on the arrearage management program issues. Parties other than I&E raised these issues in testimony and during the settlement negotiations. And, while I&E share the concerns raised by other parties, I&E also has concerns regarding the expansion of the arrearage management programs and the increase in any additional costs that may be spread over the remaining ratepayers.²² Nevertheless, I&E did not oppose these issues as they were raised. And now, in consideration of the results of the settlement negotiations, I&E does not oppose these settled upon terms as a full and fair compromise that provides CUPA, the Joint

²¹ See Joint Petition, ¶¶ 20-29.

²² See 66 Pa. C.S. §§1401, 1402 regarding consumer protections for timely paying customers.

Petitioners, the Commission, and the ratepayers with regulatory certainty and a resolution which is in the public interest.

**I. Integration Customer Protection Deferral Mechanism
(*Joint Petition* ¶ 30).**

In the Settlement the Joint Petitioners agree that CUPA shall set up a deferral account, “Integration Customer Protection Deferral Mechanism,” which will capture accrued costs and benefits of integration that occur for five years after the closing date of the merger transaction.²³ All parties reserve their rights to challenge recovery of any deferred amounts in future rate proceedings.

I&E submitted testimony on this issue and expressed concerns regarding the recovery from rate payers in the future of any “costs to achieve,” transaction costs, and claimed benefits.²⁴ I&E also raised concerns regarding whether recovery of these costs would constitute retroactive recovery in rates.²⁵ Further, I&E conducted a thorough review of the record evidence presented by all of the Parties. Finally, in consideration of all of the concerns expressed by all of the Joint Petitioners and the extensive negotiations between the Company and the Joint Petitioners, I&E fully supports the settled upon terms regarding the integration customer protection deferral mechanism as a full and fair compromise that provides CUPA, the Joint Petitioners, ratepayers, and the Commission with regulatory certainty which is in the public interest.

²³ See I&E St. No. 1 PROPRIETARY, pp. 33-37. See also Docket Nos. R-2022-3036744 (wastewater) and R-2022-3036745 (water) (Order entered September 8, 2023)

²⁴ I&E St. No. 1 PROPRIETARY, pp. 35-36; I&E St. No. 1-SR, pp. 21-23.

²⁵ I&E St. No. 1-SR, pp. 22-23.

J. Water Quality & Service Issues (*Joint Petition ¶¶ 31-35*).

In the Settlement the Joint Petitioners agree that the Company will address certain issues regarding water quality and service including (1) unaccounted for water mitigation and reporting; (2) pressure surveys; (3) isolation valves; (4) fire hydrants and fire suppression (Tamiment); and (5) service fees.²⁶

I&E submitted testimony regarding unaccounted for water mitigation and reporting,²⁷ inflow and infiltration,²⁸ fire suppression (Tamiment), and service fees generally.²⁹ I&E shares the Joint Petitioners concerns regarding the water quality and service issues, especially the unaccounted for water mitigation and the inflow and infiltration. Further, I&E performed a review of the record evidence presented by all of the Parties. And, in consideration of all of the concerns expressed by all of the Joint Petitioners and the negotiations between the Company and the Joint Petitioners, I&E fully supports the settled upon terms regarding water quality and service as a full and fair compromise that provides CUPA, the Joint Petitioners, ratepayers, and the Commission with regulatory certainty which is in the public interest.

K. Capital Reporting Requirements (*Joint Petition ¶¶ 36-37*).

In the Settlement the Joint Petitioners agreed that CUPA will file and serve upon the Commission's Bureau of Investigation and Enforcement and the Office of Consumer Advocate an updated CUPA Schedule A-1, Columns A-G, lines 1-50 (water) and 51-119

²⁶ See Joint Petition, ¶¶ 31-35.

²⁷ See I&E St. No. 3 (water), pp. 12-13.

²⁸ See I&E St. No. 3 (wastewater), p. 12.

²⁹ See I&E St. No. 3 (water), pp. 17-27; I&E St. No. 3-SR (water), pp. 7-11.

(wastewater) no later than November 1, 2024, that will include actual capital expenditures, plant additions, and retirements by month for the twelve months ending July 31, 2024. Further, it is agreed that CUPA will provide an additional update through July 31, 2025, no later than November 1, 2025.

I&E submitted testimony regarding capital reporting requirements, plant in service, and rate base.³⁰ I&E expressed its belief that there is value in determining how closely CUPA's projected investments in future facility compare with the actual investments that are made by the end of the FTY and FPFTY.³¹ Determining the correlation between CUPA's projected and actual results will help inform the Commission and the parties in CUPA's future rate cases.³²

In consideration of the concerns expressed by I&E and the Joint Petitioners, I&E fully supports the settled upon terms regarding capital reporting requirements as a full and fair compromise that provides CUPA, the Joint Petitioners, ratepayers, and the Commission with regulatory certainty which is in the public interest.

III. THE SETTLEMENT SATISFIES THE PUBLIC INTEREST (Standard Terms)

21. I&E represents that all issues raised in testimony have been satisfactorily resolved through discovery and discussions with the Company or are incorporated or considered in the resolution proposed in the Settlement. This Settlement exemplifies the benefits to be derived from a negotiated approach to resolving what can appear at first

³⁰ See I&E St. No. 3 (water), pp. 7-9; I&E St. No. 3 (wastewater), pp. 7-11.

³¹ *Id.*, p. 8; *Id.*, p. 11.

³² *Id.*, *Id.*

blush to be irreconcilable regulatory differences. The Joint Petitioners have carefully discussed and negotiated all issues raised in this proceeding, and specifically those addressed and resolved in this Settlement. Further line-by-line identification of the ultimate resolution of the disputed issues beyond those presented in the Settlement is not necessary as I&E represents that the Settlement maintains the proper balance of the interests of all parties. I&E is satisfied that no further action is necessary and considers its investigation of this rate filing complete.

22. I&E submits that the acceptance of this Settlement negates the need for evidentiary hearings, which would compel the extensive devotion of time and expense for the preparation, presentation, and cross-examination of multiple witnesses, the preparation of Main and Reply Briefs, the preparation of Exceptions and Replies, and the potential of filed appeals, all of which yield substantial savings for all parties and ultimately all customers. Moreover, the Settlement provides regulatory certainty with respect to the disposition of issues and final resolution of this case which all parties agree benefits their discrete interests.

23. The Settlement is conditioned upon the Commission's approval of all terms without modification. Should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Settlement, it may be withdrawn by the Company, I&E, or any other Joint Petitioner.

24. I&E's agreement to settle this case is made without any admission or prejudice to any position that I&E might adopt during subsequent litigation in the event that the Settlement is rejected by the Commission or otherwise properly withdrawn by

any other parties to the Settlement. Further, I&E's agreement to settle this case is made without any admission or prejudice to any position that I&E might adopt during any future proceeding regarding this Company or any other public utility.

25. If the ALJ recommends that the Commission adopt the Settlement as proposed, I&E agrees to waive the filing of Exceptions. However, I&E does not waive its right to file Replies to Exceptions with respect to any modifications to the terms and conditions of the Settlement or any additional matters that may be proposed by the ALJs in their Recommended Decision. I&E also does not waive the right to file Replies in the event any party files Exceptions.

WHEREFORE, the Commission's Bureau of Investigation and Enforcement represents that it supports the Joint Petition for Settlement of All Issues as being in the public interest and respectfully requests that Administrative Law Judges Steven K. Haas and Alphonso Arnold III recommend, and the Commission approves, the terms and conditions contained in the Joint Petition without modification.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Scott B. Granger", is written over a light gray horizontal line.

Scott B. Granger
Prosecutor
PA Attorney ID No. 63641

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120
(717) 787-4887
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Dated: April 26, 2024

APPENDIX J

OFFICE OF SMALL BUSINESS ADVOCATE STATEMENT IN SUPPORT

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2023-3042804 (Water)
	:	R-2023-3042805 (Wastewater)
Community Utilities of Pennsylvania Inc.	:	
	:	

**STATEMENT IN SUPPORT OF THE SETTLEMENT OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

I. Introduction and Overall Reasons in Support of Settlement

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. Pursuant to that statutory authority, the Office of Small Business Advocate (“OSBA”) filed a complaint in the above-captioned proceeding, which was initiated by Community Utilities of Pennsylvania Inc. (“CUPA” or the “Company”) on November 9, 2023. A full recitation of the procedural history in this case is provided in Appendix A to the Joint Petition for Settlement (“*Settlement*”) that was filed in the proceeding on April 26, 2024. As a signatory to the *Settlement*, the OSBA adopts the procedural history outlined in Appendix A to the *Settlement*.

The OSBA was an active participant in the litigation and the negotiations that led to the *Settlement*. The *Settlement* sets forth a comprehensive list of issues that were resolved through the negotiation process. The OSBA submits this statement in support of the *Settlement*.

II. Reasons for Support of Specific Issues

A and B.

Revenue Requirement for Water (A) and Wastewater (B)

In CUPA's initial filing, it sought a total increase to base rate revenues of water, wastewater and sewer service revenues totaling \$3.2 million, in water \$1,470,360 and wastewater service \$1,738,944 respectively.¹ (*Settlement*, p. 3-4, ¶ A(4) and B(5)).

The OSBA made several adjustments and recommendations to CUPA's proposed revenue requirement resulting in an overall reduction of \$389,644 to the requested revenue requirement.² In contrast, the *Settlement* provides CUPA with an increase retail tariff rate revenue of \$1,227,538 for water, and \$1,447,621 for wastewater (*Settlement*, p. 3-4, ¶ A (4)and B(5)). In other words, the *Settlement* provides that CUPA will receive a total increase to base rate revenues in the amount of approximately \$2,675,159 million (\$524,841, or approximately 16.4%, less than CUPA's filed position).

At a time when all types of utility service are becoming more expensive, and the COVID-19 pandemic continues to impact customers, the reduction in the overall revenue increase provided by the *Settlement* will benefit all of CUPA's consumers, including the Company's small business customers.

C. Stay Out

Additionally, the *Settlement* provides that CUPA will not file for a general rate increase any sooner than February 9, 2026. (*Settlement*, p. 4, ¶ II.C.6). This provision provides assurance to small business customers that the Company will not seek to increase rates for a

¹ OSBA Statement No. 1 (Public Version), p.5.

² OSBA Statement No. 1, p. 5.

significant period of time. Such assurance that water, wastewater, and stormwater rates will not increase for a set period of time provides certainty and predictability, which in turn allows small businesses to better budget and forecast their own financial needs during the stay-out period.

D. Effective Date

The OSBA took no position on this issue.

E. Covid-19 Regulatory Asset

The OSBA took no position on this issue.

F. Low Income Program

Please See discussion below on Rate Design. The OSBA took no position on the mechanics of CUPA's low-income programs. The OSBA's concerns about the potential cost recovery of low-income residential costs from commercial customers is a factor in the OSBA's recommended rate design proposal.

G. Rate Design

As a result of CUPA's 2021 base rates case (R-2021-3020256 and R-2021-3020257) the Public Utility Commission approved a stipulation that included a partial consolidation of Tamiment rates, with full consolidation proposed in current base rates case.³ The consolidation of rates between water territories and CUPA's proposal to allocate costs to a single customer class within the class cost of service study ("CCOS") results in a cost of service that does not distinguish between residential and commercial customers.⁴ As OSBA witness Bieber testified, CUPA's current water rates utilize a different volume charge for residential and commercial customers, currently 5.1% lower than residential volume charges.⁵ The OSBA

³ OSBA Statement No. 1, p. 15, (citation omitted)

⁴ *Id.*

⁵ OSBA Statement No. 1, p. 15-16

recommended 5.1% differential would reflect the currently approved differential and also provide recognition of efficiencies that higher volume customers provide in their utilization of the water system infrastructure.

The rate design and structure reflected in the Settlement implements a 6.3% differential in water and a 1% differential in wastewater between commercial and residential volume charges only.⁶ The OSBA did not recommend, nor does the *Settlement* reflect, modifications to the rate design for base charges such as fire protection or the availability fee. Maintaining a differential between residential and commercial water volume charges, in addition to implementing a differential between residential and commercial water volume charges, also helps mitigate the disproportionate bill impacts that would otherwise be imposed on commercial water and wastewater customers resulting from the low-income program.

H. Arrearage Management Program

The OSBA took no position on this issue.

I. Integration Customer Protection Deferral Mechanism

The OSBA took no position on this issue.

J. Water Quality and Service Issues

The OSBA took no position on this issue.

K. Capital Reporting Requirements

The OSBA took no position on this issue.

⁶ *Settlement* at p.7. See also, Appendix D and Appendix E

III. Conclusion

Settlement of this proceeding avoids the litigation of complex, competing proposals and saves the possibly significant costs of further administrative proceedings. Such costs are borne not only by the Joint Petitioners, but ultimately by the Company's customers as well. Avoiding further litigation of this matter will serve judicial efficiency and will allow the OSBA to more efficiently employ its resources in other areas.

For the reasons set forth in the *Settlement*, as well as the additional factors that are enumerated in this statement, the OSBA supports the proposed *Settlement* and respectfully requests that the ALJ and the Commission approve the *Settlement* in its entirety.

Respectfully submitted,

/s/ Sharon E. Webb

Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995

Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101

Dated: April 26, 2024

CERTIFICATE OF SERVICE

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

BY ELECTRONIC MAIL ONLY

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BY FIRST CLASS MAIL

Maureen Madden
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/s/ Whitney E. Snyder
Whitney E. Snyder
Thomas J. Sniscak
Phillip D. Demanchick Jr.

Dated this 26th day of April, 2024.

2. August 1, 2024 Opinion and Order;

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held August 1, 2024

Commissioners Present:

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

Pennsylvania Public Utility Commission

R-2023-3042804
(Water)

Office of Consumer Advocate

C-2023-3044737

Office of Small Business Advocate

C-2023-3044494

Oleg Chuchin

C-2023-3044483

John Hoopingarner

C-2023-3044502

Rose Cocklin

C-2023-3044507

Michael Sanfilippo

C-2023-3044480

Rafail Kovalenko

C-2023-3044599

Jenny Howard

C-2023-3044711

Christine Corbissero

C-2023-3044834

Scott and Vicky Furey

C-2023-3044882

Christina Boers

C-2023-3044944

George and Miriam Lingg

C-2023-3044979

Gregory Leone

C-2023-3045126

Cassandra Kramer

C-2024-3045350

Monica Wagner

C-2024-3045352

Nanette De Bartolo

C-2024-3045504

Susan J. Nikolaou

C-2024-3045546

Denise Cooper

C-2024-3045511

Ryan Ellison

C-2024-3045529

Craig Morris

C-2024-3045534

Anna Majewski

C-2024-3045535

Richard and Susan DiPiazza

C-2024-3045541

Brian Morrison

C-2024-3045560

Joseph Bellatoni	C-2024-3045068
Joseph Albanese	C-2024-3045828
Gail Bechtold and Thomas Romano	C-2024-3045846
Mario Carlino	C-2024-3045937
Nicholas Corforte	C-2024-3045975
Linda DiGregorio	C-2024-3045856
Rich Franzen	C-2024-3045982
Catherine Gilchrist	C-2024-3045943
Steven and Carol Krauss	C-2024-3045910
Patricia Lathrop	C-2024-3045944
Susan Maeri	C-2024-3045978
Kristen Martin	C-2024-3045976
Peter Mauro	C-2024-3045861
Patricia Merrill	C-2024-3046298
Grace Moro	C-2024-3045802
Suzie Napolitano	C-2024-3045876
Christ and Carol Nielsen	C-2024-3045553
Thomas and Patricia Parillo	C-2024-3045969
Penn Estates POA, Inc	C-2024-3045863
Antonia and Ramon Rivas	C-2024-3045986
Mary Rossetti	C-2023-3044561
Larisa Shin	C-2024-3045549
Tom Chladny	C-2024-3046401
Margaret Creo	C-2024-3046735
Ernesha Holloway	C-2024-3045359
David Lambie	C-2024-3045801
Natalie Ortiz	C-2023-3045148
Anna Paryzki	C-2024-3045533
Grazyna Parzyka	C-2024-3045542
Petricia Perville-Davy	C-2024-3045389
Raju Shah	C-2024-3047313
Angela Tam	C-2024-3045333

v.

Community Utilities of Pennsylvania, Inc.

Pennsylvania Public Utility Commission	R-2023-3042805 (Wastewater)
Office of Consumer Advocate	C-2023-3044738
Office of Small Business Advocate	C-2023-3044528
Oleg Chuchin	C-2023-3044508

John Hoopingarner	C-2023-3044503
Rose Cocklin	C-2023-3044508
Michael Sanfilippo	C-2023-3044481
Rafail Kovalenko	C-2023-3044649
Jenny Howard	C-2023-3044712
Christine Corbissero	C-2023-3044835
Scott and Vicky Furey	C-2023-3044887
Christina Boers	C-2023-3044945
George and Miriam Lingg	C-2023-3044993
Gregory Leone	C-2023-3045127
Cassandra Kramer	C-2024-3045356
Monica Wagner	C-2024-3045357
Nanette De Bartolo	C-2024-3045510
Susan J. Nikolaou	C-2024-3045557
Denise Cooper	C-2024-3045515
Ryan Ellison	C-2024-3045531
Craig Morris	C-2024-3045782
Anna Majewski	C-2024-3045547
Richard and Susan DiPiazza	C-2024-3045556
Brian Morrison	C-2024-3045564
Joseph Bellatoni	C-2024-3045149
Joseph Albanese	C-2024-3045837
Gail Bechtold and Thomas Romano	C-2024-3045847
Mario Carlino	C-2024-3045973
Nicholas Corforte	C-2024-3045974
Linda DiGregorio	C-2024-3045857
Rich Franzen	C-2024-3046077
Catherine Gilchrist	C-2024-3045972
Steven and Carol Krauss	C-2024-3045911
Patricia Lathrop	C-2024-3045970
Susan Maeri	C-2024-3045979
Kristen Martin	C-2024-3045977
Peter Mauro	C-2024-3045862
Patricia Merrill	C-2024-3046299
Grace Moro	C-2024-3045803
Suzie Napolitano	C-2024-3045877
Christ and Carol Nielsen	C-2024-3045563
Thomas and Patricia Parillo	C-2024-3045557
Penn Estates POA, Inc	C-2024-3045830
Antonia and Ramon Rivas	C-2024-3045981
Mary Rossetti	C-2023-3044538
Larisa Shin	C-2024-3045561
Tigron Petrosian	C-2024-3045833

Laura Brennan	C-2024-3044709
Brian Fenimore	C-2023-3044383
Robert Zwahlen	C-2024-3045808
Ernesha Bolden	C-2024-3045716
David Fardig	C-2024-3045355
Lynn Buckingham	C-2024-3045354
Daniel McKoy	C-2024-3045480
Rene Bressant	C-2024-3045559
Christopher Williams	C-2024-3045661

v.

Community Utilities of Pennsylvania, Inc.

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Recommended Decision (R.D.) of Administrative Law Judges (ALJs) Steven K. Haas and Alphonso Arnold III, issued on May 28, 2024, relative to the above-captioned general rate increase proceeding, and the Exceptions filed with respect thereto. The Recommended Decision of ALJs Haas and Arnold recommended that the Commission approve the Joint Petition for Full Settlement of Rate Proceedings (Joint Petition or Settlement), filed by Community Utilities of Pennsylvania, Inc. (CUPA or the Company), the Commission's Bureau of Investigation and Enforcement (I&E), the Office of Consumer Advocate (OCA), and the Office of Small Business Advocate (OSBA) (collectively, the Joint Petitioners), on April 26, 2024.

Richard and Susan DiPiazza (the DiPiazzas) filed an Objection to the Settlement¹ on May 30, 2024.² On June 3, 2024, CUPA, I&E, and the OCA each filed a Letter stating that they would not be filing Exceptions to the Recommended Decision. On June 4, 2024, Joseph Albanese (Mr. Albanese) filed Exceptions to the Recommended Decision, which included a Certificate of Service upon the Parties of record in this proceeding.³ On June 7, 2024, CUPA filed Replies to the Exceptions of Mr. Albanese. Also, on June 7, 2024, I&E and the OCA each filed a Letter stating that they would not be filing Replies to Exceptions. No replies to the DiPiazzas' Exceptions were filed.

As noted in our determinations herein, we shall adopt the ALJs' Recommended Decision, consistent with this Opinion and Order, and, thereby, approve the Settlement without modification.

¹ Under 52 Pa. Code § 1.2, the Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties. Here, given that the Parties were provided notice of the opportunity to respond to the Recommended Decision, the substantive rights of the other Parties will not be affected by the treatment of the DiPiazza's filing on May 30, 2024, as Exceptions to the Recommended Decision. Therefore, pursuant to 52 Pa. Code § 1.2, and in order to secure the just, speedy, and inexpensive determination in this proceeding, we shall consider the DiPiazza's filing on May 30, 2024, as Exceptions to the Recommended Decision.

² By Secretarial Letter issued June 24, 2024 (*June 2024 Secretarial Letter*), the Commission's Secretary: (1) notified the Parties that there was no Certificate of Service or other indication that the DiPiazza's filing was served on the Parties; and (2) enclosed the filing, in order to constitute service under 52 Pa. Code § 1.54. *See, June 2024 Secretarial Letter*. Therefore, pursuant to 52 Pa. Code § 5.535(a), the Parties were provided ten days to file Reply Exceptions. Given that July 4, 2024, was a holiday, Reply Exceptions were due July 5, 2024.

³ Initially, Mr. Albanese filed Exceptions to the Recommend Decision on May 31, 2024, without a Certificate of Service.

I. History of the Proceeding⁴

On November 9, 2023, CUPA filed Supplement No. 13 to Tariff Water – Pa. P.U.C. No. 1 (Supplement No. 13), to become effective January 9, 2024. Supplement No. 13 would increase CUPA’s total annual operating income revenue for water service by approximately \$1,470,360, or 62.26%, over the Fully Projected Future Test Year (FPFTY) levels at present rates.⁵ The Commission docketed this filing at Docket No. R-2023-3042804. R.D. at 2.

Also, on November 9, 2023, CUPA filed Supplement No. 11 to Tariff Wastewater – Pa. P.U.C. No. 1 (Supplement No. 11), to become effective January 9, 2024. Supplement No. 11 would increase CUPA’s total annual operating revenue for wastewater service by approximately \$1,738,944, or 50.83%, over FPFTY levels at present rates.⁶ The Commission docketed this filing at Docket No. R-2023-3042805. R.D. at 2-3.

On November 13, 2023, I&E filed a Notice of Appearance in both proceedings. On November 29, 2023, the OSBA filed Formal Complaints, Public Statements, Verifications, and Notices of Appearances in both proceedings. On December 8, 2023, the OCA filed Formal Complaints, Public Statements, Verifications, and Notices of Appearances in both proceedings. R.D. at 3.

⁴ For a complete history of the proceeding, please refer to pages 2-6 of the Recommended Decision.

⁵ Although Supplement No. 13 states a proposed water revenue increase of \$1,449,638, CUPA’s testimony and schedules state \$1,470,360. R.D. at 2 (citing CUPA St. 1 at 9; CUPA St. 2 at 3; Filing Schedule B at 1-2).

⁶ Although Supplement No. 11 states a proposed wastewater revenue increase of \$1,720,070, CUPA’s testimony and schedules state \$1,738,944. R.D. at 3 (citing CUPA St. 1 at 9; CUPA St. 2 at 3; Filing Schedule B at 1, 3).

Formal Complaints were filed by several customers against both Tariff Supplement No. 13 and Supplement No. 11. R.D. at 3-4. Among others, on December 20, 2023, the DiPiazas, customers of CUPA, filed a Formal Complaint against the requested increase. The Complaint was docketed at both R-2023-3042804 and R-2023-3042805. Additionally, on January 5, 2024, Mr. Albanese, a customer of CUPA, filed a Formal Complaint against the requested increase (Albanese Rate Complaint). That Complaint was docketed at both R-2023-3042804 and R-2023-3042805.

On December 21, 2023, pursuant to 66 Pa.C.S. § 1308(d), the Commission suspended both rate filings by operation of law until August 9, 2024, unless permitted by Commission Order to become effective at an earlier date (Suspension Order). The matters were assigned to ALJs Haas and Arnold. R.D. at 4.

On December 27, 2023, the Commission issued a Call-In Telephone Prehearing Conference Notice, which scheduled an initial telephonic prehearing conference for both proceedings for January 11, 2024. Subsequently, on December 29, 2023, the ALJs issued a Prehearing Conference Order, which set forth rules that would govern the prehearing conference and directed the Parties to file prehearing conference memoranda by noon on January 9, 2024. R.D. at 4.

On December 28, 2023, in compliance with the Commission's Suspension Order, CUPA filed Supplement No. 15 to Tariff Water – Pa. P.U.C. No. 1 (at Docket No. R-2023-3042804), and Supplement No. 13 to Tariff Wastewater – Pa. P.U.C. No. 1 (at Docket No. R-2023-3042805).

On January 11, 2024, a telephonic prehearing conference was held as scheduled, with the following Parties present: CUPA; I&E; the OCA; and the OSBA. No consumer Complainants appeared at the prehearing conference. On January 25, 2024,

the ALJs issued a Scheduling Order which: (1) consolidated the two proceedings; (2) granted CUPA's voluntary offer to extend the suspension period from August 9, 2024, to August 22, 2024, contingent upon the Company being permitted to recover approved rates from the original suspension deadline date through the effective date of Commission-approved rates; (3) modified the Commission's discovery regulations; (4) established a litigation schedule; and (5) scheduled public input hearings. R.D. at 4.

On January 31, 2024, the Company filed a Motion for Protective Order seeking to protect against non-authorized disclosure of proprietary information that is filed in the consolidated proceedings. On February 2, 2024, the ALJs issued an Order Granting Motion for Protective Order. R.D. at 4-5.

On February 2, 2024, CUPA filed Supplement No. 16 to Tariff Water – Pa. P.U.C. No. 1 and Supplement No. 14 to Tariff Wastewater – Pa. P.U.C. No. 1, suspending the effective date of rates at issue in these proceedings until August 22, 2024. R.D. at 5.

Public input hearings were held on: (1) January 30, 2024; (2) January 31, 2024; and (3) February 1, 2024. In total, forty-nine witnesses provided testimony at the public input hearings. R.D. at 5.

On February 6, 2024, I&E, the OCA, and the OSBA each pre-served Direct Testimony. On March 5, 2024, CUPA, I&E, the OCA, and the OSBA each pre-served Rebuttal Testimony. On March 19, 2024, CUPA, I&E, the OCA, and the OSBA each pre-served Surrebuttal Testimony. On March 25, 2024, CUPA pre-served its written Rejoinder Testimony. R.D. at 5.

On March 26, 2024, CUPA's counsel e-mailed the ALJs stating that CUPA, I&E, the OCA, and the OSBA had all agreed to waive cross examination of all witnesses and requested that the ALJs excuse all witnesses, cancel the hearings, and allow for the submission of all pre-served testimony and exhibits into the record by way of a Joint Stipulation for Admission of Evidence. On March 26, 2024, the ALJs granted the Parties' request cancelling the evidentiary hearings and directed the Parties to file a Joint Stipulation for Admission of Evidence. Consequently, on April 1, 2024, CUPA, I&E, the OCA, and the OSBA filed their Joint Stipulation for Admission of Pre-Served Testimony and Exhibits into the Evidentiary Record, seeking to admit into the evidentiary record the previously served written testimony and exhibits prepared by CUPA, I&E, the OCA, and the OSBA. On April 2, 2024, the ALJs issued an Order Granting Joint Stipulation and Admitting Evidence. Subsequently, on April 18, 2024, the ALJs issued a Revised Order Granting Joint Stipulation and Admitting Evidence. R.D. at 5-6.

As noted, *supra*, on April 26, 2024, the Joint Petitioners filed the Settlement, which proposed to resolve all issues raised in the proceeding, with accompanying statements in support from each Party to the Settlement. The Settlement provides for, *inter alia*, an increase in the Company's annual revenue for water service and wastewater service, in the amounts of \$1,227,538 and \$1,447,621, respectively. R.D. at 2, 6.

Attached to the Joint Petition are Appendices A through J, which contain the following: Appendix A – Procedural History, Proposed Findings of Fact, Proposed Conclusions of Law, Proposed Ordering Paragraphs; Appendix B – Water Tariff Supplement; Appendix C – Wastewater Tariff Supplement; Appendix D – Water Proof of Revenue; Appendix E – Wastewater Proof of Revenue; Appendix F – Customer Bill Impacts; Appendix G – Statement of CUPA in Support of the Joint Petition (CUPA Statement in Support); Appendix H – Statement of the OCA in Support of the Joint Petition (OCA Statement in Support); Appendix I – I&E Statement in Support of

Joint Petition (I&E Statement in Support); and Appendix J – Statement in Support of the Settlement of the OSBA (OSBA Statement in Support).⁷ See, Settlement Appendices A-J.

The Joint Petition provided that the Settlement will be provided to all Formal Complainants. Further, the Joint Petition set a deadline of May 15, 2024, for the submission of comments either in support of, or opposition to, the Settlement. On May 8, 2024, Christ Nielsen filed an Objection to the Joint Petition. No other Complainants filed an objection or comment to the Settlement. R.D. at 6.

On May 16, 2024, upon expiration of the deadline for the filing of comments to the Settlement, the record in this proceeding was closed. R.D. at 6.

As previously noted, the ALJs' Recommended Decision was issued on May 28, 2024.⁸ In their Recommended Decision, the ALJs found, *inter alia*, that the Settlement submitted by the Joint Petitioners is: (1) just and reasonable; (2) supported by substantial evidence; (3) in the public interest; and (4) consistent with the requirements of 66 Pa.C.S. § 1308. Accordingly, the ALJs recommended that the Commission approve the proposed rate settlement without modification, and that the Company file tariff supplements reflecting the rates set forth in its proposed compliance tariffs attached to the Joint Petition as Appendices B and C (for Water and Wastewater, respectively), to become effective for service rendered on and after August 9, 2024. R.D. at 2, 24, 64, 66.

⁷ We note that according to the Commission's case management system, CUPA filed corrected versions of Appendices B and C on May 7, 2024.

⁸ On May 29, 2024, an Errata Notice was issued to advise all the Parties of record that the first page of the Recommended Decision contained an incorrect docket number for a Wastewater complaint. We note that the correct docket number is reflected herein.

As noted, *supra*, the DiPiazzas and Mr. Albanese filed Exceptions to the Recommended Decision on May 30, 2024, and on June 4, 2024, respectively. On June 3, 2024, CUPA, I&E, and the OCA each filed a Letter stating that they would not be filing Exceptions to the Recommended Decision. No Replies to the Exceptions of the DiPiazzas were filed. CUPA filed Replies to the Exceptions of Mr. Albanese on June 7, 2024. Also, on June 7, 2024, I&E and the OCA each filed a Letter stating that they would not be filing Replies to Exceptions.

II. Description of CUPA

CUPA is a certificated public utility that provides water service to approximately 3,257 customers, and wastewater service to approximately 3,832 customers, in the following three service territories in Pennsylvania: Penn Estates Utilities, Inc. (Penn Estates); Utilities, Inc. – Westgate (Westgate); and Pennsylvania Utility Company (Tamiment). R.D. at 10 (citing CUPA St. 1 at 4, St. 2 at 12-13).

III. Discussion

A. Terms of the Settlement

The Joint Petitioners agreed upon the following terms of settlement, which are set forth in Section V.A through V.K of the proposed Settlement, and are reprinted verbatim below:

1. The Company, I&E, the OCA, and OSBA engaged in a series of long, detailed, and productive communications to determine if, consistent with the Commission’s policy to “encourage settlements,” stated at 52 Pa. Code § 5.231(a), a settlement was possible. After extensive discovery and testimonial presentation by the Joint Petitioners, the Joint Petitioners engaged in an even more

extensive series of settlement negotiations. The Settlement is the product of those comprehensive negotiations, representing give-and-take by all Joint Petitioners, which resulted in a settlement that is in the public interest. The Settlement balances the need for significant investment to modernize facilities in CUPA's territories and the need for cost-based rates and measures to further enhance service and future performance with the principle of gradualism in rate changes and recognition of potential financial hardships for some customers. Moreover, the Settlement comprehensively addresses the quality of service issues raised in this proceeding by requiring the Company to, among other things, submit information on lost and unaccounted for water [(UFW)], update the Joint Petitioners on the implementation of virtual District Metering Areas in its Penn Estates service territory, provide certain information on isolation valve exercising as part of its next base rate case, and develop a hydraulic model to evaluate fire suppression flows in the Company's Tamiment system

2. The Settlement is a typical "black box" settlement;⁹ that is, without admission on any particular issue. The terms agreed to are enforceable upon approval by the Commission. The Joint Petitioners agree that this Settlement is a reasonable resolution of competing positions and interests in a way that meets and promotes the public interest. It also avoids additional significant time and expense of all involved and avoids further expense including expensive briefing,

⁹ *Pa. PUC et al v. Peoples TWP LLC*, 2013 WL 6835105, at *16 (Order entered Dec. 19, 2013) ("We have historically permitted the use of "black box" settlements as a means of promoting settlement among the parties in contentious base rate proceedings. See, *Pa. PUC v. Wellsboro Electric Co.*, Docket No. R-2010-2172662 (Final Order entered January 13, 2011); *Pa. PUC v. Citizens' Electric Co. of Lewisburg, PA*, Docket No. R-2010-2172665 (Final Order entered January 13, 2011). Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company's revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company's cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases. For these reasons, we support the use of a "black box" settlement in this proceeding and, accordingly, deny this Exception.").

exceptions, replies, and potential appeals, which costs, under prevailing Pennsylvania law, would have ultimately been borne by the ratepayers.

3. The Joint Petitioners support approving CUPA's base rate filing at the above-captioned dockets as modified by the terms and conditions that follow:

A. Revenue Requirement Increase – Water

4. Upon Commission approval of this Settlement, the Company will be permitted to change rates for water service as set forth in the proposed Water Tariff Supplement attached hereto as **Appendix B** ("Water Settlement Rates"), to become effective upon one day's notice. Instead of the \$1,470,360 increase requested in the filing, the Water Supplement rates are designed to produce an increase of annual water revenue of \$1,227,538 as shown in greater detail on the Proof of Revenues attached hereto as **Appendix D**.

B. Revenue Requirement Increase – Wastewater

5. Upon Commission approval of this Settlement, the Company will be permitted to charge rates for wastewater service as set forth in the proposed Wastewater Tariff Supplement attached hereto as **Appendix C** ("Wastewater Settlement Rates"), to become effective upon one day's notice. Instead of the \$1,738,944 increase requested in the filing, the Wastewater Settlement Rates are designed to produce an increase of annual wastewater revenue of \$1,447,621 as shown in greater detail on the Proof of Revenues attached hereto as **Appendix E**.

C. Stay Out

6. The Company agrees that it will not file for a general rate increase pursuant to 66 Pa. C.S. § 1308(d) to water or wastewater base rates earlier than February 9, 2026. This paragraph does not apply to extraordinary or emergency rate relief pursuant to 66 Pa. C.S. § 1308(e) (or upon a petition for emergency rate increase), tariff changes required by Commission order or industry-wide changes in regulatory policy which affect CUPA's rates.

D. Effective Date

7. Upon the entry of a Commission order approving this Joint Petition, the Company will be permitted to file a tariff for water service, in the form attached hereto as **Appendix B**, and a tariff for wastewater service, in the form attached hereto as **Appendix C**, reflecting the agreed-upon additional operating revenue. The Joint Petitioners agree to the implementation of the Water Settlement Rates and Wastewater Settlement Rates on August 9, 2024, when the original statutory suspension period was to expire, if the Commission enters an Order approving the Joint Petition prior to or on that date.¹⁰

8. If the Commission approval of this Settlement occurs after August 9, 2024, the Joint Petitioners agree that CUPA shall be entitled to recoup the revenue increase not billed from the effective date of August 9, 2024, through the date of any PUC approval of new rates in the manner set forth in the Commission's final Order in this proceeding. The revenue increases not billed from the effective date of August 9, 2024, through the date of PUC approval of new rates will be recovered over a six-month period that shall be applied proportionately to all customer classes via a surcharge on each monthly bill during the six-month recovery period. The Company will be permitted to file revised water and wastewater tariff pages to implement the surcharge, as set forth in Appendices B and C, respectively.

E. COVID-19 Regulatory Asset

9. CUPA shall recover the COVID-19 Regulatory Asset balance of \$114,185 amortized over 5 years.

10. CUPA shall remove the deferred charges related to the COVID-19 pandemic from rate base.

11. The above revenue requirement includes recovery of the COVID-19 Regulatory Asset as modified by the Paragraphs 9 and 10, but to the extent CUPA files another rate case prior to the end of 5-year amortization period, CUPA may recover any remaining balance in future rates.

¹⁰ By Scheduling order entered January 25, 2024, the procedural suspension date was extended from August 9, 2024, to August 22, 2024.

12. CUPA agrees to no longer continue recording a regulatory asset for ongoing COVID-19 related incremental bad debt (other than reductions to bad debt in the regulatory asset associated with late recovery of such related bad debt) and other COVID-19 related expenses after the effective date of new rates for the instant proceeding.

F. Low-Income Program

13. The Company will expand the eligibility of its Low-Income Program from income up to 100% to income up to 200% of the [Federal Poverty Level (FPL)].

14. Regarding changes to the Company's website:

a. The Company will make the low-income section of its website a permanent news item that is visible as soon as the customer enters the website.

b. The separate, low-income page will include a link to the application form, as well as all information about the sign-up process and eligibility qualification requirements.

c. The Company will change the existing "URL" link to the application page to say "Application" or "Click here to apply".

d. The Company will use its existing customer notification infrastructure to drive customers to the website to explore the Low-Income Program and their possible eligibility. Specifically, the Company will use its Voice Reach system – which sends information directly to customers via email, phone, and text messages – to provide quarterly updates to customers about the existence of the program. This outreach will be modified to both English and a Spanish language.

e. The Company will provide print copies of their low-income handouts to customers in English or Spanish. These mailers will be provided quarterly through bill inserts.

15. The Company will continue to provide quarterly report updates detailing participation, usage, and revenue shortfalls/surpluses.

16. The Company will track all costs associated with the administration of its Low-Income Program, if those costs are dedicated to administering the Program. Such costs include the Company's payments to Dollar Energy Fund [(DEF)] for income verification and costs associated with outreach activities. The Company will report these costs on a quarterly basis in its Low-Income reporting. In its next base rate proceeding, the Company shall identify those costs it seeks to recover as part of its ongoing administration of the Low-Income Program.

17. Until the Commission issues an order in CUPA's next base rate case, the Company will hold annual customer meetings in each of its service territories where topics including the Low-Income Program will be discussed.

G. Rate Design and Structure

18. The parties agree to the rate design reflected in Appendix D and Appendix E, which reflects the following rate design principles:

a. The Company will apply a 45% discount to both the volumetric and customer charge for all participants in the Low-Income Program, regardless of their income relative to the FPL.

b. The [C]ompany will implement a 6.3% water and a 1% wastewater differential between the commercial and residential volume charges.

c. For the purposes of establishing the revenue requirement in this case, CUPA shall utilize a consumption decline of 1.16% from the Historical Test Year ("HTY") consumption levels to the Future Test Year ("FTY") consumption levels and an additional decline of 1.16% from the FTY to the [FPFTY] consumption levels.

19. In its next base rate filing, CUPA will present a tiered discount income-based plan with tiers at 50% and 75%

of the [FPL]. This tiered income-based plan will only be applied to and recovered from residential customers.

H. Arrearage Management Program (AMP)

20. Customers approved for CUPA's low-income rate and with a past-due balance greater than \$400 can participate in CUPA's AMP.

21. The AMP will be comprised of the total past due balance for all services – water and/or wastewater. The past due balance threshold of \$400 for participation in the AMP will be based upon this combined balance.

22. AMP customers will be enrolled in a multi-month Deferred Payment Arrangement ("DPA"). A DPA allows a customer to take their past-due balance and split their past-due balance over equal monthly installments.

23. The default AMP period for low-income customers will be 12 months. While these terms may be default periods, CUPA will allow good faith flexibility by including consideration of ability of the customer to pay, length of time over which the past due balance accumulated, payment history, and size of unpaid balance.

24. AMP customers who make timely payments and stay current with their monthly water/wastewater bill, including the DPA portion of their bill, for half of the months of the AMP term will have the remaining monthly DPA payments forgiven. In the next base rate case, the [C]ompany will present an analysis and costs to implement changes to its billing system that would allow customers on an active AMP to select an alternate billing due date. Should such AMP feature be approved by the Commission, and the costs to implement the changes are deemed reasonable, such costs would be recoverable as a component of the Company's cost of service.

25. If the customer defaults on the DPA, normal collections processes apply. The customer may request to establish a new DPA (not an AMP DPA) for any then-current past due balance. The customer may be eligible for an AMP

DPA to be implemented 12 months after default of a previous AMP DPA.

26. If the customer defaults on the DPA, then all payments made by the customer to satisfy the customer's obligations under the DPA will contribute towards satisfying the customer's overall arrearage (*e.g.*, if a customer makes monthly payments totaling \$250 of their \$500 requirement under the AMP with a \$1,000 overall arrearage balance, then the customer's arrearage balance upon default would be \$750.)

27. The AMP will be indifferent as to how or who makes payments on the balance.

28. Customers who apply for or are approved for the Low-Income Program will be informed of the AMP and offered an opportunity to participate in the AMP in conjunction with the Low-Income Program outreach.

29. If a CUPA customer contacts CUPA or [DEF] regarding an issue with paying their bill or signing up for either the AMP or the low-income program, the customer shall be informed of both programs, including eligibility requirements.

I. Integration Customer Protection Deferral Mechanism

30. CUPA shall set up a deferral account, "Integration Customer Protection Deferral Mechanism," which will capture accrued costs and benefits of integration that occur for five years after the closing date. All parties reserve their rights to challenge recovery of any deferred amounts in future rate proceedings.

J. Water Quality & Service Issues

31. Regarding [UFW] mitigation and reporting:

a. For all systems, the Company will perform annually system wide leak detection and any associated repairs unless the individual system has an average UFW that is below 20% for the previous 6 months.

b. For Penn Estates, the [C]ompany is currently working with GHD, an engineering firm, to design

and implement virtual district metering areas (“vDMA”) at Penn Estates utilizing the existing hydraulic model. The vDMAs serve to split the system into smaller zones, which will allow for ongoing monitoring and quicker response times to locate and repair leaks. Before the next rate case, CUPA will provide OCA, I&E, and OSBA with an update on the implementation of the vDMA project.

c. CUPA will submit PUC Form 500 method using gallons/year units instead of gallons/day.

d. CUPA will submit an individual Form 500 for each of its systems.

e. In future rate cases, CUPA will continue to provide a breakdown of lost and [UFW] by system detailing all identified causes as per the previous base rate case settlement.

f. CUPA shall provide quarterly updates regarding their UFW by system to the OCA and the Commission until CUPA files its next base rate case.

32. Before the next rate case, CUPA will provide an update to [the] OCA, I&E, and [the] OSBA on the implementation of the recommendations from the engineering study and hydraulic analysis to address low and high pressure in Penn Estates.

33. CUPA will submit with its next rate case documentation that identifies the isolation valves that need to be located, uncovered, repaired and/or replaced in the following year.

34. The Company will have GHD develop a hydraulic model utilizing existing data for its Tamiment system. The hydraulic model will then be used to evaluate the fire suppression flows available throughout the Tamiment system before the next base rate case. Monthly unmetered public fire protection rates will not be decreased.

35. The Company will present a no-fee payment option for online payments in the next base rate case. Under

this methodology, customers would not be directly charged an additional fee at the time of payment. Instead, these expenses will be recovered by CUPA directly under the O&M expenses in the cost of service.

K. Capital Reporting Requirements

36. CUPA will file and serve upon I&E, the OCA, and [the] OSBA an updated CUPA Schedule A-1, Columns A-G, lines 1-50 (water) and 51-119 (wastewater) no later than November 1, 2024, that will include the actual capital expenditures, plant additions, and retirements by month for the twelve months ending July 31, 2024.

37. CUPA will provide an additional update for the 12 months ending July 31, 2025, no later than November 1, 2025.

L. Standard Terms

38. The Commission's approval of the Settlement Terms shall not be construed as approval of any Joint Petitioner's position on any issue but rather as an agreed-to compromise of the Joint Petitioners' competing positions. It is understood and agreed among the Joint Petitioners that the Settlement Terms are the result of compromise and do not necessarily represent the position(s) that would be advanced by any Joint Petitioner in this or any other proceeding, if it were fully litigated. Accordingly, the Settlement Terms may not be cited as precedent in any future proceeding, except to the extent required to implement or enforce any Settlement Term herein.

39. This Settlement is presented without prejudice to the position any of the Joint Petitioners may advance in future proceedings, except to the extent necessary to effectuate or enforce any term specifically agreed to by the Joint Petitioners in this Settlement.

40. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. In reaching this Settlement, the Joint Petitioners thoroughly considered all issues and give and take of positions. As a result of that consideration, the Joint Petitioners believe that the settlement agreement

meaningfully addresses all such issues raised and therefore should be approved without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within five (5) business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw the Settlement as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

41. If the ALJ, in the Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions. However, to the extent any terms and conditions of the Settlement are modified, or additional matters are proposed by the ALJ in the Recommended Decision, the Joint Petitioners do not waive their rights to file Exceptions in support of the Settlement. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed provided such Replies support the Settlement.

42. The Joint Petitioners recognize that this Joint Petition is a settlement of, and binding upon, only the parties signing this document. The OCA represents it will, on the date of the signing of this [S]ettlement petition, send a letter providing instructions concerning the Complainants' opportunity to address the proposed Settlement. The OCA also represents that the letter will explain that the Complainant has until May 15, 2024, to join, disagree but not actively oppose, or object to the Settlement and provides contact information for the Presiding Officers and the OCA.

43. The Joint Petitioners agree that this document may be signed or executed in separate counterparts or signature pages that shall be binding upon the Joint

Petitioners and such counterparts shall be considered as one document.

44. The Joint Petitioners agree and request that if the Settlement is approved, the OCA and [the] OSBA's respective Formal Complaints in this matter should be marked satisfied and closed due to the Settlement.

Settlement at 2-12 (emphasis in original).

B. Applicable Law

The purpose of this investigation is to establish rates for CUPA's customers that are "just and reasonable," pursuant to Section 1301 of the Code, 66 Pa.C.S. § 1301. A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. *Pennsylvania Gas and Water Company v. Pa. PUC*, 341 A.2d 239 (Pa. Cmwlth. 1975). In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in *Bluefield Water Works and Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679 (1923) (*Bluefield*) and *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944). In *Bluefield*, the United States Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. 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 maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by changes

affecting opportunities for investment, the money market and business conditions generally.

Bluefield, 262 U.S. at 692-3.

Commission policy promotes settlements. 52 Pa. Code §§ 5.231, 69.401. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. Rate cases are expensive to litigate and the cost of such litigation at a reasonable level is an operating expense recovered in the rates approved by the Commission. This means that a settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission's decision, yields significant savings for the company's customers. This is one reason why settlements are encouraged by long-standing Commission policy.

In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. PUC, et al. v. The York Water Company*, Docket No. R-00049165 (Opinion and Order entered October 4, 2004); *Pa. PUC v. C. S. Water and Sewer Associates*, 74 Pa. P.U.C. 767 (1991).

Section 315(a) of the Code reads as follows:

§ 315. Burden of proof.

(a) 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

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. The commission shall give to the hearing and decision of any such proceeding preference over all other proceedings, and decide the same as speedily as possible.

66 Pa.C.S. § 315(a). Consequently, in this proceeding, CUPA has the burden to prove that the rate increase it has proposed through the Settlement is just and reasonable. The Joint Petitioners have reached an accord on the issues and claims that arose in this proceeding and submitted their Settlement for Commission review. In reviewing the Settlement, the question which must be answered is whether it is in the public interest. The Joint Petitioners have the burden to prove that the Settlement is in the public interest.

C. Statements of the Parties in Support of the Settlement

1. Positions of the Parties

CUPA provided that the proposed Settlement is in the public interest and establishes rates which: (1) are just and reasonable; (2) incorporate the principles of rate gradualism through a voluntary rate case stay-out provision; and (3) economically benefit the Company's customers by setting lower rates than originally requested. CUPA averred that the Settlement will benefit customers because it will: (1) provide the Company with additional revenues that will continue to enhance its ability to modernize its water and wastewater systems and provide high quality customer service; and (2) save on rate case litigation costs – which are borne by ratepayers under Pennsylvania law – over the next two years. CUPA Statement in Support at 1-2. As support that the Settlement will mitigate the effects of the rate increase on low-income customers, CUPA noted, *inter alia*, that the Settlement will establish an AMP which will provide a direction for qualifying customers to receive arrearage forgiveness. *Id.* at 2-3. CUPA also noted that the Settlement mitigates the impacts to customers by, *inter alia*, assigning a larger

amount of the increase to volumetric charges rather than fixed customer charges, thereby ensuring that customers have more control over their monthly bills. *Id.* at 3. CUPA also highlighted that the Settlement provides for further resolution of the service issues raised at the public input hearings, which reflects the Company's agreement to several requests made by I&E and the OCA in their testimony to address those issues. *Id.* at 3-4.

I&E submitted that the proposed Settlement: (1) balances the interests of CUPA, its customers, and the Joint Petitioners in a fair and equitable manner; (2) proffers a resolution for the Commission's adoption that best serves the public interest; and (3) demonstrates the compromises of the Joint Petitioners. I&E Statement in Support at 6-7. I&E noted that the overall revenue levels are within the levels advanced on the evidentiary record and reflect the compromise of all revenue-related issues raised by the Parties. Therefore, I&E submitted that it fully supports the negotiated level of overall base rate revenue increase as a full and fair compromise that provides the Company, the Joint Petitioners, affected ratepayers, and the Commission with resolution of the overall revenue increase, all of which is in the public interest. *Id.* at 8. I&E also highlighted *inter alia*, that: (1) it does not oppose the stay-out provision, or the agreed-upon terms regarding CUPA's low-income program and its AMP; and (2) it fully supports the Settlement terms pertaining to the revenue allocation and rate design, the Integration Customer Protection Deferral Mechanism, and the water quality and service issues. *Id.* at 9, 11, 13-16. I&E also noted that this Settlement not only eliminates the need for evidentiary hearings and post-hearing litigation, but also provides regulatory certainty with respect to the disposition of issues and resolution of this case, which all Parties agree benefits their discrete interests. Therefore, I&E represented that it supports the Settlement as being in the public interest and requested that the ALJs and the Commission approve it without modification. *Id.* at 18-19.

The OCA submitted that the proposed Settlement: (1) achieves a reasonable resolution of the several issues presented in this proceeding; (2) is in the

public interest and the interest of the Company's customers; and (3) should be approved without modification. OCA Statement in Support at 3-4. The OCA highlighted, *inter alia*, that the Settlement provides or will provide: (1) a total revenue increase less than 3% higher than the OCA's litigated position, which would be within the range of likely outcomes in the event of full litigation of the case; (2) a stay out provision that ensures stability in the newly-established rates, such that the Company will not file a rate request until at least February 9, 2026; (3) a rate design that is in the public interest because it balances the Company's interest in maximizing fixed rate recovery with the Commission's policies, which favor rate designs that incentivize conservation and move gradually toward cost of service; (4) more affordable bills to the Company's low-income customers; (5) an improvement in the Company's low-income programs and progresses CUPA towards offering a more comprehensive and overall robust low-income program; and (6) provisions that address water quality and service issues. *Id.* at 5, 10-11, 13, 18-19, 26. Overall, the OCA submitted that the terms and conditions of the Settlement represent a fair and reasonable resolution of the issues raised by the OCA in this proceeding. Therefore, the OCA submitted that the Settlement should be approved by the ALJs and the Commission without modification. *Id.* at 27.

The OSBA, as with I&E and the OCA, noted the benefits of the proposed Settlement. The OSBA highlighted, *inter alia*, that the Settlement provides or will provide: (1) a reduction in the overall revenue increase; (2) a stay out provision, which will provide assurance to small business customers that CUPA will not seek to increase rates for a significant period of time; and (3) a resolution without the need for costly litigation procedures, which are borne by the Joint Petitioners and the Company's customers. Accordingly, the OSBA submitted its support for the Settlement and requested that the ALJs and the Commission approve the Settlement in its entirety. OSBA Statement in Support at 2-3, 5.

2. ALJs' Recommendation

In their Recommended Decision, ALJs Haas and Arnold made ten Findings of Fact (FOF) and reached twelve Conclusions of Law (COL). I.D. at 10-16, 65-66. The FOF and COL are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

The ALJs concluded that the terms of the Joint Petition are just, reasonable, and necessary for the Company to provide safe and adequate water and wastewater service to its customers and, therefore, are in the public interest.¹¹ R.D. at 2, 24. The ALJs considered the terms and conditions of the Settlement and found that it produces just and reasonable rates and addresses several other issues raised by the Parties during the course of this proceeding. R.D. at 64. Of particular note, the ALJs reasoned that because the agreed-upon revenue increase represents a reduction from CUPA's initial proposal, Company customers will benefit from a reduction in their economic burden and CUPA being afforded with revenue sufficient to cover its expenses and continue investing in its facilities necessary to provide safe, effective, and reliable water and wastewater service. R.D. at 27. The ALJs further reasoned that the active Parties: (1) presented expert testimony in support of the various elements of the rate filing; (2) engaged in discovery and reviewed and evaluated the filing; and (3) participated in extensive settlement negotiations and made compromises, which the Commission has stated "fosters and promotes the public interest." R.D. at 64 (citing *Pa. PUC v. C. S. Water & Sewer Associates*, 74 Pa. P.U.C. 767, 771 (1991)). Moreover, the ALJs found that the unanimous agreement of the Joint Petitioners resulted in lower rate increases than originally proposed by the Company. R.D. at 64.

¹¹ The ALJs' findings with regard to the terms of the Settlement are detailed in their Recommended Decision under Section VI. See, R.D. at 26-29, 31, 33-34, 37-38, 40-44, 46-48, 50-55, 57, 59-60.

The ALJs found that the Settlement is supported by substantial evidence, is in the public interest, and is consistent with the requirements of 66 Pa.C.S. § 1308. R.D. at 64. Accordingly, the ALJs recommended that the Commission approve the proposed Settlement without modification and that CUPA file tariff supplements reflecting the rates set forth in its proposed compliance tariffs attached to the Joint Petition as Appendices B (water) and C (wastewater), to become effective August 9, 2023. R.D. at 64.

3. Disposition

Based upon our review of the record, we concur with the ALJs' finding that the proposed Settlement should be approved, in full, without modification. We are of the opinion that the terms of the Settlement produce just and reasonable rates that balance the concerns of all Parties involved and is in the public interest. We also concur with the ALJs that the associated Complaints filed by the OCA and by the OSBA be deemed satisfied. Finally, we concur with the ALJs that the Formal Complaints identified in Ordering Paragraph No. 7 of the Recommended Decision at their respective Docket Nos., including, as discussed, *infra*, the Complaints of the DiPiazzas and Mr. Albanese, be dismissed. *See*, R.D. at 67-70.

D. Pro se Complainants

As noted, *supra*, the following *pro se* Complainants filed Exceptions to the Recommended Decision: the DiPiazzas and Mr. Albanese. We note at the outset that neither the DiPiazzas' Exceptions nor those filed by Mr. Albanese are in strict

compliance with Section 5.533(b) of our Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.533(b), which provides that:

(b) Each exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. Supporting reasons for the exceptions shall follow each specific exception.

52 Pa. Code § 5.533(b). We recognize, however, that the DiPiazzas and Mr. Albanese are *pro se* Complainants in this proceeding. Traditionally, we have been hesitant to rule unfavorably against *pro se* litigants based on technical grounds. *See, e.g., Destefano v. Peoples Natural Gas Company*, 56 Pa. P.U.C. 489 (1982); *Halpern v. The Bell Telephone Company of Pennsylvania*, Docket No. C-00923950 (October 19, 1992); *William Schlinder v. The Bell Telephone Company of Pennsylvania*, Docket No. F-00161252 (March 26, 1993). In our view, it is in the public interest that all litigants, particularly *pro se* litigants, be afforded a meaningful opportunity to be heard. Therefore, we will consider the merits of the DiPiazzas' Exceptions and Mr. Albanese's Exceptions.

1. Exceptions of the DiPiazzas¹²

In their Exceptions, the DiPiazzas express their disagreement with the proposed Settlement. Specifically, the DiPiazzas note that two years earlier, the Commission approved CUPA's requested increase, which ultimately resulted in the Tamiment water consumption charge increasing from \$5.13 per thousand gallons to \$11.45 per thousand gallons, or 123%. The DiPiazzas continue that here, under the terms of the Settlement, the water consumption rate will increase from \$11.45 per thousand gallons to \$21.12 per thousand gallons, or 84%. The DiPiazzas strongly disagree with this increase given, *inter alia*, the current rate of inflation and the fixed incomes of the

¹² As previously noted, no Replies to the Exceptions of the DiPiazzas were filed.

residents of Tamiment. The DiPiazzas also point out that under the Settlement, the base rate for wastewater will increase from \$26.15 to \$39.90, or 53%, and the wastewater consumption charge will increase from \$13.98 to \$18.00, or 29%. Further, the DiPiazzas contend that the expansion of eligibility for CUPA's low-income program will only impact a limited number of residents. The DiPiazzas close their Exceptions by arguing that, essentially, the Settlement should be rejected in its entirety as not being in the public interest. DiPiazza Exc. at 1.

2. Exceptions of Mr. Albanese and Replies

In his Exceptions, Mr. Albanese expresses his disagreement with the ALJs allowing CUPA to increase the water and wastewater bills in Tamiment by 69.05% and 58.65%, respectively. Mr. Albanese argues that given, *inter alia*, the rate of inflation and cost of living increases over the past several years, CUPA should limit such increases and all future proposed rate increases to reasonable and "sane" percentage amounts. Albanese Exc. at 1.

In its Replies to Exceptions, CUPA counters that although the Settlement, consistent with the Commission's Regulations, required that any party objecting to the Settlement submit objections to the Settlement, Mr. Albanese failed to object to the Settlement. Specifically, CUPA contends that where a party fails to raise objections to the Settlement, that Party cannot raise issues, via exceptions, issues that could have been addressed in an objection because that prevents an opportunity for the parties to respond and for the ALJ(s) to address issues. CUPA R. Exc. at 3-4 (citing *Pa. PUC v. City of Lancaster*, Docket Nos. R-00049862 & R-00049862C0001 (Tentative Opinion and Order entered January 31, 2007), 2007 WL 517134 at *15 (citing *Application of Apollo Gas Company*, 1994 Pa PUC LEXIS 45 (1994))). CUPA continues that here, because Mr. Albanese failed to file an objection to the Settlement and raise the arguments he

made in his Exceptions, the Exceptions are, therefore, waived and the Commission should deny his Exceptions. CUPA R. Exc. at 4.

CUPA also disagrees with Mr. Albanese's argument that the rate increases do not account for inflation or cost of living increases over the last several years, arguing that utility base rates are not based on such factors. CUPA counters that a public utility's rates must be developed based on specific proven costs to serve its customers and provide the utility the legally required opportunity to earn a fair return on its investment. CUPA R. Exc. at 4-5 (citing *Bluefield Water Works & Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679, 692-93 (1923); *see also*, *Federal Power Commission v. Hope Natural Gas*, 320 U.S. 591, 603 (1944)). Further, CUPA argues that when determining whether the Settlement is in the public interest, the revenue increases cannot be considered in a vacuum apart from the commitments the Company has made as part of the Settlement, including: (1) the "stay out" provision, which provides customers with rate stability and benefits all Parties in this proceeding and the Commission by avoiding the time and expense of fully litigating another rate case for at least 1.5 years; and (2) the enhancements to the Company's Low-Income Program. CUPA R. Exc. at 5 (citing Settlement at ¶¶6, 13, 15-16). Moreover, CUPA notes that the Settlement provides a lower rate increase than what was proposed in its initial filing. Furthermore, CUPA argues that Mr. Albanese's Exceptions provide no rational argument or basis for the Commission to reject the Settlement. Accordingly, CUPA submits that absent any evidence that the Settlement is not in the public interest and results in rates that are not just and reasonable, and given the benefits provided by the Settlement, the Commission should approve the Settlement and reject Mr. Albanese's Exceptions. CUPA R. Exc. at 5-6.

3. Disposition of Exceptions

We find no merit in the DiPiazzas' Exceptions. We note that the DiPiazzas had the opportunity to file comments with respect to the Settlement and had the option to join the Settlement, to object to the Settlement, or to take no action. The record shows that the DiPiazzas opted not to file any objections or comments to the Settlement. Nevertheless, the DiPiazzas now contend that the Settlement, including CUPA's agreement to expand its low-income program, is not in the public interest. However, even if we were to consider the DiPiazzas' arguments, they fail to make a convincing argument that the ALJs erred in recommending that the Settlement be approved in full, without modification. Accordingly, we conclude that the DiPiazzas were afforded every opportunity to participate in the process and to have their concerns addressed. Therefore, for the above reasons, the DiPiazzas' Exceptions are denied.

Similarly, we find no merit in Mr. Albanese's Exceptions. As CUPA points out, Mr. Albanese did not present any of his arguments or objections to the Settlement until he filed Exceptions to the ALJs' Recommended Decision. *See*, CUPA R. Exc. at 4. Furthermore, Mr. Albanese never specifically addresses the Settlement in his Exceptions. Instead, Mr. Albanese's Exceptions simply restate the assertions he made in his original Formal Complaint that was filed in this proceeding, in opposition to CUPA's proposed rate increase. *See*, Albanese Rate Complaint at 2. Notwithstanding, it is important to note that even if we considered the arguments Mr. Albanese set forth in his Exceptions, we find that similar to the DiPiazzas, Mr. Albanese fails to make a convincing argument that the ALJs erred in recommending that the Settlement be approved in full, without modification. As such, we shall deny Mr. Albanese's Exceptions.

To the extent that the DiPiazzas and Mr. Albanese argue that the Settlement is not in the public interest, we are persuaded by CUPA's averment that when

determining whether the Settlement is in the public interest, the revenue increases cannot be considered separate from the Company's commitments as part of the Settlement. *See*, CUPA R. Exc. at 5. Indeed, as noted by the ALJs, the Joint Petitioners negotiated the Settlement, including the agreed-upon revenue requirement increase that represents a reduction from CUPA's initial proposal, which they assert to be in the public interest and of benefit to the Company's customers. R.D. at 26-27. Moreover, when each of the statutory advocates (I&E, the OCA and the OSBA) fully support a settlement, it is a good indicator that the terms and conditions of the settlement are just and reasonable. *See*, *Pa. PUC, et al. v. Aqua Pennsylvania, Inc.*, Docket No. R-2018-3003558, et al. (Opinion and Order entered May 9, 2019) (citing *Pa. PUC v. T.W. Phillips Gas and Oil Co.*, Docket No. R-2010-2167797 (Order entered November 4, 2010)). Here, we find it significant that the statutory advocates fully support the proposed Settlement. We, therefore, conclude that the principle of gradualism was properly considered by the Joint Petitioners and the ALJs when they developed their consensus position embodied in the proposed rates.

In summary, we find that Mr. Albanese and the DiPiazzas have not presented a valid basis for us to reverse the ALJs' recommendation that the Settlement be approved in full, without modification. Rather, we find the Settlement rates to be fully supported by the record evidence in this proceeding and in the public interest. Accordingly, both Mr. Albanese's Exceptions and the DiPiazzas' Exceptions are denied.

IV. Conclusion

Based on our review, evaluation, and analysis of the record in this proceeding, we conclude that the Settlement is in the public interest. Consequently, we shall deny both the DiPiazzas' Exceptions and Mr. Albanese's Exceptions, and adopt the ALJs' recommendation that: (1) grants the Joint Petition and adopts the proposed Settlement, in full, without modification; and (2) authorizes CUPA to file tariff supplements reflecting the

rates set forth in its proposed compliance tariffs attached to the Joint Petition as Appendix B (for water) and Appendix C (for wastewater), consistent with this Opinion and Order;
THEREFORE,

IT IS ORDERED:

1. That the Exceptions filed by Richard and Susan DiPiazza on May 30, 2024, to the Recommended Decision of Administrative Law Judges Steven K. Haas and Alphonso Arnold III, are denied.

2. That the Exceptions filed by Joseph Albanese on June 4, 2024, to the Recommended Decision of Administrative Law Judges Steven K. Haas and Alphonso Arnold III, are denied.

3. That the Recommended Decision of Administrative Law Judges Steven K. Haas and Alphonso Arnold III, issued on May 28, 2024, is adopted.

4. That the Joint Petition for Full Settlement of Rate Proceedings, filed by Community Utilities of Pennsylvania, Inc., the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate, on April 26, 2024, at Docket Nos. R-2023-3042804 and R-2023-3042805, is granted, and the proposed Settlement is adopted, in full, without modification.

5. That Community Utilities of Pennsylvania, Inc. shall not place into effect the rates contained in Supplement No. 13 to Tariff Water – Pa. P.U.C. No. 1, as filed.

6. That Community Utilities of Pennsylvania, Inc. shall not place into effect the rates contained in Supplement No. 11 to Tariff Wastewater – Pa. P.U.C. No. 1, as filed.

7. That Community Utilities of Pennsylvania, Inc. shall file tariff supplements or tariff revisions incorporating rates, rules, and regulations, consistent with the Joint Petition for Full Settlement of Rate Proceedings, to produce a total increase of \$1,227,538 for its water operations, and \$1,447,621 for its wastewater operations, consistent with the rates, rules, and regulations set forth in the tariff supplements included in the Joint Petition for Full Settlement of Rate Proceedings as Appendices B (Water) and C (Wastewater).

8. That Community Utilities of Pennsylvania, Inc. shall be permitted to file tariffs in the form set forth in Appendices B (Water) and C (Wastewater) to the Joint Petition for Full Settlement of Rate Proceedings, to become effective upon at least one day's notice, for service rendered on and after August 9, 2024, so as to produce an annual increase in revenues, consistent with this Opinion and Order.

9. That Community Utilities of Pennsylvania, Inc., the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate shall comply with the terms of the Joint Petition for Full Settlement of Rate Proceedings submitted in this proceeding, as though each term and condition stated therein had been the subject of an individual ordering paragraph.

10. That the Formal Complaints of the Office of Consumer Advocate at Docket Nos. C-2023-3044737 (Water) and C-2023-3044738 (Wastewater) are deemed satisfied and marked closed.

11. That the Formal Complaints of the Office of Small Business Advocate at Docket Nos. C-2023-3044494 (Water) and C-2023-3044528 (Wastewater) are deemed satisfied and marked closed.

12. That the following Formal Complaints at the respective docket numbers be dismissed and marked closed by the Commission's Secretary's Bureau:

<u>Complainant(s)</u>	<u>R-2023-3042804</u>
Oleg Chuchin	C-2023-3044483
John Hoopingarner	C-2023-3044502
Rose Cocklin	C-2023-3044507
Michael Sanfilippo	C-2023-3044480
Rafail Kovalenko	C-2023-3044599
Jenny Howard	C-2023-3044711
Christine Corbissero	C-2023-3044834
Scott and Vicky Furey	C-2023-3044882
Christina Boers	C-2023-3044944
George and Miriam Lingg	C-2023-3044979
Gregory Leone	C-2023-3045126
Cassandra Kramer	C-2024-3045350
Monica Wagner	C-2024-3045352
Nanette De Bartolo	C-2024-3045504
Susan J. Nikolaou	C-2024-3045546
Denise Cooper	C-2024-3045511
Ryan Ellison	C-2024-3045529
Craig Morris	C-2024-3045534
Anna Majewski	C-2024-3045535
Richard and Susan DiPiazza	C-2024-3045541
Brian Morrison	C-2024-3045560
Joseph Bellatoni	C-2024-3045068
Joseph Albanese	C-2024-3045828
Gail Bechtold and Thomas Romano	C-2024-3045846
Mario Carlino	C-2024-3045937
Nicholas Corforte	C-2024-3045975
Linda DiGregorio	C-2024-3045856
Rich Franzen	C-2024-3045982
Catherine Gilchrist	C-2024-3045943
Steven and Carol Krauss	C-2024-3045910
Patricia Lathrop	C-2024-3045944

Susan Maeri	C-2024-3045978
Kristen Martin	C-2024-3045976
Peter Mauro	C-2024-3045861
Patricia Merrill	C-2024-3046298
Grace Moro	C-2024-3045802
Suzie Napolitano	C-2024-3045876
Christ and Carol Nielsen	C-2024-3045553
Thomas and Patricia Parillo	C-2024-3045969
Penn Estates POA, Inc	C-2024-3045863
Antonia and Ramon Rivas	C-2024-3045986
Mary Rossetti	C-2023-3044561
Larisa Shin	C-2024-3045549
Tom Chladny	C-2024-3046401
Margaret Creo	C-2024-3046735
Ernesha Halloway	C-2024-3045359
David Lambie	C-2024-3045801
Natalie Ortiz	C-2023-3045148
Anna Paryzki	C-2024-3045533
Grazyna Parzyka	C-2024-3045542
Petricia Perville-Davy	C-2024-3045389
Raju Shah	C-2024-3047313
Angela Tam	C-2024-3045333

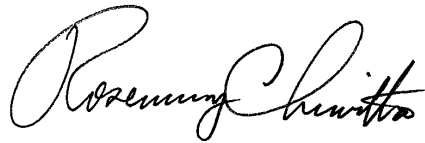
<u>Complainant(s)</u>	<u>R-2023-3042805</u>

Oleg Chuchin	C-2023-3044508
John Hoopingarner	C-2023-3044503
Rose Cocklin	C-2023-3044508
Michael Sanfilippo	C-2023-3044481
Rafail Kovalenko	C-2023-3044649
Jenny Howard	C-2023-3044712
Christine Corbissero	C-2023-3044835
Scott and Vicky Furey	C-2023-3044887
Christina Boers	C-2023-3044945
George and Miriam Lingg	C-2023-3044993
Gregory Leone	C-2023-3045127
Cassandra Kramer	C-2024-3045356
Monica Wagner	C-2024-3045357
Nanette De Bartolo	C-2024-3045510
Susan J. Nikolaou	C-2024-3045557
Denise Cooper	C-2024-3045515
Ryan Ellison	C-2024-3045531
Craig Morris	C-2024-3045782

Anna Majewski	C-2024-3045547
Richard and Susan DiPiazza	C-2024-3045556
Brian Morrison	C-2024-3045564
Joseph Bellatoni	C-2024-3045149
Joseph Albanese	C-2024-3045837
Gail Bechtold and Thomas Romano	C-2024-3045847
Mario Carlino	C-2024-3045973
Nicholas Corforte	C-2024-3045974
Linda DiGregorio	C-2024-3045857
Rich Franzen	C-2024-3046077
Catherine Gilchrist	C-2024-3045972
Steven and Carol Krauss	C-2024-3045911
Patricia Lathrop	C-2024-3045970
Susan Maeri	C-2024-3045979
Kristen Martin	C-2024-3045977
Peter Mauro	C-2024-3045862
Patricia Merrill	C-2024-3046299
Grace Moro	C-2024-3045803
Suzie Napolitano	C-2024-3045877
Christ and Carol Nielsen	C-2024-3045563
Thomas and Patricia Parillo	C-2024-3045557
Penn Estates POA, Inc	C-2024-3045830
Antonia and Ramon Rivas	C-2024-3045981
Mary Rossetti	C-2023-3044538
Larisa Shin	C-2024-3045561
Tigron Petrosian	C-2024-3045833
Laura Brennan	C-2024-3044709
Brian Fenimore	C-2023-3044383
Robert Zwahlen	C-2024-3045808
Ernesha Bolden	C-2024-3045716
David Fardig	C-2024-3045355
Lynn Buckingham	C-2024-3045354
Daniel McKoy	C-2024-3045480
Rene Bressant	C-2024-3045559
Christopher Williams	C-2024-3045661

13. That, upon acceptance and approval by the Commission of the tariffs and allocation of proposed settlement rate increase filed by Community Utilities of Pennsylvania, Inc., consistent with this Order, the Commission's investigation, at Docket Nos. R-2023-3042804 and R-2023-3042805, shall be terminated and these dockets marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta", written in a cursive style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: August 1, 2024

ORDER ENTERED: August 1, 2024

3. Aqua Wastewater Tariff Effective May 16, 2025;

AQUA PENNSYLVANIA WASTEWATER, INC.
(hereinafter referred to as the "Company")

RATES, RULES, AND REGULATIONS

GOVERNING THE COLLECTIONS OF

WASTEWATER

IN PORTIONS OF

ADAMS, BERKS, BUCKS, CARBON, CHESTER, CLARION, CLEARFIELD, DELAWARE,
LACKAWANNA, LUZERNE, MERCER, MONROE, MONTGOMERY, PIKE, SCHUYLKILL,
VENANGO, AND WYOMING COUNTIES

IN THE COMMONWEALTH OF PENNSYLVANIA

ISSUED: May 15, 2025

EFFECTIVE: May 16, 2025

By:

Marc Lucca, President
Aqua Pennsylvania, Inc.
762 Lancaster Avenue
Bryn Mawr, Pennsylvania 19010

NOTICE

THIS TARIFF MODIFIES ARREARAGE FORGIVENESS PROVISIONS OF THE
CUSTOMER ASSISTANCE PROGRAM IN COMPLIANCE WITH THE ORDER
ENTERED FEBRUARY 7, 2025, AT DOCKET NO. R-2024-3047824.

LIST OF CHANGES MADE BY THIS TARIFF

Changes: Supplement No. 1 to Tariff Sewer-PA P.U.C. No. 4 modifies the arrearage forgiveness provisions of the Customer Assistance Program Rider in compliance with the Order Entered February 7, 2025, which directed a modification to tariff language be filed within 120 days of the Order Entered date, regarding CAP arrearage provisions, as per Page 81 of the Order at Docket No. R-2024-3047824. Refer to pages 1, 2, 3, 4, and 20.

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DESCRIPTION OF TERRITORIES SERVED

	<u>Township</u>	<u>County</u>
RATE ZONE 1		
Bunker Hill Subdivision (Rate Zone 1A)	Clinton	Wyoming
Bridlewood Division	Thornbury (portion)	Chester
Cheltenham Township Division	Cheltenham	Montgomery
Cheltenham Township Division	Jenkintown Borough (portion)	Montgomery
Eagle Rock Division	Black Creek (portion)	Luzerne
Eagle Rock Division	Hazle (portion)	Luzerne
Eagle Rock Division	East Union (portion)	Schuylkill
Eagle Rock Division	North Union (portion)	Schuylkill
East Norriton Township Division	East Norriton	Montgomery
Limerick Division	Limerick (portion)	Montgomery
Lower Makefield Township Division	Lower Makefield	Bucks
Media Division*	Media	Delaware
North Heidelberg Sewer Division	Jefferson	Berks
North Heidelberg Sewer Division	North Heidelberg	Berks
Penn Township Division	Penn	Chester
Treasure Lake Division (Rate Zone 1A)*	Sandy	Clearfield
Village at Valley Forge Division (Rate Zone 1A)*	Upper Merion	Montgomery
RATE ZONE 2		
East Bradford Township Division	East Bradford (portion)	Chester
East Bradford Township Division	Birmingham (portion)	Chester
Emlenton Borough Division	Richland (portion)	Clarion
Emlenton Borough Division	Salem (portion)	Clarion
Emlenton Borough Division	Emlenton	Venango
Emlenton Borough Division	Richland (portion)	Venango
New Garden Township Division	New Garden	Chester
Pinecrest Division	Tobyhanna (portion)	Monroe
Rivercrest Division	Tunkhannock	Wyoming
Rivercrest Division	Washington	Wyoming
White Haven Division (Kidder)	Dennison (portion)	Carbon
White Haven Division (Kidder)	East Side (portion)	Carbon
White Haven Division (Kidder)	Dennison (portion)	Luzerne
White Haven Division (Kidder)	White Haven Borough	Luzerne

DESCRIPTION OF TERRITORIES SERVED

	<u>Township</u>	<u>County</u>
RATE ZONE 3		
Beech Mountain Lakes Division	Butler	Luzerne
Beech Mountain Lakes Division	Dennison	Luzerne
Deerfield Knoll Division	Willistown (portion)	Chester
Laurel Lakes Division (Wilbar)	Rice	Luzerne
Links at Gettysburg Division	Cumberland	Adams
Links at Gettysburg Division	Mount Joy	Adams
Stony Creek Division	Worcester (portion)	Montgomery
Thornhurst Division	Lehigh	Lackawanna
Willistown Woods Division (Chesterdale)	Westtown (portion)	Chester
Willistown Woods Division (Chesterdale)	Willistown (portion)	Chester
Woodloch Springs Division	Lackawaxen (portion)	Pike
Woodloch Springs Division (Woodloch Pines)	Lackawaxen (portion)	Pike
RATE ZONE 4		
Honeycroft Village Division	Londonderry (portion)	Chester
Lake Harmony Division	Kidder	Carbon
New Daleville Division	Londonderry (portion)	Chester
Peddlers View Division	Solebury (portion)	Bucks
Tobyhanna Township Division	Tobyhanna (portion)	Monroe
Twin Hills Division	West Pikeland (portion)	Chester
RATE ZONE 5		
Avon Grove School District	New London (portion)	Chester
Avon Grove School District	Penn (portion)	Chester
East Bradford Division (Brandywine)	East Bradford (portion)	Chester
Little Washington Division	East Brandywine (portion)	Chester
Plumsock Division*	Willistown (portion)	Chester
The Greens at Penn Oaks Division	Thornbury (portion)	Chester
Newlin Green Division	Newlin	Chester
Sage Hill Division	Thornbury (portion)	Chester
RATE ZONE 6		
CS Sewer Division (Masthope)	Lackawaxen	Pike
RATE ZONE 7		
East Whiteland Township Division	East Whiteland	Chester

DESCRIPTION OF TERRITORIES SERVED

RATE ZONE 8

Greenville Division	Borough of Greenville	Mercer
Greenville Division	Hempfield	Mercer
Greenville Division	West Salem	Mercer

*All Divisions and Subdivisions above are billed on a per EDU basis, with the exception of the Media Division, Plumsock Division, Treasure Lake Division, and Village of Valley Forge Division

DESCRIPTION OF TERRITORIES SERVED

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SCHEDULE OF RATES

RATE ZONE 1 – METERED AND UNMETERED

The rates under this schedule apply to all customer classes in the territories served subject to Rate Zone 1 rates as noted in the Description of Territories Served section under this tariff unless otherwise specifically identified below.

RESIDENTIALMONTHLY SERVICE CHARGE

Customer Charge (\$)	Rate Zone 1	Rate Zone 1A
Fixed (per EDU)	\$ 49.41	\$ 49.41
<u>Meter Size:</u>		
5/8 inch	49.41	49.41
3/4 inch	74.12	49.41
1 inch	123.53	49.41
1-1/2 inch	247.05	98.82
2 inch	395.28	158.11
3 inch	741.15	296.46
4 inch	1,235.25	494.10
6 inch	2,470.50	796.94
8 inch	3,952.80	
10 inch	5,682.15	
Unmetered Charge (per EDU)	\$ 101.34	\$ 101.34

MONTHLY CONSUMPTION CHARGE

Consumption Charge for all divisions (per 1,000 gallons water used)	\$ 13.419	\$ 13.419

QUARTERLY SPECIAL CHARGES

Lower Makefield Township Division - Quarterly Customers

Customer Charge (\$)

Fixed (per EDU) \$ 148.23

Consumption Charge

(per 1,000 gallons water used) \$ 13.419

Unmetered Charge (per EDU) \$ 304.02

SCHEDULE OF RATES

RATE ZONE 1 – METERED AND UNMETERED (cont'd)

NON-RESIDENTIAL**MONTHLY SERVICE CHARGE**

Customer Charge (\$)	Rate Zone 1	Rate Zone 1A
Fixed (per EDU)	\$ 49.41	\$ 49.41
<u>Meter Size:</u>		
5/8 inch	49.41	49.41
3/4 inch	74.12	49.41
1 inch	123.53	49.41
1-1/2 inch	247.05	98.82
2 inch	395.28	158.11
3 inch	741.15	296.46
4 inch	1,235.25	494.10
6 inch	2,470.50	796.94
8 inch	3,952.80	
10 inch	5,682.15	

Unmetered Charge (per EDU)	\$ 107.51	\$ 107.51

Special Charges

Bridlewood Division - Unmetered:

Apartment Complex will be billed at 217 EDU's

Children's World Daycare will be billed at 7 EDU's

MONTHLY CONSUMPTION CHARGE

Consumption Charge for all divisions (per 1,000 gallons water used)	\$ 12.468	\$ 12.468

QUARTERLY SPECIAL CHARGES

Lower Makefield Township Division - Quarterly Customers

Customer Charge (\$)

Fixed (per EDU) \$ 148.23

Consumption Charge

(per 1,000 gallons water used) \$ 12.468

Unmetered Charge (per EDU) \$ 322.53

RATE ZONE 1 – (cont'd)Sewer Charge Adjustment for the Limerick Division

The Company is authorized to allow deductions on sewer bills for water which is used but does not enter the Company's system from April through October. A request for deduction shall be subject to the following regulations:

- A. To be an eligible Customer for this credit, the Customer shall have applied for or shall have been currently using the credit as of the execution date of November 16, 2016, of the Asset Purchase Agreement between the Company and Limerick Township.
- B. No deduction shall be granted for customers who do not have a metered water supply
- C. No deduction shall be granted for customers who are delinquent in their payment for service.
- D. One hundred percent of any used water for which a deduction is requested must have been prevented from entering the system.
- E. It is the responsibility of the customer to purchase, install, and maintain the Company approved deduct meter at the approved and inspected water outlet on their property. The meter shall measure water not entering the system and shall be eligible for deduction of that used water monthly.
- F. Customers are responsible for the installation and removal of their meters at the approved service locations each year to prevent freezing and damage. Deduct meters shall be inspected by the Company at the time of installation at which time the customer agrees to allow the Company the right to enter upon their property for inspection. Every deduct meter shall be required to be inspected annually by the Company in order for the customer to be eligible for sewer adjustment charges. The administrative fee charged by the Company to the customer is \$50.00.
- G. All deduct meters shall be of a design approved by the Company, shall be registered with the Company prior to use, and shall be used only by the customer to whom it is registered and at the service location to which it is assigned in accordance with the Company's records.
- H. Eligible Customers are required to submit, or cause to be submitted, all data required to calculate the credit in a manner approved by the Company within a time period determined by the Company. The Company shall then credit the customer's total gallons consumed by the gallons recorded from the customer's deduct meter.
- I. The Company shall be authorized to inspect meters for accuracy and calibration at any time the meter readings are suspect and/or not considered representative of usage. The customer shall be responsible for obtaining calibration of the meter if the Company determines it is not accurate. Failure to make such change or provide such calibration data will result in disqualification from the program.
- J. All approved meters will be subject to the Company's backflow requirements.

RATE ZONE 1 – (cont'd)

Sewer Charge Adjustment for the Cheltenham Township Division

The Company is authorized to allow deductions on sewer bills for water which is used but does not enter the Company's system. A request for deduction shall be subject to the following regulations:

- A. Deductions apply within the Cheltenham Division and, in particular, to those customers identified on Exhibit G of the Application filed by Aqua Pennsylvania Wastewater, Inc., dated March 13, 2019. The Application of the Company was approved by the Pennsylvania Public Utility Commission in its Order entered on November 5, 2019, at PUC Docket Number A-2019-3008491.
- B. No deduction shall be granted for customers who do not have a metered water supply
- C. No deduction shall be granted for customers who are delinquent in their payment for service.
- D. One hundred percent of any used water for which a deduction is requested must have been prevented from entering the system.
- E. It is the responsibility of the customer to purchase, install, and maintain the deduct meter at the approved and inspected water outlet on their property. The meter shall measure water not entering the system and shall be eligible for deduction of that used water monthly.
- F. Customers are responsible for the installation and removal of their meters at the approved service locations each year to prevent freezing and damage. Deduct meters shall be inspected by the Company at the time of installation at which time the customer agrees to allow the Company the right to enter upon their property for inspection. Every deduct meter shall be required to be inspected annually by the Company in order for the customer to be eligible for sewer adjustment charges. The inspection fee charged by the Company to the customer is \$100.00.
- G. All deduct meters shall be of a design approved by the Company, shall be registered with the Company prior to use, and shall be used only by the customer to whom it is registered and at the service location to which it is assigned in accordance with the Company's records.
- H. Customers are responsible for making their meter accessible to the Company for reading on a monthly basis. The Company shall then credit the customer's total gallons consumed by the gallons recorded from the customer's deduct meter.
- I. The Company shall be authorized to inspect meters for accuracy and calibration at any time the meter readings are suspect and/or not considered representative of usage. The customer shall be responsible for obtaining calibration of the meter if the Company determines it is not accurate.

Wastewater customers in Cheltenham Township are required to comply with the City of Philadelphia's wastewater control regulations adopted by Cheltenham Township and included in Exhibit H to the Application filed at Docket No. A-2019-3008491.

RATE ZONE 1 – (cont'd)

Sewer Charge Adjustment for the East Norriton Township Division

The Company is authorized to allow deductions on sewer bills for water which is used but does not enter the Company's system from April through October. A request for deduction shall be subject to the following regulations:

- A. To be an eligible Customer for this credit, the Customer shall have applied for or shall have been currently using the credit as of the execution date of October 29, 2018, of the Asset Purchase Agreement between the Company and East Norriton Township.
- B. No deduction shall be granted for customers who do not have a metered water supply
- C. No deduction shall be granted for customers who are delinquent in their payment for service.
- D. One hundred percent of any used water for which a deduction is requested must have been prevented from entering the system.
- E. It is the responsibility of the customer to purchase, install, and maintain the Company approved deduct meter at the approved and inspected water outlet on their property. The meter shall measure water not entering the system and shall be eligible for deduction of that used water monthly.
- F. Customers are responsible for the installation and removal of their meters at the approved service locations each year to prevent freezing and damage. Deduct meters shall be inspected by the Company at the time of installation at which time the customer agrees to allow the Company the right to enter upon their property for inspection. Every deduct meter shall be required to be inspected annually by the Company in order for the customer to be eligible for sewer adjustment charges. The administrative fee charged by the Company to the customer is \$50.00.
- G. All deduct meters shall be of a design approved by the Company, shall be registered with the Company prior to use, and shall be used only by the customer to whom it is registered and at the service location to which it is assigned in accordance with the Company's records.
- H. Eligible Customers are required to submit, or cause to be submitted, all data required to calculate the credit in a manner approved by the Company within a time period determined by the Company. The Company shall then credit the customer's total gallons consumed by the gallons recorded from the customer's deduct meter.
- I. The Company shall be authorized to inspect meters for accuracy and calibration at any time the meter readings are suspect and/or not considered representative of usage. The customer shall be responsible for obtaining calibration of the meter if the Company determines it is not accurate. Failure to make such change or provide such calibration data will result in disqualification from the program.
- J. All approved meters will be subject to the Company's backflow requirements.

RATE ZONE 1 – (cont'd)Sewer Charge Adjustment for the Lower Makefield Township Division

The Company is authorized to allow deductions on sewer bills for water which is used but does not enter the Company's system from April through October. A request for deduction shall be subject to the following regulations:

- A. To be an eligible Customer for this credit, the Customer shall have applied for or shall have been currently using the credit as of the execution date of September 17, 2020, of the Asset Purchase Agreement between the Company and Lower Makefield Township.
- B. No deduction shall be granted for customers who do not have a metered water supply
- C. No deduction shall be granted for customers delinquent in their payment for service.
- D. One hundred percent of any used water for which a deduction is requested must have been prevented from entering the system.
- E. It is the responsibility of the customer to purchase, install, and maintain the Company approved deduct meter at the approved and inspected water outlet on their property. The meter shall measure water not entering the system and shall be eligible for deduction of that used water monthly.
- F. Customers are responsible for the installation and removal of their meters at the approved service locations each year to prevent freezing and damage. Deduct meters shall be inspected by the Company at the time of installation at which time the customer agrees to allow the Company the right to enter upon their property for inspection. Every deduct meter shall be required to be inspected annually by the Company in order for the customer to be eligible for sewer adjustment charges. The administrative fee charged by the Company to the customer is \$50.00.
- G. All deduct meters shall be of a design approved by the Company, shall be registered with the Company prior to use, and shall be used only by the customer to whom it is registered and at the service location to which it is assigned in accordance with the Company's records.
- H. Eligible Customers are required to submit, or cause to be submitted, all data required to calculate the credit in a manner approved by the Company within a time period determined by the Company. The Company shall then credit the customer's total gallons consumed by the gallons recorded from the customer's deduct meter.
- I. The Company shall be authorized to inspect meters for accuracy and calibration at any time the meter readings are suspect and/or not considered representative of usage. The customer shall be responsible for obtaining calibration of the meter if the Company determines it is not accurate. Failure to make such change or provide such calibration data will result in disqualification from the program.
- J. All approved meters will be subject to the Company's backflow requirements.

Wastewater customers in Lower Makefield Township are required to comply with the wastewater control regulations adopted by Lower Makefield Township and included in Exhibit H to the Application filed at Docket No. A-2021-3024267.

SCHEDULE OF RATES

RATE ZONE 2 – METERED AND UNMETERED

The rates under this schedule apply to all customer classes in the territories served subject to Rate Zone 2 rates as noted in the Description of Territories Served section under this tariff unless otherwise specifically identified below.

RESIDENTIAL**MONTHLY SERVICE CHARGE**

Customer Charge (\$)	Rate Zone 2
Fixed (per EDU)	\$ 55.93
<u>Meter Size:</u>	
5/8 inch	55.93
3/4 inch	83.90
1 inch	139.83
1-1/2 inch	279.65
2 inch	447.44
3 inch	838.95
4 inch	1,398.25
6 inch	2,796.50
8 inch	4,474.40
10 inch	6,431.95
Unmetered Charge (per EDU)	\$ 106.73

MONTHLY CONSUMPTION CHARGE

Consumption Charge (per 1,000 gallons water used)	\$ 13.126

QUARTERLY SPECIAL CHARGES

New Garden Township Division - Quarterly Customers

Customer Charge (\$)

Fixed (per EDU)	\$ 167.79

Consumption Charge

(per 1,000 gallons water used)	\$ 13.126

Thompson Property Development
Residential Flat (per EDU)

\$ 415.49

SCHEDULE OF RATES

RATE ZONE 2 – METERED AND UNMETERED (cont'd)

NON-RESIDENTIAL**MONTHLY SERVICE CHARGE**

Customer Charge (\$)	Rate Zone 2
Fixed (per EDU)	\$ 54.95
<u>Meter Size:</u>	
5/8 inch	54.95
3/4 inch	82.42
1 inch	137.37
1-1/2 inch	274.73
2 inch	439.57
3 inch	824.20
4 inch	1,373.67
6 inch	2,747.34
8 inch	4,395.75
10 inch	6,318.88
Unmetered Charge (per EDU)	\$ 114.03

MONTHLY CONSUMPTION CHARGE

Consumption Charge (per 1,000 gallons water used)	\$ 12.468

Special Charges

East Bradford Township Division

Customer Charge (\$)

Fixed (per EDU)	\$ 55.93

QUARTERLY SPECIAL CHARGES

New Garden Township Division - Quarterly Customers

Customer Charge (\$)

Fixed (per EDU)	\$ 167.79

Consumption Charge

(per 1,000 gallons water used)	\$ 12.468

SCHEDULE OF RATES

RATE ZONE 3 – METERED AND UNMETERED

The rates under this schedule apply to all customer classes in the territories served subject to Rate Zone 3 rates as noted in the Description of Territories Served section under this tariff unless otherwise specifically identified below.

RESIDENTIALMONTHLY SERVICE CHARGE

Customer Charge (\$)	Rate Zone 3
Fixed (per EDU)	\$ 66.37
<u>Meter Size:</u>	
5/8 inch	66.37
3/4 inch	99.56
1 inch	165.93
1-1/2 inch	331.85
2 inch	530.96
3 inch	995.55
4 inch	1,659.25
6 inch	3,318.50
8 inch	5,309.60
10 inch	7,632.55
Unmetered Charge (per EDU)	\$ 116.30

MONTHLY CONSUMPTION CHARGE

Consumption Charge (per 1,000 gallons water used)	\$ 12.902

QUARTERLY SPECIAL CHARGES

Stony Creek - Whitehall Estates

Customer Charge (\$)

Fixed (per EDU)	\$ 199.11

Consumption Charge

(per 1,000 gallons water used)	\$ 12.902

SCHEDULE OF RATES

RATE ZONE 3 – METERED AND UNMETERED (cont'd)

NON-RESIDENTIALMONTHLY SERVICE CHARGE

Customer Charge (\$)	Rate Zone 3
Fixed (per EDU)	\$ 65.20
<u>Meter Size:</u>	
5/8 inch	65.20
3/4 inch	97.80
1 inch	163.00
1-1/2 inch	326.00
2 inch	521.60
3 inch	978.00
4 inch	1,630.00
6 inch	3,260.00
8 inch	5,216.00
10 inch	7,498.00
Unmetered Charge (per EDU)	\$ 124.47

MONTHLY CONSUMPTION CHARGE

Consumption Charge (per 1,000 gallons water used)	\$ 12.468

QUARTERLY SPECIAL CHARGES

Stony Creek – Whitehall Estates

Customer Charge (\$)

Fixed (per EDU)	\$ 195.60

Consumption Charge

(per 1,000 gallons water used)	\$ 12.468

SCHEDULE OF RATES

RATE ZONE 4 – METERED AND UNMETERED

The rates under this schedule apply to all customer classes in the territories served subject to Rate Zone 4 rates as noted in the Description of Territories Served section under this tariff unless otherwise specifically identified below.

RESIDENTIALMONTHLY SERVICE CHARGE

Customer Charge (\$)	Rate Zone 4
Fixed (per EDU)	\$ 86.12
<u>Meter Size:</u>	
5/8 inch	86.12
3/4 inch	129.18
1 inch	215.30
1-1/2 inch	430.60
2 inch	688.96
3 inch	1,291.80
4 inch	2,153.00
6 inch	4,306.00
8 inch	6,889.60
10 inch	9,903.80
Unmetered Charge (per EDU)	\$ 137.06

MONTHLY CONSUMPTION CHARGE

Consumption Charge (per 1,000 gallons water used)	\$ 13.163

SCHEDULE OF RATES

RATE ZONE 4 – METERED AND UNMETERED (cont'd)

NON-RESIDENTIAL**MONTHLY SERVICE CHARGE**

Customer Charge (\$)	Rate Zone 4
Fixed (per EDU)	\$ 84.60
<u>Meter Size:</u>	
5/8 inch	84.60
3/4 inch	126.90
1 inch	211.50
1-1/2 inch	423.00
2 inch	676.80
3 inch	1,269.00
4 inch	2,115.00
6 inch	4,230.00
8 inch	6,768.00
10 inch	9,729.00
Unmetered Charge (per EDU)	\$ 144.17

MONTHLY CONSUMPTION CHARGE

Consumption Charge (per 1,000 gallons water used)	\$ 12.457

SCHEDULE OF RATES

RATE ZONE 5 – METERED AND UNMETERED

The rates under this schedule apply to all customer classes in the territories served subject to Rate Zone 5 rates as noted in the Description of Territories Served section under this tariff unless otherwise specifically identified below.

RESIDENTIAL**MONTHLY SERVICE CHARGE**

Customer Charge (\$)	Rate Zone 5
Fixed (per EDU)	\$ 98.95
<u>Meter Size:</u>	
5/8 inch	98.95
3/4 inch	148.43
1 inch	247.38
1-1/2 inch	494.75
2 inch	791.60
3 inch	1,484.25
4 inch	2,473.75
6 inch	4,947.50
8 inch	7,916.00
10 inch	11,379.25
Unmetered Charge (per EDU)	\$ 150.02

MONTHLY CONSUMPTION CHARGE

Consumption Charge (per 1,000 gallons water used)	\$ 13.196

SCHEDULE OF RATES

RATE ZONE 5 – METERED AND UNMETERED (cont'd)

NON-RESIDENTIAL**MONTHLY SERVICE CHARGE**

Customer Charge (\$)	Rate Zone 5
Fixed (per EDU)	\$ 97.20
<u>Meter Size:</u>	
5/8 inch	97.20
3/4 inch	145.80
1 inch	243.00
1-1/2 inch	486.00
2 inch	777.60
3 inch	1,458.00
4 inch	2,430.00
6 inch	4,860.00
8 inch	7,776.00
10 inch	11,178.00
Unmetered Charge (per EDU)	\$ 157.71

MONTHLY CONSUMPTION CHARGE

Consumption Charge (per 1,000 gallons water used)	\$ 12.610

Special Charges

Avon Grove School District - Flat Rate	\$ 11,670.73

East Brandywine Township Water & Sewer Authority - Wastewater Treatment Plant Consumption Rate (per 1,000 gallons)	\$ 14.600

SCHEDULE OF RATES

RATE ZONE 6 – METERED AND UNMETERED

The rates under this schedule apply to all customer classes in the territories served subject to Rate Zone 6 rates as noted in the Description of Territories Served section under this tariff unless otherwise specifically identified below.

RESIDENTIALMONTHLY SERVICE CHARGE

Customer Charge (\$)	Rate Zone 6
Fixed (per EDU)	\$ 61.04
Unmetered Charge (per EDU)	\$ 73.16

MONTHLY CONSUMPTION CHARGE

Consumption Charge (per 1,000 gallons water used)	\$ 3.133

NON-RESIDENTIALMONTHLY SERVICE CHARGE

Customer Charge (\$)	Rate Zone 6
Fixed (per EDU)	\$ 59.97
Unmetered Charge (per EDU)	\$ 75.38

MONTHLY CONSUMPTION CHARGE

Consumption Charge (per 1,000 gallons water used)	\$ 3.077

SCHEDULE OF RATES

RATE ZONE 7 (East Whiteland Township) – METERED AND UNMETERED

The rates under this schedule apply to all customer classes in the territories served subject to Rate Zone 7 rates as noted in the Description of Territories Served section under this tariff unless otherwise specifically identified below.

QUARTERLY SERVICE CHARGE (\$)

Customer Charge (\$)	Rate Zone 7		
Fixed (per EDU)			
District A	\$	100.00	per EDU per quarter
District B	\$	100.00	per EDU per quarter
District C	\$	135.50	per EDU per quarter
District D	\$	150.00	per EDU per quarter
District E	\$	120.00	per EDU per quarter

Commercial and Industrial Users: Each commercial and industrial user, whose total quarterly sewage discharge or water consumption is greater than 100,000 gallons, "High Volume Users", shall pay a sewer rate per thousand gallons as opposed to the Fixed Per EDU Service Charge.

QUARTERLY CONSUMPTION CHARGE (\$)

High Volume Users Commercial and Industrial Consumption Charge:

Districts A through E	\$	6.20	per 1,000 gallons

1. Wastewater customers in East Whiteland Township are required to comply with the wastewater control regulations adopted by East Whiteland Township and included in Exhibit H to the Application filed at Docket No. A-2021-3026132.

RATE ZONE 7 (East Whiteland Township) – (cont'd)

2. Unit Schedule

For customers in the East Whiteland Township service area, the number of equivalent dwelling units is determined as follows.

Category		Number of EDU
(1)	Each private dwelling unit or living unit	1
(2)	Each individual commercial establishment or business, having 10 or less of its own employees, attached to or forming a part of owner's residence, unless otherwise specified herein	1
(3)	Each additional 5 of its own employees or fraction thereof	1/2
(4)	Each individual commercial establishment or business, having 10 or less of its own employees, not attached to or forming a part of owner's residence, unless otherwise specified herein	1
(5)	Each additional 5 of its own employees or fraction thereof	1/2
(6)	(i) Hotel guest room/suite, motel guest room/ suite and conference center guest room/suite with kitchenette - 2.5 bedrooms	1
	(ii) Hotel guest room/suite, motel guest room/ suite and conference center guest room/suite without kitchenette - 3.0 bedrooms	1
	(iii) Kitchenette shall include any one or more of the following facilities or combination thereof: (i) sink and refrigerator; (ii) sink and stove; (iii) sink and dishwasher; (iv) sink and disposal	
(7)	Each restaurant (without liquor license) per 25 seats	1
(8)	Each restaurant (with liquor license) per 10 seats	1
(9)	Each service station garage and automobile repair shop, without carwash facilities:	
	2 bays or less	2
	Each additional bay over 2	1
(10)	Each barber or beauty shop, not attached to owner's residence:	
	2 chairs or less	1 1/2
	Each additional two chairs or fraction thereof	1/2
(11)	Each firehouse	1 1/2
(12)	Each church or chapel	1
(13)	Each public swimming pool or private swimming club	3
(14)	Each school, public or private, having:	
	Toilet facilities only, per 25 pupils and staff or fraction thereof	1
	Toilet facilities and kitchen, per 20 pupils and staff or fraction thereof	1

RATE ZONE 7 (East Whiteland Township) – (cont'd)

		Toilet facilities and gymnasium, per 15 pupils and staff or fraction thereof	1
		Toilet facilities, kitchen and gymnasium, per 12 pupils and staff or fraction thereof	1
(15)		Each property having a commercial garbage grinder of 3/4 horsepower or greater per grinder	1
(16)		Each business providing showers for employees:	
		7 or less employees	1
		Each additional 7 employees or fraction thereof	1
(17)		Each funeral home	2
(18)		Each nursing home, per bed	3/4

To compute the sewer rate for facilities in a single commercial establishment which consists of multiple uses, such as a shopping center or an office building, each unit, tenant, or use shall be calculated by using the above schedule as though each unit, tenant, or use were a separate property or user with a separate connection to the sewer system. In such cases, the owner shall be liable for the full sewer charges. Charges shall be due and payable on all units whether vacant or occupied. If the unit is vacant, one-half of the EDUs assigned to the space shall be used for the calculation.

The DSIC surcharge shall not be applied to bills of wastewater customers in East Whiteland Township; this will remain effective until an amended Long-Term Infrastructure Improvement Plan (LTIIP) is filed and approved which includes East Whiteland. Following the approval of an amended LTIIP, the DSIC surcharge shall be applicable to wastewater customers in East Whiteland Township.

Special Charges:

Customers may apply for a credit to domestic water utilized outside of the property which does not enter the Company's sanitary sewer system; provided, that to be an eligible Customer for this credit, the Customer shall have applied for or shall have been currently using the credit as of the execution date of January 8, 2021 of the Asset Purchase Agreement between the Company and East Whiteland Township. Eligible Customers must have a properly calibrated outside meter upon their premises for the purpose of recording outside usage, and such meter shall be approved by the Company. All such costs of maintenance, repair, furnishing and installation of an approved meter shall be borne by the eligible Customer. Eligible Customers are required to submit, or cause to be submitted, all data required to calculate the credit in a manner approved by the Company within a time period determined by the Company.

SCHEDULE OF RATES

RATE ZONE 8 – METERED AND UNMETERED

The rates under this schedule apply to all customer classes in the territories served subject to Rate Zone 15 rates as noted in the Description of Territories Served section under this tariff unless otherwise specifically identified below.

MONTHLY SERVICE & CONSUMPTION CHARGES (\$)

Rate Zone 8
Monthly

Minimum Charge (up to the first 500 gallons)	\$	10.50	Per Month Per Unit*

Consumption Charge:

For next 2,000 gallons	\$	3.84	per 1,000 gallons
For next 2,000 gallons	\$	4.05	per 1,000 gallons
For next 3,500 gallons	\$	4.13	per 1,000 gallons
For next 24,500 gallons	\$	4.18	per 1,000 gallons
For next 117,500 gallons	\$	4.26	per 1,000 gallons
For next 100,000 gallons	\$	4.40	per 1,000 gallons
For next 75,000 gallons	\$	4.47	per 1,000 gallons
Anything Over 325,000 gallons	\$	4.69	per 1,000 gallons

Well Users Flat Charge	\$	30.41	Per Month Per Unit*

*Per Unit - All structures with multiple units will be billed per each individual unit

The DSIC surcharge shall not be applied to bills of wastewater customers in the Greenville Division; this will remain effective until an amended Long-Term Infrastructure Improvement Plan (LTIIP) is filed and approved which includes Greenville. Following the approval of an amended LTIIP, the DSIC surcharge shall be applicable to wastewater customers in the Greenville Division.

RATE ZONE 8 - CONTINUED

The following surcharges are applicable for waste that exceeds the limits set forth in each of the items below:

- (a) \$0.000288 for each mg/l of suspended solids in excess of 350 mg/l per 1,000 gallons of sewage.
- (b) \$0.000202 for each mg/l of five day 20° C.BOD above 300 gpm per 1,000 gallons of sewage.
- (c) \$0.01008 for each mg/l of chlorine demand greater than 50 mg/l.
- (d) \$0.000015 for each mg/l of grit or mineral solids in excess of 14 mg/l per 1,000 gallons of sewage.

Special Charges:

Customers that have in place a deduct meter, as of the execution date of April 27, 2023 of the Asset Purchase Agreement between the Company and Greenville Sanitary Authority, that measures water on the water supply line or lines not discharging into the Greenville Sanitary Sewer System may continue to use the deduct meter and will be Eligible Customers for use of deduct meters in the Greenville Division. Eligible Customers must have a properly calibrated outside meter upon their premises for the purpose of recording outside usage, and such meter shall be approved by the Company. All such costs of maintenance, repair, furnishing and installation of an approved meter shall be borne by the Eligible Customer. Eligible Customers are required to submit, or cause to be submitted, all data required to calculate the credit in a manner approved by the Company within a time period determined by the Company.

SCHEDULE OF RATES**DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)**

In addition to the net charges provided for in this Tariff, a surcharge of -0.17% shall apply to all bills issued on or after the Effective Date at the bottom of this page. **(D)**

I. General Description

Purpose: To recover the reasonable and prudent costs incurred to repair, improve or replace eligible property which is completed and placed in service and recorded in the individual accounts, as noted below, between base rate cases and to provide the Company with the resources to accelerate the replacement of aging infrastructure, to comply with evolving regulatory requirements and to develop and implement solutions to regional supply problems. The costs of extending facilities to serve new customers are not recoverable through the DSIC. Utility projects receiving PENNVEST funding or using PENNVEST surcharges are not DSIC-eligible property.

Eligible Property: The DSIC-eligible property will consist of the following:

- Collection sewers, collecting mains and service laterals, including sewer taps, curb stops and lateral cleanouts installed as in-kind replacements for customers. Accounts. (360 & 361)
- Collection mains and valves for gravity and pressure systems and related facilities such as manholes, grinder pumps, air and vacuum release chambers, cleanouts, main line flow meters, valve vaults, and lift stations installed as replacements or upgrades for existing facilities that have worn out, are in deteriorated condition or are required to be upgraded by law, regulation or order. Accounts (360;361;362;363;364; & 365)
- Collection main extensions installed to implement solutions to wastewater problems that present a significant health and safety concern for customers currently receiving service from the wastewater utility. Accounts (360 & 361)
- Collection Main rehabilitation including inflow and infiltration projects. (Account 361)
- Unreimbursed cost related to highway relocation projects where a wastewater utility must relocate its facilities. Account (360;361;362;363;364; & 365)
- Other related capitalized costs. Account (389.2)

Effective Date: The DSIC will become effective for bills rendered on and after October 1, 2013.

II. Computation of the DSIC

Calculation: The initial charge, effective October 1, 2013, will be calculated to recover the fixed costs of eligible plant additions that have not previously been reflected in the Company's rates or rate base and will have been placed in service between June 1, 2013 and August 31, 2013. Thereafter, the DSIC will be updated on a quarterly basis to reflect eligible plant additions placed in service during the three month periods ending one month prior to the effective date of each DSIC update. Thus, changes in the DSIC rate will occur as follows:

SCHEDULE OF RATES

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

<u>Effective Date of Change</u>	<u>Date to Which DSIC Eligible Plant Additions Reflected</u>
April 1	December 1 to February 28/29
July 1	March 1 to May 31
October 1	June 1 to August 31
January 1	September 1 to November 30

The fixed costs of eligible distribution system improvement projects will consist of depreciation and pre-tax return, calculated as follows:

Depreciation: The depreciation expense will be calculated by applying to the original cost of DSIC-eligible property the annual accrual rates employed in the Company's last base rate case for the plant accounts in which each retirement unit of DSIC-eligible property is recorded.

Pre-tax Return: The pre-tax return will be calculated using the statutory state and federal income tax rates, the Company's actual capital structure and actual cost rates for long-term debt and preferred stock as of the last day of the three month period ending one month prior to the effective date of the DSIC and subsequent updates. The cost of equity will be the equity return rate approved in the Company's last fully litigated base rate proceeding for which a final order was entered not more than two years prior to the effective date of the DSIC. If more than two years shall have elapsed between the entry of such a final order and the effective date of the DSIC, then the equity return rate used in the calculation will be the equity return rate calculated by the Commission staff in the latest Quarterly Report on the Earnings of Jurisdictional Utilities released by the Commission.

DSIC Surcharge Amount: The charge will be expressed as a percentage carried to two decimal places and will be applied to the total amount billed to each customer for service under the Company's otherwise applicable rates and charges, excluding amounts billed for the State Tax Adjustment Surcharge (STAS). To calculate the DSIC, one-fourth of the annual fixed costs associated with all property eligible for cost recovery under the DSIC will be divided by the Company's projected revenue for wastewater service (including all applicable clauses and riders) for the quarterly period during which the charge will be collected.

SCHEDULE OF RATES

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

Formula: The formula for calculation of the DSIC surcharge is as follows:

$$\text{DSIC} = \frac{(\text{DSI} * \text{PTRR} + \text{STFT} + \text{Dep} + e) \times 1/(1-T)}{\text{PQR}}$$

Where:

- DSI = Original cost of eligible distribution system improvement projects net of accrued depreciation and associated accumulated deferred income taxes pertaining to property-related book/tax depreciation timing differences resulting from the use of accelerated depreciation per Internal Revenue Code, 26 U.S. Code § 168.
- PTRR = Pre-tax return rate applicable to DSIC-eligible property.
- STFT = (State Tax Flow Through) Pre-tax flow through calculated on book-tax timing differences between accelerated tax depreciation and book depreciation net of federal tax.
- Dep = Depreciation expense related to DSIC-eligible property.
- e = Amount calculated (+/-) under the annual reconciliation feature or Commission audit, as described below.
- T = If applicable, Pennsylvania Gross Receipts Tax rate in effect during the billing month, expressed in decimal form.
- PQR = Projected quarterly revenue will be based on the applicable three-month period, (including all applicable clauses and riders) including revenue from existing customers plus netted revenue from any customers which will be gained or lost by the beginning of the applicable service period.

Quarterly Updates: Supporting data for each quarterly update will be filed with the Commission and served upon the Bureau of Investigation & Enforcement, the Office of Consumer Advocate, Bureau of Audits and the Office of Small Business Advocate at least ten (10) days prior to the effective date of the update.

III. Customer Safeguards

All Customer Classes: The DSIC shall be applied equally to all customer classes, with the exception of Woodloch Pines and any future customers with negotiated contracts for which a reduction or exemption is shown to be reasonably necessary.

SCHEDULE OF RATESDISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

Cap: The DSIC is capped at 5.00% of the amount billed to customers (including all applicable clauses and riders) as determined on an annualized basis.

Audits/Reconciliation: The DSIC will be subject to audit at intervals determined by the Commission. Any cost determined by the Commission not to comply with any provision of 66 Pa C.S. §§ 1350, et seq., shall be credited to customer accounts. It will also be subject to an annual reconciliation based on a reconciliation period consisting of the twelve months ending December 31 of each year or the utility may elect to subject the DSIC to quarterly reconciliation but only upon request and approval by the Commission. The revenue received under the DSIC for the reconciliation period will be compared to the Company's eligible costs for that period. The difference between revenue and costs will be recouped or refunded, as appropriate, in accordance with Section 1307(e), over a one-year period commencing on April 1 of each year, or in the next quarter if permitted by the Commission. If DSIC revenues exceed DSIC-eligible costs, such over-collections will be refunded with interest. Interest on the over-collections and credits will be calculated at the residential mortgage-lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41 P. S. sec.101, et seq.) and will be refunded in the same manner as an over-collection. The utility is not permitted to accrue interest on under collections.

New Base Rates: The charge will be reset at zero as of the effective date of new base rates that provide for prospective recovery of the annual costs that had theretofore been recovered under the DSIC. Thereafter, only the fixed costs of new eligible plant additions that have not previously been reflected in the Company's rates or rate base would be reflected in the quarterly updates of the DSIC.

Earning Reports: The charge will also be reset at zero if, in any quarter, data filed with the Commission in the Company's then most recent Annual or Quarterly Earnings Report show that the Company will earn a rate of return that would exceed the allowable rate of return used to calculate its fixed costs under the DSIC as described in the Pre-tax return section. The utility shall file a tariff supplement implementing the reset to zero due to overearnings on one-days' notice and such supplement shall be filed simultaneously with the filing of the most recent Annual or Quarterly Earnings reports indicating that the utility has earned a rate of return that would exceed the allowable rate of return used to calculate its fixed costs.

Customer Notice: Customers shall be notified of changes in the DSIC by including appropriate information on the first bill they receive following any change. An explanatory bill insert shall also be included with the first billing.

Residual E-Factor Recovery Upon Reset to Zero: The utility shall file with the Commission interim rate revisions to resolve the residual over/under collection or E-factor amount after the DSIC rate has been reset to zero. The utility can collect or credit the residual over/under collection balance when the DSIC rate is reset to zero. The utility shall refund any over-collection to customers and is entitled to recover any under collections as set forth in Section III Safeguards – Audits/Reconciliations. Once the utility determines the specific amount of the residual over or under collection amount after the DSIC rate is reset to zero, the utility shall file a tariff supplement with supporting data to address that residual amount. The tariff supplement shall be served upon the Commission's Bureau of Investigation and Enforcement, the Bureau of Audits, the Office of Consumer Advocate, and the Office of Small Business Advocate at least ten (10) days prior to the effective date of the supplement.

SCHEDULE OF RATES

STATE TAX ADJUSTMENT SURCHARGE (STAS)

In addition to the net charges provided for in this Tariff, a surcharge of 0.00% will apply to all bills issued on or after the Effective Date at the bottom of this page for Rate Zones 1, 2, 3, 4, 5, 6, and 7.

The above surcharge will be recalculated using the element prescribed by the Commission in its policy at 52 PA Code section 69.51 et seq.:

- On or before March 31 of each year; and/or
- Whenever the Company experiences a material change in any of the taxes used in calculation of the surcharge due to a change in the applicable tax rates, or in the basis of calculating such tax rates, or due to changes in the state tax liability arising under the law.

The recalculation will be submitted to the Commission within 10 days after the occurrence of the event which occasions such recalculation or as prescribed in the Commission's regulations or orders. If the recalculated surcharge is less than the one in effect, the Company will, or if the recalculated surcharge is more than the one in effect, the Company may, submit with such recalculation a tariff or supplement to reflect such recalculated surcharge. The effective date of such tariff or supplement shall be 10 days after filing or as prescribed in the Commission's regulations or orders. In the event that the Company files an increased surcharge subsequent to 10 days after the occurrence of an event which occasions a recalculation, the effective date of such tariff or supplement shall be 60 days after filing in accordance with Section 1308(a) of the Public Utility Code, 66 Pa.C.S. § 1308(a) (regarding voluntary changes in rates), unless otherwise directed by the Commission.

The surcharge shall be rolled into base rates when increased or decreased base rates are made effective.

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SCHEDULE OF RATES**CUSTOMER ASSISTANCE PROGRAM RIDER****Customer Assistance Program ("CAP"):****I. Availability**

The CAP is a program designed to enroll residential Customers who satisfy the criteria set forth below ("CAP Program").

Processing and verification by authorized agencies upon referral by the Company's offices, other agencies, or the Commissions Bureau of Consumer Services.

Residential Customer of the Company.

Annual income no greater than 200 percent of the federal poverty limit ("FPL"). For payment purposes Customers will be defined as follows:

- a. Tier 1 – Customers whose annual income has been verified as being at or below 50 percent of FPL.
- b. Tier 2 – Customers whose annual income has been verified as being above 50 percent FPL or at or less than 100 percent of FPL.
- c. Tier 3 – Customers whose annual income has been verified as being above 100 percent FPL or at or less than 150 percent of FPL.
- d. Tier 4 – Customers whose annual income has been verified as being above 150 percent FPL or at or less than 200 percent of FPL.

II. Rate Table

Eligible Customers will receive the discounted rate as set forth below:

<u>Tier</u>	<u>Customer Charge</u>	<u>Consumption Charge</u>
1	85% discount on Customer Charge	85% discount on all volumes
2	75% discount on Customer Charge	75% discount on all volumes
3	65% discount on Customer Charge	50% discount on all volumes
4	50% discount on Customer Charge	25% discount on all volumes

Customers billed a flat bill

Rate Zone	Tier 1 Discount	Tier 2 Discount	Tier 3 Discount	Tier 4 Discount
1	85.00%	75.00%	57.31%	37.19%
2	85.00%	75.00%	57.86%	38.10%
3	85.00%	75.00%	58.56%	39.27%
4	85.00%	75.00%	59.43%	40.71%
5	85.00%	75.00%	59.89%	41.49%
6	85.00%	75.00%	62.51%	45.86%
7	85.00%	75.00%	65.00%	50.00%
8	85.00%	75.00%	55.18%	33.63%

SCHEDULE OF RATES**CUSTOMER ASSISTANCE PROGRAM RIDER (cont'd)****III. Surcharges**

All surcharges applicable under the Company's Rules and Regulations shall still apply to Customers under the CAP Program.

IV. Late Payment Charges

No late payment charges shall be applied to arrearages existing at the time the Customer begins receiving service under the CAP Program. Late payment charges will not be applied during participation in the CAP Program.

V. Rules and Regulations

If, at any time after acceptance into CAP, a Customer's family size or income changes, the Customer must notify the Company of the change within 30 days of the change. Failure to do so may result in the Company ending the Customer's opportunity to receive service under the CAP Program.

If a balance is owed at the time of enrollment such balance will be frozen as preprogram arrears and is eligible for a monthly credit of \$40.00 for in-full payments as those payments are made. (c)

If a Customer no longer satisfies the criteria set forth under Availability, the Customer will no longer be eligible to receive service under the CAP Program and any pre-program arrearages will become due.

At the time of application to the CAP Program, the Customer will be advised of the importance of timely payments. The CAP Program screening administrator will review relevant assistance programs and offer help in applying for such programs.

Failure to make payments will result in the Company returning the participant to the regular collection cycle and may lead to termination of service. To avoid termination, the participant must pay the amount set forth in the termination notice prior to the scheduled termination date.

SCHEDULE OF RATES

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SCHEDULE OF RATES

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RULES AND REGULATIONS**SECTION A – INTRODUCTION**

These Rules and Regulations, files as part of the Company's Tariff, shall govern the manner in which wastewater service is provided to all Applicants and Customers. The Company may supplement these Rules and Regulations, and may revise and amend these Rules and Regulations from time to time subject to the approval of the Pennsylvania Public Utility Commission ("Commission"). The Company will follow Commission regulations not specifically addressed in these Rules and Regulations.

There are four classes of general metered service, based on the nature of the Customer and the use of the property receiving service, as follows:

Residential Class: An individually-metered or flat rate billed dwelling unit intended for human habitation (including a detached house, rowhome, townhouse, condominium and mobile home) or an individually-metered or flat rate billed home or building consisting of not more than two dwelling units.

Commercial Class: A building, store, restaurant, or office which is primarily a site for the buying or selling of goods or the provision of professional or consumer services. In addition, apartments, condominium complexes, colleges, private and public schools, car washes, laundromats, construction sites, hotels, and motels are included in this class.

Industrial Class: A building or factory which is primarily a site for the manufacture or production of goods.

Public: A public building, library, park, or playground which is owned by a governmental unit having the power of taxation.

RULES AND REGULATIONS**SECTION B - DEFINITIONS**

Wherever used in the Rules and Regulations or elsewhere in the Company's Tariff, the following terms shall have the meanings hereinafter set forth:

Applicant: A person, at least 18 years of age, who is not currently receiving service but has applied to the Company for service and whose name appears on the mortgage, deed, or lease of the property for which service is requested.

Authorized or Duly Authorized Representative of the User:

(1) If the User is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for entity, and the written authorization is submitted to the Company.

Best Management Practices or BMPs: means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 of Section H of this tariff. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

RULES AND REGULATIONS**SECTION B – DEFINITIONS (cont'd)**

Biochemical Oxygen Demand or BOD5: The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

Builder: Any person(s) requesting an extension to provide service to an existing lot or group of lots, either existing or to be subdivided, where service is to be provided to something other than a preexisting Residential Structure; namely, a newly constructed structure, structures to be constructed in the future, or to a preexisting non-residential structure.

Categorical Industrial User: An Industrial User who, if it were discharging to a POTW, would be subject to a categorical pretreatment standard or categorical standard.

Categorical Pretreatment Standard or Categorical Standard: Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the FWPCA (33 U.S.C. § 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Chemical Oxygen Demand or COD: A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

Commission: The Pennsylvania Public Utility Commission.

Company: Aqua Pennsylvania Wastewater, Inc. and its duly authorized officers, agents, and employees; each acting within the scope of his/her authority and employment.

Company Service Lateral: The pipe or line extending laterally out from the Company collection Main that connects to the building service line at the hypothetical or actual curb line, edge of the right-of-way, or the actual property line, or easement line in the case where the Company collection Main is located within an easement.

Company's System: The aggregate of the Company's wastewater disposal plant, pumping equipment, trunk lines or Mains, and connection facilities to the curb-line at each premise.

Construction Costs: All direct and indirect costs attributable to the material and installation of the subject Main extension, services and appurtenances, and/or removal of existing Company facilities (including the net book value of property replaced or retired) whether incurred by the Builder or the Company.

Contributory Industrial User: Any Industrial User that the Company has determined discharges specific pollutants to the treatment works at concentrations greater than are found in typical domestic/commercial wastewaters.

Customer: A person at least 18 years of age, or entity who is an owner, occupant or who contracts with the Company for or who takes or receives wastewater collection, treatment and/or disposal service.

Customer Service Lateral: The connecting facilities owned by the Customer from the Company wastewater supply lines or Mains at the curb-line, Right-of-way line, or easement line into and within the Customer's premises.

RULES AND REGULATIONS**SECTION B – DEFINITIONS (cont'd)**

Daily Maximum: The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit: The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Domestic Wastes: A combination of water-carried wastes, consisting of wash water, culinary wastes, and liquid wastes containing only human excreta and similar matter flowing in or from a building drainage system of sewer originating from residences, business buildings, institutions, and commercial establishments.

Environmental Protection Agency or EPA: The U.S. Environmental Protection Agency.

Equivalent Dwelling Unit or "EDU": Except for existing Customers acquired by the Company through a purchase or acquisition and for billing purposes only, the EDU is a measure assigned by the Company based upon the estimated average daily wastewater flow for the type of business, as calculated by the PaDEP regulation at 25 Pa. Code § 73.17(b) divided by the Company's typical estimated average daily wastewater flow from a current single-family unit. Residential Customers are designated as one (1) EDU; however, in the Company's sole discretion, the Company may assign more than one (1) EDU for a residential Property.

For existing customers without a predetermined EDU allocation, the EDU is a measure based upon the estimated average daily wastewater flow for the type of business based on water usage, divided by the typical estimated average daily wastewater flow from a current single-family unit. For other existing customers acquired by the Company through a purchase or acquisition, the number of equivalent dwelling units is available at <https://www.aquawater.com/about/states-we-serve/pennsylvania/index.php>.

Any Customer who modifies their properties in a manner that impacts the EDU calculation, including in areas previously acquired by the Company, will be subject to the EDU definition described above. The Company will consider a Customer's request for a change in the number of assigned EDU's upon presentation of substantial evidence, satisfactory to the Company in its sole discretion. The Customer shall bear the burden of proof for all such requests.

Existing Source: Any source of discharge that is not a "New Source."

Federal Water Pollution Control Act (FWPCA), also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

RULES AND REGULATIONS**SECTION B – DEFINITIONS (cont'd)**

Grab Sample: A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Grinder Pump: Any mechanical or powered device used to grind, macerate or fluidize waste so that it can be discharged into the Company's System. This device is a component of the Customer Service Lateral and the sole responsibility of the Customer to own, maintain, and operate along with the balance of their Customer Service Lateral. The Customer shall be responsible for all power to operate the device in accordance with the manufacturer's specifications and guidelines. If required by the PaDEP, the Customer shall enter into an operations and maintenance agreement with the respective municipality.

Indirect Discharge or Discharge: The introduction of pollutants into the Company's System from any nondomestic source.

Industrial Waste Discharge Permit or Contract: A wastewater permit or contract issued as required by the Company to an Industrial User.

Industrial Waste Pretreatment Program: A program established by the Company that requires discharges to monitor, test, treat and control as necessary, pollutants in a Customer's wastewater prior to discharge into the sanitary and/or combined sewer.

Instantaneous Limit: The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference: A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the Company's System, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the Company's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: section 405 of the FWPCA; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Line or Main Extension: An addition to the Company's System Mains which is necessary to serve the Premises of an Applicant or Customer.

Local Limit: Specific discharge limits developed and enforced by the Company upon industrial or commercial facilities to implement the general and specific discharge prohibitions identified in Section H of this tariff.

RULES AND REGULATIONS**SECTION B – DEFINITIONS (cont'd)**

Main: The Company's pipe used in transporting Wastewater, excluding Service Connections, which is located in a public highway, street, alley, or private right-of-way.

Maximum Allowable Industrial Loading: The maximum mass of pollutants that is allowed to be discharged to the treatment works from all contributory Industrial Users.

Medical Waste: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Monthly Average: The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Monthly Average Limit: The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

RULES AND REGULATIONS**SECTION B – DEFINITIONS (cont'd)**New Source:

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the FWPCA that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, and if such source were to discharge to a POTW, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program

(i) any placement, assembly, or installation of facilities or equipment; or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

RULES AND REGULATIONS**SECTION B – DEFINITIONS (cont'd)**

Noncontact Cooling Water: Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Nondomestic Waste or Industrial Waste: Any wastewater resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resource, or any mixture of such waste with water or domestic wastewater, as distinct from domestic wastewater.

PaDEP: The Pennsylvania Department of Environmental Protection.

Pass Through: A discharge which exits the Company's System into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Company's NPDES permit, including an increase in the magnitude or duration of a violation.

Person: Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

pH: A measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant: Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD5, COD, toxicity, or odor).

Premise: A single lot or piece of ground consisting of a single Residential Structure, together with all buildings and structures erected thereon.

Pretreatment: Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the Company's System. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment Requirements: Any substantive or procedural requirement related to pretreatment imposed on a User, other than a pretreatment standard.

Pretreatment Standards or Standards: Pretreatment Standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited Discharge Standards or Prohibited Discharges: Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of Section H of this tariff.

RULES AND REGULATIONS**SECTION B – DEFINITIONS (cont'd)**

Property: In general terms, a separate parcel of land owned in fee simple absolute, including any home(s), condominium(s), Home Owner's Association or building(s) affixed thereto, which is delineated by the description contained on the recorded deed, and which may be further delineated by any public roads.

Prospective Customer: Any owner, tenant, or lessee of a Property that is expected to be receiving wastewater service for at least one year following the commencement of wastewater service.

Publicly Owned Treatment Works or POTW: A treatment works defined by EPA in 40 CFR § 403.3(q).

Residential Structure: A home or building which contains metered or flat rate dwelling units intended for human habitation.

Sanitary Sewer: A sewer which primarily carries sanitary wastewater, together with such storm, surface and ground water as may be present.

Service Connection: The point at which the Company Service Lateral connects with the Customer Service Lateral.

Septic Tank Waste: Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Shall: is mandatory; May is permissive.

RULES AND REGULATIONS**SECTION B – DEFINITIONS (cont'd)**

Significant Industrial User ("SIU"): A Significant Industrial User is:

- (1) An Industrial User subject to categorical pretreatment standards, if it were discharging to a POTW; or
- (2) An Industrial User that:
 - (a) Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the Company's System (excluding sanitary, noncontact cooling and boiler blowdown wastewater;
 - (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the Company's treatment plant; or
 - (c) Is designated as such by the Company on the basis that it has a reasonable potential for adversely affecting the Company's System operation or for violating any pretreatment standard or requirement.
- (3) The Company may determine that an Industrial User subject to categorical pretreatment standards is a Non-Significant Categorical Industrial User rather than an SIU on a finding that the Industrial User never discharges more than 100 gallons per day of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
 - (a) The Industrial User, prior to the Company's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - (b) The Industrial User annually submits the certification requirement in Section 6.13 of Section H of this tariff, together with any additional information necessary to support the certification statement; and
 - (c) The Industrial User never discharges any untreated concentrated wastewater.
- (4) Upon a finding that a User meeting the criteria in subsection 2 of this definition has no reasonable potential for adversely affecting the Company's System operation or for violating an pretreatment standard or requirement, the Company may at any time, on it is own initiative or in response to a request received from an Industrial User, determine that such User should not be considered an SIU.

RULES AND REGULATIONS**SECTION B – DEFINITIONS (cont'd)**

Slug Load or Slug Discharge: Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of Section H of this tariff. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate these rules, local limits or permit conditions.

Stormwater: Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Tariff: All the service rates, rules and regulations issued by the Company, together with any supplements and revisions thereto, officially approved by the Commission and contained in this document.

Total Suspended Solids (TSS) or Suspended Solids: The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

User or Discharger: Any person that discharges, causes, or permits the discharge of wastewater into the Company's System.

Waste: Rejected, unutilized, or superfluous substances in liquid, gaseous, or solid form resulting from domestic and nondomestic activities.

Wastewater: A combination of the water-carried waste from residences, businesses, buildings, institutions, and industrial establishments, together with any ground, surface, and storm water that may be present, whether treated or untreated, discharged into or permitted to enter the Company's System.

Wastewater Treatment Plant or Treatment Plant: That portion of the Company's System which is designed to provide treatment of domestic waste and industrial waste.

RULES AND REGULATIONS**SECTION C – APPLICATION FOR SERVICE**

1. Application for Wastewater Service by a New Owner or Occupant at an Existing Service Property: Where a Customer's Service Lateral exists on a Property, service will be furnished by the Company as soon as reasonably practicable after written application of the Applicant or the Applicant's authorized agent is made and such application is approved by the Company. The Customer receiving service takes such service subject to the Company's Tariff, including its Rules and Regulations.

2. Application for Wastewater Service to a Proposed Service Property: Where an adequate sewer Main abuts the Customer's Property, a Service Connection will be made as soon as reasonably practicable after written application of the Applicant or the Applicant's authorized agent and such application is approved by the Company. Service Connection application forms will be furnished by the Company on request.

Where an adequate sewer Main does not abut the Customer's Property, the Customer must make necessary arrangements with the Company's New Business Office for the extension of sewer in accordance with the Company's Rules and Regulations, as discussed further in Section I of this Tariff.

3. Application and Discharge Requirements. All applications for service must be in writing on a form provided by the Company and signed by the owner or owners of the Property to which wastewater collection service will be provided; except that where a lessee of a Property occupies or uses the Property under a lease having a fixed term of more than six (6) months, the lessee may request service as an Applicant. The Company may, at its sole discretion, require that a separate contract for service be signed by the Applicant. The Applicant must provide all necessary and required documentation as determined in Company's sole discretion to evaluate the request for service.

Non-residential service Customers which desire to discharge Nondomestic Wastes into the Company's System or existing Industrial/Commercial Users which desire to commence operations of a new facility or a new or different process that will affect the characteristics of the wastewater discharging into the Sanitary Sewer, shall notify the Company prior to the commencement of the new or different operations at the facility and provide such other information regarding the proposed discharge as the Company may request, including an application for an Industrial Waste Discharge Permit when deemed necessary.

RULES AND REGULATIONS**SECTION D – CONSTRUCTION AND MAINTENANCE OF FACILITIES****1. Provision of Service:**

- Connection of a Premise to the Company's System constitutes a contract for service subject to all Rules and Regulations and rate schedules as provided for in this Tariff.
- The Company will install a Company Service Lateral from the main to the curb, or such point as determined by the Company of a size and material determined by the Company in its discretion. Any additional or larger connection facilities requested by the Customer may be installed provided the proposed discharge into the system is within the capability of the system, complies with these Rules and Regulations, and the Customer pays the additional costs for the installation.
- No owner or tenant of any Premises connected with the Mains of the Company will be allowed to permit another person or premises to use or connect with its Customer Service Lateral, except upon written permit from the Company.
- Any violation of the Rules and Regulations of the Company shall render the contract between the Customer and the Company void, and service may be discontinued after due notice, remaining so until such time as the Company is satisfied that the Customer will observe the Rules and Regulations. Service will not be connected until the actual costs of the discontinuing and reconnections are paid in full.

Customer Service Lateral Inspection Fee

- Charge for the Company's time involved in the inspection of a Customer Service Lateral tie-in to the Company's wastewater system shall be fifty dollars (\$50.00) per Customer Service Lateral.

2. Customer Service Lateral: The Customer Service Lateral shall extend from the Property to the Curb Stop or cleanout or such point as designated by the Company. All connections, Service Laterals and fixtures owned by the Customer shall be maintained by the Customer in good order, and all meters and appurtenances owned by the Company and located on the Property of the Customer shall be protected properly by the Customer. All leaks in or other deteriorated condition of the Customer's Service Line or any other pipe or fixture in or upon the Premises supplied must be repaired immediately by the owner or occupant of the Premises.

3. Size, Kind, and Location of Service Laterals: The Company reserves the right to determine the size, kind and location of the Service Laterals, from the main to the curb, and from the curb to the property to be served. The Customer's Service Lateral shall not cross intervening properties unless the property is landlocked and there is no other way in which service can be provided (for example, because the property does not abut a public road) and an appropriate easement is obtained by the Customer for the Customer's benefit, a copy of which must be furnished to the Company. The service line from the curb stop or cleanout to the property shall be furnished, installed, owned, and maintained by the owner of the property, and where possible shall be laid in a straight line at right angles to the curb line within the building limits of the structure to be served and at a minimum depth of cover specified by the Company, and bedded in at least 6 inches of sand, in property owned in fee simple absolute.

SECTION D – CONSTRUCTION AND MAINTENANCE OF FACILITIES (cont'd)

4. Right to Reject: The Company may refuse to connect with any Customer Service Lateral or furnish wastewater collection, treatment and/or disposal through a service already connected if such system or service is not properly installed or maintained.

5. Separate Trench: The Customer Service Lateral shall not be laid in the same trench with drain or water pipe, the facilities of any other public utility or of any municipality or municipal authority that provides a utility service.

6. Customer Grinder Pump: In areas of the Company's System where the Company has installed a pressure sewage collection system or where required as determined by the Company, the Customer, in conjunction with the construction of their Customer Service Lateral, shall install, own, operate, and maintain and replace a Grinder Pump and holding tank at the Customer's expense as specified by the Company prior to connection and shall maintain such facilities in good order and repair. The Grinder Pump shall meet specifications as provided by the Company. The failure of a Customer to properly install and maintain a Grinder Pump, including replacement, shall construe grounds for the Company to initiate action to terminate service to the Customer and seek recovery for any damage to the Company's facilities caused by an improperly functioning Grinder Pump. In the case where PaDEP approval of the grinder pump installation is required to ensure the long-term operation and maintenance of the grinder pump in accordance with PaDEP regulation Title 25 Pa Code §71.72, the Customer may have to enter into an operations and maintenance agreement with the municipality in which the Customer is located.

RULES AND REGULATIONS**SECTION D – CONSTRUCTION AND MAINTENANCE OF FACILITIES (cont'd)**

7. Individual Service Lines: Except as otherwise expressly authorized by the Company, each individual Customer shall be served only through a separate Customer Service Lateral connected directly to the Company Service Lateral, and that Customer Service Lateral shall not cross over the Property of or serve any other Customer or Premise. The maximum Customer Service Lateral length shall be two hundred and fifty (250) feet from the Service Connection(s) with clean-outs every 50 feet. The Company shall have the right to waive this maximum length requirement at its sole discretion. No additional attachment may be made to any Customer Service Lateral for any purpose without the express written approval of the Company.

8. Customer Responsibilities:

a. Use shall be restricted to Domestic Wastes, unless a special agreement is made satisfactory to the Company as to other uses. No Customer shall discharge into the system roof, storm, surface or ground water, swimming pools, drainage from cesspools or drain fields, cistern, combustible gases or liquids, insoluble solids, industrial type waste or other harmful substances. Any Customer discharging any unauthorized matter into the system, which causes damage to Company facilities or interferes with the operation of the system, will be required to cease using the system and pay whatever damages and costs are incurred as a result.

b. Each Customer Service Lateral shall be installed and maintained by or on behalf of the Customer at its expense and in full accordance with the Company's specifications as to materials, size, location and underground construction, starting at the curb-line at a location designated by the Company.

c. No sewer connection, or disconnection, shall be made to the Company's Main except under the supervision, control and approval of the Company's authorized representative. All such connections shall be property of the Company and shall be accessible to it and under its control. The Company will furnish, install, and maintain all Company Service Laterals from the Main to the property line or right of way.

d. No repairs, alterations, or additions to any drain or Service Connection with the Company's System shall be made, unless the person desiring to make the same shall first receive permission from the Company for doing so.

e. Connections with sewers that run through private property shall, in all respects, be governed by these Rules and Regulations.

RULES AND REGULATIONS**SECTION D – CONSTRUCTION AND MAINTENANCE OF FACILITIES (cont'd)****9. Company's Service Lateral:**

Except for Service Connections made in accordance with the section, "Main Extensions", the Company will make all connections to its Mains and furnish, install and maintain the Company Service Laterals from the Main up to the hypothetical or actual curb line, edge of the right-of-way or the actual property line. The Company Service Laterals will be the property of the Company and under its control.

The maximum Company investment per Company Service Lateral to a Bona Fide Service Applicant shall be calculated under the same formula as described in the "Company Contribution" of Section I, "Main Extensions", of this Tariff.

The cost of any Company Service Lateral in excess of the applicable maximum Company investment shall be paid by the Customer. The Company may require payment of the estimated amount of such excess cost in advance of the installation and will make a partial repayment of the extent the actual cost is determined to be less than the estimate.

RULES AND REGULATIONS**SECTION E – TERMINATION, DISCONTINUANCE, RESTORATION OF SERVICE, AND SERVICE CONTINUITY****Termination and Discontinuance of Service:**Termination and Discontinuance by the Company

1. Service may be terminated by the Company for any one of the following reasons:

- a. Failure of a Customer to maintain and repair its Customer Service Lateral(s);
- b. Failure of a Customer to pay a bill for service in accordance with the Commission's regulations;
- c. Vacancy of the Premises;
- d. Violation by a Customer, or with his consent, of any of these Rules and Regulations.

2. The Company may, without notice, discontinue wastewater service if an emergency reasonably requires it in order to make necessary repairs or connections or to meet any other emergency; however, the Company will give notice of any discontinuance of service if it is reasonably possible to do so.

3. If you are a victim of domestic violence and have a Protection From Abuse Order or other court order that shows clear evidence of domestic violence, there are special protections available.

Discontinuance by the Customer

1. A Customer desiring the discontinuance of wastewater service shall give written notice to the office of the Company and the Customer will be responsible for service charges until such notice is given. A new application must be made on any change of Customers on a Property as required at the office of the Company, and the Company shall be at liberty to discontinue the service until such new application has been made and approved.

2. The Customer desiring abatement from wastewater bills shall report same in writing or call in person at the office of the Company. All vacancies shall date from the day reported at the office of the Company. When vacancy is properly reported, an allowance will be made for the period of vacancy, but not for less than one month.

Restoration of Service: After termination of service it will not be reconnected until all amounts due to the Company have been paid plus the cost of a fifty dollar (\$50.00) turn-on charge prior to service reconnection (with the exception of the Masthope Division).

RULES AND REGULATIONS**SECTION E – TERMINATION, DISCONTINUANCE, RESTORATION OF SERVICE, AND SERVICE CONTINUITY (cont'd)****Service Continuity and Liability:**

In the course of furnishing service that needs to be adequate, but not perfect, it is recognized that there will be times when service is subject to interruption or disruption as a result of Main breaks, the failure of equipment or facilities, and for other reasons. Accordingly, the liability of the Company shall be limited to four thousand dollars (\$4,000.00) in any legal action brought against the Company for damages in connection with: 1) a service interruption or delay, or cessation or lack of adequate, efficient, safe and reasonable service and facilities; and/or 2) a failure of equipment, including, but not limited to, a break or leak in a Main, service line or Meter owned by the Company.

In any legal action where a court does not recognize, or is being asked to interfere with or hamper, the jurisdiction of the Commission to authorize limitations of liability or to exclusively determine whether the service and facilities of a public utility are in conformity with the regulations and Orders of the Commission, the public utility may certify to the Commission the question of the appropriateness of such court action by filing a petition for declaratory judgment with the Commission.

Furthermore, the Company shall not be liable in any action where the loss or damage involves an act of God (except where the Company is found to be negligent or not in compliance with its Section 1501 duties under the Public Utility Code) or does not involve a duty of the Company, including breaks or leaks on facilities that are not owned by the Company, such as breaks, leaks, defects or conditions in the Customer's Service Line, Meter, internal plumbing or fixtures, or due to the materials out of which those facilities are made. Further, the Company shall not be liable in any action where the loss or damage does not involve a breach of a duty of the Company, including where the Company does not receive actual notice, either written or oral, that a Company facility (located within the public right-of-way, in a sidewalk or on a Customer's Property) is in need of repair that is not proven to have been in that condition at the time of installation or that is caused by a plumber, developer, or the person or event.

From time to time, the Company may provide public notices, specific notices, correspondence or other notifications ("Notices") regarding the presence of conditions affecting the wastewater service provided by the Company. These Notices may contain information about actions members of the public may wish to, are recommended to, or should take in response to the conditions identified in the Notice. In the event the Company issues a Notice, the Company will not be liable for any expenses or costs incurred by a Customer or end-user for any action taken in response to any condition identified in the Notice.

RULES AND REGULATIONS**SECTION F – BILLING AND COLLECTION**

Methods of Payment: Bills are payable by mail, by direct debit, in person at any authorized pay agency or as otherwise authorized by the Company. Amounts due for services must be made in one of the following formats: cash at a valid payment center, credit card, debit card, atm card, or personal check, business check, or money order issued by a properly licensed financial institution, or other commercially acceptable form of payment as determined by the Company.

Landlord Assumption of Responsibility: If an Applicant for service, who is a landlord, assumes responsibility for rates and charges related to wastewater service provided to tenants and is billed for such service, the landlord must assume responsibility and be billed for both water and wastewater service, if such service is provided or billed by the Company.

Billing History: A Customer may obtain from the Company; at no charge to the Customer, the billing history for up to ten accounts per year in the name of the Customer, provided that the Customer submits a written request for such information directly to the Company. Additional requests will be processed subject to the Company's right to charge the Customer its incremental costs of providing such billing histories.

Delinquent Bills: If a rendered bill remains unpaid for a period of 20 days for Residential Customers and 15 days for Non-Residential Customers, it shall be classified as delinquent. However, if the last day of such period falls on a Saturday, Sunday, a holiday or day when the Company's offices are closed, the delinquency date shall be the next succeeding business day. Payments by mail will be deemed made on the date of the postmark. Payments to the Company drop box or authorized payment agent will be deemed received when paid at that location. Service may be terminated for non-payment of bills in accordance with the Commission's regulations. If service is thus terminated, it will not be restored until all outstanding charges provided by the Commission's regulations and the Tariff of the Company are paid or satisfactory arrangements are entered for payment.

Late Payment Charge: If payment has not been received by the Company for five days after the bill has been classified as delinquent, a late charge (penalty) of 1.50% will be applied to the account and such late charge (penalty) will be calculated every thirty days thereafter only on the overdue portion of the bill excluding previous late charges (penalties), and in no event shall the late charge (penalty) exceed more than 18% annually (simple interest).

Return Check Charge and Return Electronic Payment Charge: The Customer will be responsible for the payment of a charge of \$20.00 per incident where a check or electronic payment, which has been presented to the Company for payment of any bill, is returned by the bank for any reason including, but not limited to, non-sufficient funds, account closed, payment stopped, two signatures required, postdated, stale date, account garnished, no account, drawn against uncollected funds, balance held, and unauthorized signature. This charge is in addition to any and all charges assessed against the Customer by the bank. If a Customer's account shows a history of submitting payments that have been returned for insufficient funds or any other reason outlined above, the Company may require deposit or turn-on charges to be paid by cash, certified check, money order, or credit card or service may be terminated without additional notice in accordance with Commission regulations.

RULES AND REGULATIONS**SECTION F – BILLING AND COLLECTION (cont'd)**

Turn-on Charge: When service has been terminated to any Premise because of violation of the Company's Rules and Regulations or at the Customer's request, a charge of fifty dollars (\$50.00) payable in advance will be made for restoration of service. If the Customer request for restoration of service requires the Company to incur overtime or holiday costs, the Company reserves the right to bill the Customer for the additional cost incurred. If the Company incurs out of the ordinary expense to affect termination of service for non-payment of bills or due to lack of access to the Company's facilities, the Customer must reimburse the Company for those expenses in addition to the \$50.00 turn-on charge prior to service reconnection.

Turn-off at Customer's Request: Customers desiring to avoid payment for wastewater service during periods when Properties are vacant or during extended absences shall give notice in writing at the office of the Company requesting the wastewater to be shut off. If a minimum charge or Customer charge for water use is applicable, the bill will be based on the proportion that the period when wastewater service was available bears to the entire period on which such minimum charge or Customer charge is based. Metered consumption in excess of such adjusted minimum shall be billed at normal rates.

Pro-ration of Base Rates on Customer Bills: During a period of changes to base rates, billing of base rates for Customers involves proration of the different base rates based on days of invoice. The fixed charge and the consumption for the entire period is divided by the number of service days to develop an average rate per day for purposes of bifurcating the consolidated charges at the old rate and at the new rate.

RULES AND REGULATIONS**SECTION G – DEPOSITS AND CREDIT STANDARDS**

General: Deposits may be required from Applicants for new service or extension of service. Residential Customers will not be required to pay a security deposit in order to receive service from the Company. The Company will pay income tax on any deposit, advance, contribution or other like amounts received from an Applicant which shall constitute taxable income to the Company as defined by the Internal Revenue Service and required by the Commission. Such income taxes shall be segregated in a deferred account for inclusion in rate base in a future base rate case proceeding. Such income tax associated with a deposit, advance, or contribution will not be charged to the Person providing such deposit, advance, or contribution.

Creditworthiness: Upon application for wastewater service, the Company may require the Applicant/Customer to provide valid identification, a valid deed lease or mortgage evidencing the Applicant/Customer's residency at the Property/Premise, and/or payment of an outstanding balance owed by the Customer which accrued within the past 4 years for which the Applicant/Customer is legally responsible.

The Company may determine liability for a past due balance by:

- Use of Company records that contain information previously provided to the Company;
- Information contained on a valid mortgage, lease or deed;
- Use of commercially available public records databases; and
- Government and property ownership record.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS****1. GENERAL PROVISIONS****1.1 Purpose and Policy**

- (a) These rules set forth uniform requirements applicable to Users of the wastewater collection, treatment, and disposal services provided by the Company and the nature of wastes acceptable for discharge into the Company's System, either directly or indirectly. In developing these rules, the Company was guided by the "EPA Model Pretreatment Ordinance" (January 2007) published by the U.S. Environmental Protection Agency ("EPA") for use by municipalities operating Publicly Owned Treatment Works ("POTWs") as well as EPA regulations designed to control pollutants discharged to POTWs at 40 CFR Part 403 (General Pretreatment Regulations for Existing and New Sources of Pollution). These rules shall apply throughout the Company's service territory.
- (b) The objectives of these rules are:
 - (i) To prohibit the introduction of pollutants into the Company's System that will interfere with its operation or impact the quality or classification of the resulting sludge;
 - (ii) To prohibit the introduction of pollutants into the Company's System that will pass through the treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the System;
 - (iii) To protect both the Company's personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)**

- (iv) To promote reuse and recycling of industrial wastewater and sludge from the Company's System;
 - (v) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Company's System;
 - (vi) To enable the Company to comply with its National Pollutant Discharge Elimination System permit conditions, its Water Quality Management ("WQM") Permit in the case of land application treated effluent disposal systems, sludge use and disposal requirements, and any other federal or state laws to which the Company's System is subject;
 - (vii) To require the pretreatment of wastewater discharged into the Company's System as appropriate and consistent with standards for pretreatment of wastewater that have been promulgated by the EPA or otherwise imposed by the PaDEP; and
 - (viii) To otherwise provide the conditions of wastewater collection, treatment and disposal service by the Company.
- (c) These rules shall apply to all Users of the Company's System. These rules authorize the issuance of wastewater discharge permits; provide for monitoring, compliance, and enforcement activities; establish administrative review procedures; require user reporting; and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

Except as otherwise provided herein, the Company shall administer, implement, and enforce these rules. Any powers granted to or duties imposed upon the Company may be delegated by the Company a duly authorized Company employee.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****1.3 Abbreviations**

The following abbreviations, when used in these rules, or in the implementation of these rules, shall have the designated meanings:

BOD5 - Biochemical Oxygen Demand (5-day)

BMP - Best Management Practice

C - Celsius

CERCLA - Comprehensive Environmental Response, Compensation and Liability Act

CFR - Code of Federal Regulations

CIU - Categorical Industrial User

COD - Chemical Oxygen Demand

PaDEP - Pennsylvania Department of Environmental Protection

EPA - U.S. Environmental Protection Agency

F - Fahrenheit

FOG - Fats, Oils and Grease

gpd - gallons per day

IU - Industrial User

IPP - Industrial Pretreatment Program

IWDC - Individual Wastewater Discharge Contract

RULES AND REGULATIONS

SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)

mg/l - milligrams per liter

MGD - Million Gallons per Day

NH₃-N - Ammonia Nitrogen

NPDES - National Pollutant Discharge Elimination System

NSCIU - Non-Significant Categorical Industrial User

RCRA - Resource Conservation and Recovery Act

SIU - Significant Industrial User

TDS - Total Dissolved Solids

TKN - Total Kjeldahl Nitrogen

TN - Total Nitrogen

TP - Total Phosphorus

TSS - Total Suspended Solids

U.S.C. - United States Code

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****2. GENERAL SANITARY SEWER USE REQUIREMENTS****2.1 Prohibited Discharge Standards**

- (a) General Prohibitions. No User shall introduce or cause to be introduced into the Company's System any pollutant or wastewater which causes pass through or interference or damages the Company's System. These general prohibitions apply to all Users of the Company's System whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standard or requirement.
- (b) Specific Prohibitions. No User shall introduce or cause to be introduced into the Company's System the following pollutants, substances, or wastewater:
 - (i) Liquids, solids or gases that by reason of their nature or amount are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any way to persons, the Company's System or the operation of the Company's System, including, but not limited to, any discharge with a closed-cup flashpoint of less than 140° F (60°C) using the test methods specified in 40 CFR § 261.21. At no time shall any wastewater cause two successive readings on an explosion hazard meter, at the point of discharge into the Company's System (or at any point in the Company's System), to be more than five percent (5%) nor any single reading to be over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter.
 - (ii) Wastewater having a pH less than 6.0 or higher than 9.0 as measured by a grab sample, unless otherwise specified by the Company in an IWDC, or wastewater having other corrosive properties capable of causing damage or hazard to structures, equipment, or personnel of the Company's System.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)**

- (iii) Solid or viscous substances which may cause obstruction to the flow in the Company's System or other interference with the operation of the Company's System such as, but not limited to, grease, garbage (not properly shredded), animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent limestone or marble dust, bentonite, lye, building materials, rubber, leather, porcelain, china, metal glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes or any material which can be disposed of as trash.
- (iv) Pollutants, including oxygen-demanding pollutants (BODS, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the Company's System.
- (v) Wastewater with a temperature at the introduction into the Company's System which exceeds 120 degrees F (49 degrees C), or less than 32°F, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C).
- (vi) Petroleum oil, motor oils or lubricants removed from vehicles or machinery, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (vii) Pollutants in sufficient quantity which, either alone or by interaction with other pollutants, would result in the presence of toxic gases, vapors or fumes, cause worker injury or disruption of any wastewater treatment process, including the disposal of sludge, or be in non-compliance with any categorical or pretreatment standards established in accord with 40 CFR § 403.6.
- (viii) Trucked or hauled pollutants, except at discharge points designated by the Company in accordance with subsection 2.10 of Section H of this tariff.
- (ix) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the Company's System for maintenance or repair.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)**

- (x) Wastewater which imparts color which cannot be removed by the treatment process, and which consequently imparts color to the treatment plant's effluent.
- (xi) Wastewater containing any radioactive wastes or isotopes with half-lives or concentrations that exceed (A) measured background or naturally-occurring levels or (b) limits established by the Company.
- (xii) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Company.
- (xiii) Sludges, screenings, or other residues from the pretreatment of industrial wastes
- (xiv) Medical wastes, except as specifically authorized by the Company in an IWDC.
- (xv) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test or otherwise create a toxic effect in receiving waters.
- (xvi) Detergents, surface-active agents, or other substances that might cause excessive foaming in the Company's System.
- (xvii) Discharge which is or contains hazardous waste or, if otherwise disposed of, would be considered hazardous waste.
- (xviii) Any substance which may cause the treatment plant's effluent or any other product of the treatment plant, such as residues, sludge or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the Company's System cause the Company to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Federal Water Pollution Control Act ("FWPCA"), nor any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management methods being used by the Company.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)**

- (xix) Any pollutant, including oxygen demanding pollutants and suspended solids, released at a flow rate and/or pollutant concentration which a User knows or has reason to know will cause interference or pass through to the Company's System. In no case shall a slug load have a flow rate or contain a concentration or quantity of a pollutant that exceeds for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour permitted concentration, quantity, or flow during normal operation.
- (xx) Any wastewater which because of its chemical nature or composition causes the sewer atmosphere to contain airborne chemical concentrations in excess of concentrations established by the U.S. Department of Labor, Occupational Safety and Health Administration ("OSHA") under 29 CFR Part 1910, regardless of duration of exposure experienced by any individual, unless written authorization is granted by the Company.
- (xxi) Substances which will cause pass through or interference or otherwise cause the Company to violate its NPDES permit or air quality or receiving water quality standards, or that are prohibited by any permit issued by the Company, the Commonwealth of Pennsylvania or EPA.
- (xxii) Wastes which are not amenable to biological treatment or reduction in existing treatment facilities, including but not limited to nonbiodegradable complex carbon compounds.
- (xxiii) Wastewater containing any organic compounds of endrin, lindane, methoxychlor, toxaphene, dichlorophenoxyacetic acide, trichlorophenoxypropionic acid or other herbicides, pesticides or rodenticides.
- (xxiv) Wastewater containing any of the pollutants listed on EPA's "Priority Pollutant List" (40 CFR Part 423, Appendix A), without authorization from the Company in an IWDC.

RULES AND REGULATIONS

SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)

- (c) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the Company's System.
- (d) No User shall discharge wastewater to the Company's System in an amount exceeding the below general prohibitions. The Company may impose different limitations depending on the needs of a particular treatment plant or the Company's System:

Wastewater raw Waste strength shall be limited to that illustrated below:

		Maximum Allowable Limits <u>(Grab Sample)</u>	Maximum Allowable Limits <u>(24 Hour Composite Sample)</u>
BOD ₅	(mg/l)	250	250
TSS	(mg/l)	250	250
COD	(mg/l)	500	500
Total Kjeldahl Nitrogen	(mg/l)	50	50
Total Phosphorus	(mg/l)	8	8
Ammonia Nitrogen	(mg/l)	45	45
pH	(s.u.)	6-9	N/A
Oil and Grease	(mg/l)	100	N/A

2.2 National Categorical Pretreatment Standards

- (a) The National Categorical Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated by reference. Any industrial User that would be a categorical industrial User under the provisions of one or more categorical standards if it were discharging to a POTW is a Significant Industrial User under these rules and is required to obtain an IWDC as described in subsection 4 of this Section H, unless otherwise determined by the Company pursuant to these rules. The IWDC will reflect the effluent limitations and standards of the pertinent categorical standard(s). Although the Company is not subject to EPA's pretreatment regulations, the Company will use pertinent standards and requirements contained in 40 CFR, Chapter I, Subchapter N, Part 403 as guidance in administering and applying the categorical standards. Any categorical standard or local limit, if more stringent than the limitations imposed under an IWDC, shall immediately supersede the limitations imposed under the IWDC.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)**

- (b) Where a categorical standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Company may impose equivalent concentration or mass limits in the manner described in 40 CFR § 403.6(c).
- (c) When the limits in a categorical standard are expressed only in terms of mass of pollutant per unit of production, the Company may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentrations for purposes of calculating effluent limitations applicable to individual industrial Users.
- (d) When wastewater subject to a categorical standard is mixed with wastewater not regulated by the same standard, the Company shall impose an alternate limit using the combined waste stream formula in 40 CFR § 403.6(e).
- (e) Once included in its IWDC, an industrial User must comply with the equivalent limitations developed in this subsection 2.2 of this Section H in lieu of the categorical standard from which the equivalent limitations were derived.
- (f) Where a categorical standard specifies one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average (or 4-day average) limitations, the same production flow figure shall be used in calculating both the average and the maximum equivalent limitation.
- (g) Any industrial User operating under an IWDC incorporating equivalent mass or concentration limits calculated from a production-based standard, as provided in paragraph (c) of this subsection 2.2, shall notify the Company within two (2) business days after the User has reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Company of such anticipated change will be required to meet the mass or concentration limits in its IWDC that was based on the original estimate of the long term average production rate.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****2.3 Modification of National Categorical Pretreatment Standards**

The Company may modify specific limits in a categorical pretreatment standard where appropriate for purposes of these rules or an IWDC. Although not subject to EPA's pretreatment regulations, the Company will utilize the standards and requirements contained in 40 CFR, Chapter I, subchapter N, Part 403 generally, and particularly sections 403.7 (removal credits), 403.13 (fundamentally different factors), and 403.15 (net limits), as guidance in considering any such modifications.

2.4 State and Federal Requirements

Applicable state or federal requirements and limitations on discharges shall apply in any case where they are more stringent than those in these rules.

2.5 Specific Pollutant Discharge Limitations - Local Limits

- (a) All industrial Users shall be subject to the local limits applicable to their service area as specified in the Company's IPP.
- (b) Local limits are the highest allowable concentrations in a discharge, unless otherwise specified in an IWDC.
- (c) Local limits apply at the point where wastewater is discharged to the Company's System or at the point designated by the Company.
- (d) The Company reserves the right to allocate among Users the total loading applicable to a particular pollutant by establishing maximum daily industrial concentrations specific to each User, provided that the total maximum allowable daily industrial load for the treatment plant is not exceeded.
- (e) In addition to industrial Users, the Company reserves the right to apply local limits to any User's wastewater.
- (f) The Company reserves the right to establish alternate limits in IWDCs in order to protect against pass through or interference or to assure that the Company complies with its NPDES permit and federal and state law. The alternate limits, if more stringent than the categorical standards, shall immediately supersede the categorical standards.
- (g) The Company may develop BMPs in IWDCs to implement local limits and the requirements of subsection 2.1 of this Section H.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****2.6 Reservation of Right to Impose More Stringent Requirements**

The Company reserves the right to establish, in IWDCs, more stringent limits or requirements on discharges to the Company's System, if deemed necessary, consistent with the purpose of these rules.

2.7 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Company may impose mass limitations on Users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

2.8 Compliance with Other Applicable Standards and Requirements

Compliance with these rules and IWDCs or compliance or cessation directives issued hereunder does not relieve the industrial user from its obligations to comply with any and all applicable local, state, and federal standards and requirements including any such applicable standard or requirement that may become effective during the term of a permit or directive or these rules.

2.9 Grease Traps

Users shall install, operate and maintain interceptor/collector devices (e.g., traps) to capture and remove fats, oils and grease prior to discharge to the treatment works whenever the Company determines that such devices are necessary for the proper handling of wastewater. All such devices shall be designed and installed so as to accommodate the maximum flow rate expected to occur and to be readily and easily accessible for cleaning and inspection. The User shall be responsible for operating and maintaining the devices, including regular cleaning, to ensure that they consistently remove FOG prior to discharge to the Company's System. Alternatively, or in addition, the Company may require users to implement BMPs in order to eliminate FOG at the point of use and thereby reduce the generation of FOG in wastewater.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****3. PRETREATMENT OF WASTEWATER****3.1 Pretreatment Facilities - General**

Users shall provide wastewater treatment as necessary to comply with these rules and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in subsection 2.1 of this Section H within the time limitations specified by EPA, the state, or the Company, whichever is more stringent. Any facilities necessary for compliance, including the design, construction, operation, and maintenance of these facilities, shall be at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Company for review, and shall be acceptable to the Company before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities or procedures as necessary to produce a discharge acceptable to the Company under the provisions of these rules.

3.2 Additional Pretreatment Measures

- (a) Whenever Deemed necessary, the Company may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the Company's System and determine the User's compliance with the requirements of these rules.
- (b) The Company may require any person discharging to the Company's System to install maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. Provisions regarding flow equalization may be required in an IWDC.
- (c) Grease, oil and sand interceptors or traps shall be provided when, in the opinion of the Company, they are necessary for the proper handling of wastewater containing grease and/or oil, or sand. All interception/trap units shall be of the type and capacity acceptable to the Company, and shall be located as to be readily and easily accessible for cleaning and inspection. Such interceptors/traps shall be inspected, cleaned and repaired by the User at the User's expense.
- (d) Users are prohibited from discharging combustible or flammable substances into the Company's system. Users with the potential to discharge combustible or flammable substances may be required to install and maintain an approved combustible gas detection meter. The User shall immediately notify the Company in the event of a potential combustible or flammable discharge.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****3.3 Accidental Discharge/Slug Discharge Control Plans**

- (a) The Company shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The Company may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the Company may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at minimum, the following:
 - (i) Description of discharge practices, including nonroutine batch discharges;
 - (ii) Description of stored chemicals;
 - (iii) Procedures for immediately notifying the Company of any accidental or slug discharge, as required by subsection 6.6 of this Section H; and
 - (iv) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
- (b) The Company may include conditions relating to implementation of an accidental discharge/slug discharge control plan when issuing an IWDC.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****3.4 Hauled Wastewater**

- (a) Septic tank waste may be introduced into the Company's System only at locations designated by the Company, and at such times as are established by the Company. Such waste shall not violate subsection 2 of this Section H or any other requirements established by the Company. The Company may require septic tank waste haulers to enter a separate agreement with the Company.
- (b) The Company may require haulers of industrial waste to enter into an IWDC. The Company may require generators of hauled waste to enter into an IWDC. The Company also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of these rules.
- (c) Industrial waste haulers may discharge loads only at locations designated by the Company. No load may be discharged without prior consent of the Company. The Company may collect samples of each hauled load to ensure compliance with applicable standards. The Company may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, the IWDC (as applicable), truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry and all known or suspected waste constituents and confirm that no wastes are RCRA hazardous wastes.

3.5 Damage Liability

The person producing or introducing waste to the Company's System shall be liable for all damages, increased costs of treatment or maintenance, or other costs incurred by the Company directly attributable to such waste, including the costs of repairs, testing, consulting and all other costs associated with the damage. Any User violating any of the provisions of these rules shall be liable to the Company for all expenses, losses, or damages occasioned by the Company by reason of such violation, whether incidental or consequential.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****4. INDIVIDUAL WASTEWATER DISCHARGE CONTRACTS****4.1 Wastewater Analysis**

When requested by the Company, a User must submit information on the nature and characteristics of its wastewater. Upon receipt of a questionnaire or IWDC application from the Company, a User shall have sixty (60) days (unless extended by the Company for good reason) to return the completed questionnaire or application, signed by an authorized representative of the User. The Company may periodically require Users to update this information.

4.2 IWDC Requirements

- (a) No SIU shall discharge wastewater into the Company's System without first obtaining an IWDC from the Company.
- (b) No person discharging industrial waste to the treatment works shall undertake any significant wastewater modification without first notifying the Company and obtaining a new or amended IWDC from the Company, except as authorized by the Company in accordance with the provisions of these rules.
- (c) The Company may require that other Users obtain IWDCs as necessary to carry out the purposes of these rules.
- (d) Any violation of the terms and conditions of an IWDC shall be deemed a violation of these rules and subjects the User to the sanctions set out in subsection 10 through subsection 11 of this Section H. Obtaining an IWDC does not relieve a User of its obligation to comply with all federal and state standards or requirements or with any other requirement of federal, state, and local law.

4.3 IWDC: Existing Connections

Any User required to obtain a IWDC who was discharging wastewater into the Company's System prior to the effective date of these rules and who wishes to continue such discharges in the future, shall, within ninety 90 days after said date, apply to the Company for an IWDC, and shall not cause or allow discharges to the Company's System after 180 days after the effective date of these rules except in accordance with an IWDC issued by the Company. Any User with an existing IWDC shall comply with their existing IWDC until the term of the IWDC ends, and shall be subject to these rules for any new IWDC required by the Company.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****4.4 IWDC: New Connections**

Any User required to obtain an IWDC who proposes to begin or recommence discharging into the Company's System must obtain such IWDC prior to the beginning or recommencing of such discharge. An application for this IWDC must be filed at least 180 days prior to the date upon which any discharge will begin or recommence.

4.5 IWDC Application Contents

- (a) All Users required to obtain an IWDC must submit a permit application. The Company shall provide the information requirements to the User upon request for an IWDC application, including, at minimum, the following:
 - (i) Identifying Information
 - 1) The name and address of the facility, including the name of the operator and owner; and
 - 2) Contact information, description of activities, facilities, and plant production processes on the premises.
 - (ii) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (iii) Description of Operations
 - 1) A brief description of the nature, rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the Company's System from the regulated processes;
 - 2) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the Company's System;
 - 3) Number and type of employees, hours of operation, and proposed or actual hours of operation;

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)**

- 4) Type and amount of raw materials processed (average and maximum per day);
 - 5) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- (iv) Time and duration of discharges.
- (v) The location for monitoring all wastes covered by the IWDC.
- (vi) Flow Measurement. Information showing the measured average daily, maximum daily, and 30 minute flow rates, in gallons per day, including daily, monthly, and seasonal variations if any, to the Company's System from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in subsection 2.2(d) of this Section H (40 CFR §403.6(e)).
- (vii) Measurement of Pollutants
- 1) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
 - 2) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Company, of regulated pollutants in the discharge from each regulated process.
 - 3) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - 4) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection 6.9 of this Section H. Where the standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Company or the applicable standards to determine compliance with the standard.
 - 5) Sampling must be performed in accordance with procedures set out in subsection 6.10 of this Section H.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)**

- (b) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.
- (c) Applicants wishing to claim confidentiality of information required in the application shall indicate on the application which information is of a confidential nature. Wastewater constituents and characteristics shall not be considered as confidential information.

4.6 Application Signatories and Certifications

- (a) All wastewater IWDC applications, User reports and certification statements must be signed by an authorized representative of the User and comply with the requirements of the Company.
- (b) If the designation of an authorized representative of the User is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the User, a new written authorization satisfying the requirements of this Section must be submitted to the Company prior to or together with any reports to be signed by the authorized representative of the User.
- (c) A facility determined to be a non-SIU by the Company must annually submit the signed certification statement in subsection 6.13 of this Section H.

4.7 IWDC Decisions

The Company will evaluate the data furnished by the User and may require additional information. The Company will determine whether to issue IWDC and may deny any application for an IWDC.

4.8 IWDC Renewal

- (a) A user with an expiring IWDC shall apply for an IWDC reissuance by submitting an application to the Company a minimum of one hundred twenty (120) days prior to the expiration of the User's existing IWDC, unless the deadline is extended in writing by the Company.
- (b) In the event that a timely and complete application to renew an IWDC has been submitted and the IWDC cannot be reissued before the expiration date, through no fault of the User, the terms and conditions of the existing IWDC will be automatically continued and will remain fully effective and enforceable pending the granting or denial of the application for IWDC renewal.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****5. INDIVIDUAL WASTEWATER DISCHARGE CONTRACT ISSUANCE****5.1 IWDC Duration**

Individual IWDCs shall be issued for a specified time period, not to exceed five (5) years. A IWDC may be issued for a period less than five (5) years at the discretion of the Company. Each IWDC will indicate a specific date upon which it will expire.

5.2 IWDC Contents

- (a) IWDCs shall be expressly subject to all provisions of these rules, the Company's IPP, and such other conditions as are deemed reasonably necessary by the Company to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the Company's System.

5.3 IWDC Modification

- (a) The Company may modify an IWDC for good cause, including, but not limited to, the following reasons:
 - (i) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - (ii) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the IWDC issuance;
 - (iii) A change in the Company's System that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (iv) Information indicating that the permitted discharge poses a threat to the Company's System, Company personnel or the receiving waters;
 - (v) Violation of any terms or conditions of the IWDC;
 - (vi) Misrepresentations or failure to fully disclose all relevant facts in the IWDC application or in any required reporting;
 - (vii) Revision of or a grant of variance from categorical pretreatment standards as provided in 40 CFR § 403.13;

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)**

- (viii) To correct typographical or other errors in the IWDC; or
- (ix) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with subsection 5.4 of this Section H;

5.4 IWDC Transfer

- (a) IWDCs may be transferred to a new owner or operator only if the User gives at least thirty (30) days advance notice to the Company and the Company approves the IWDC transfer. The notice to the Company must include a written certification by the new owner or operator which:
 - (i) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
 - (ii) Identifies the specific date on which the transfer is to occur; and
 - (iii) Acknowledges full responsibility for complying with the existing IWDC.
- (b) Failure to provide advance notice of a transfer renders the IWDC void as of the date of facility transfer.

5.5 IWDC Revocation

- (a) The Company may revoke an IWDC for good cause, including, but not limited to, the following reasons:
 - (i) Failure to notify the Company of significant changes to the wastewater prior to the changed discharge;
 - (ii) Failure to provide prior notification to the Company of changed conditions pursuant to subsection 6.5 of this Section H;
 - (iii) Misrepresentation or failure to fully disclose all relevant facts in an IWDC application;
 - (iv) Falsifying self-monitoring reports and certification statements;
 - (v) Tampering with monitoring equipment;
 - (vi) Refusing to allow the Company timely access to the facility premises and records;

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)**

- (vii) Failure to meet effluent limitations;
 - (viii) Failure to pay fees or sewer charges;
 - (ix) Failure to meet compliance schedules;
 - (x) Failure to complete a wastewater survey or the IWDC application;
 - (xi) Failure to provide advance notice of the transfer of business ownership of a facility with an IWDC; or
 - (xii) Violation of any pretreatment standard or requirement or any terms of an IWDC or these rules.
- (b) If an IDWC is revoked, the Company may take steps it deems advisable, including severance of the sewer connection to terminate service, in order to promote compliance with these rules. The Company reserves the right to terminate wastewater service for violation of any provision of these rules, subject to the Commission's rules and regulations.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****6. REPORTING REQUIREMENTS****6.1 Baseline Monitoring Reports**

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR § 403.6(a)(4), whichever is later, existing categorical industrial Users currently discharging to or scheduled to discharge to the Company's System shall submit to the Company a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial Users subsequent to the promulgation of an applicable categorical standard, shall submit to the Company a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (b) Users described above shall submit the information set forth below.
 - (i) All information required in subsections 4.5(a)(i)(1), 4.5(a)(ii), 4.5(a)(iii)(1), and 4.5(a)(vi).
 - (ii) Measurement of pollutants.
 - 1) The user shall provide the information required in subsection 4.5(a)(vii)(1) through 4.5(a)(vii)(4)
 - 2) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - 3) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR § 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with subsection 2.2 and 40 CFR § 403.6(e) this adjusted limit along with supporting data shall be submitted to the Company;

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)**

- 4) Sampling and analysis shall be performed in accordance with subsections 6.9 and 6.10;
 - 5) The Company may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - 6) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the Company's System.
- (iii) Compliance Certification. A statement, reviewed by the authorized representative of the User and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance ("O&M") and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - (iv) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection of this Section H.
 - (v) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with subsection 6.13 of this Section H and signed by an authorized representative of the user.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****6.2 Compliance Schedule Progress Reports**

The following conditions shall apply to the compliance schedule required by subsection 6.1(b)(iv) of this Section H.

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The User shall submit a progress report to the Company no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the Company.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the Company's System, any User subject to such pretreatment standards and requirements shall submit to the Company a report containing the information described in subsections 4.5(a)(vi), 4.5(a)(vii) and 6.1(b)(ii) of this Section H. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 2.2(d) of this Section H, this report shall contain a reasonable measure of the User's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection 6.13 of this Section H. All sampling will be done in conformance with subsection 6.10.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****6.4 Periodic Compliance Reports**

- (a) All SIUs must submit reports to the Company on a quarterly basis, within thirty (30) days following the end of each calendar quarter, or on a more frequent basis as specified in the User's IWDC, indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with BMPs or pollution prevention alternatives, the User must submit documentation required by the Company or the pretreatment standard necessary to determine the compliance status of the User.
- (b) All periodic compliance reports must be signed and certified in accordance with subsection 6.13 of this Section H.
- (c) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
- (d) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Company, using the procedures prescribed in subsection 6.10 of this Section H, the results of this monitoring shall be included in the report.
- (e) SIUs not subject to categorical pretreatment standards under these rules shall submit periodic compliance reports as specified by the User's IWDC.

6.5 Reports of Changed Conditions

- (a) Each User must notify the Company of any significant wastewater modification at least ninety (90) days before the change.
- (b) The Company may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an IWDC application.
- (c) The Company may issue a new IWDC or modify an existing IWDC in response to changed conditions or anticipated changed conditions.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****6.6 Reports of Potential Problems**

- (a) In the case of any discharge, including, but not limited to, an accidental discharge, a discharge of a nonroutine, episodic nature, a non-customary batch discharge, or a slug discharge or slug load, that might cause potential problems for the Company's System, the User, upon discovery, and after assessing the situation and taking initial corrective action, shall immediately telephone and notify the Company of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- (b) Within five (5) days following such discharge, the User shall, unless waived by the Company, submit a detailed written report including the date, time and duration of the discharge and describing the cause(s) of the discharge, all corrective actions implemented or attempted, and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the Company's System, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fees or other liability which may be imposed pursuant to these rules.
- (c) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees are advised of the emergency notification procedure.
- (d) SIUs are required to notify the Company immediately of any changes at its facility affecting the potential for a slug discharge.

6.7 Reports from Users without an IWDC

All Users not required to obtain an IWDC shall provide appropriate reports to the Company as the Company may require.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****6.8 Notice of Violation/Repeat Sampling and Reporting**

If sampling performed by a User indicates a violation, the User must notify the Company within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Company within thirty (30) days after becoming aware of the violation. Resampling by the User is not required if the Company performs sampling at the User's facility at least once a month, or if the Company performs sampling at the User between the time when the initial sampling was conducted and the time when the User or receives the results of this sampling, or if the Company has performed the sampling and analysis in lieu of the User.

6.9 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a IWDC or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Company determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Company. The Company may specify appropriate alternative procedures in a User's IWDC.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****6.10 Sample Collection**

- (a) Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that are representative of conditions occurring during the reporting period.
- (b) Except as indicated in subsections (c) and (d) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Company. Where time-proportional composite sampling or grab sampling is authorized by the Company, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Company, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.
- (c) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (d) For sampling required in support of baseline monitoring and 90-day compliance reports required in subsections 6.1 and 6.3, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Company may authorize a lower minimum. For the reports required by subsection 6.4, the User is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

6.11 Date of Receipt of Reports

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, including reports submitted by electronic mail, the date of receipt of the report shall govern.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****6.12 Recordkeeping**

Users subject to the reporting requirements of these rules shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by these rules, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with BMPs established under subsection 2.5(g) of this Section H. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the Company, or where the User has been specifically notified of a longer retention period by the Company.

6.13 Certification Statements

- (a) Certification of Permit Applications, User Reports and Initial Monitoring Waiver - The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with subsection 4.6; Users submitting baseline monitoring reports under subsection 6.1(b)(v); Users submitting reports on compliance with the categorical pretreatment standard deadlines under subsection 6.3; and Users submitting periodic compliance reports required by subsection 6.4. The following certification statement must be signed by an authorized representative of the User:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)**

- (b) A facility determined by the Company to be a non-SIU must annually submit the following certification statement signed an authorized representative of the User. This certification must accompany an alternative report required by the Company:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR_____, I certify that, to the best of my knowledge and belief that during the period from_____ to_____ [months, days, year]:

- (a) *The facility described as_____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section B of the rules and regulations specified in Aqua Pennsylvania Wastewater, Inc.'s Tariff under the definition of SIU; and*
- (b) *The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and*
- (c) *The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.*

This compliance certification is based on the following information:

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****7. COMPLIANCE MONITORING****7.1 Right of Entry: Inspection and Sampling**

- (a) In addition to the rights afforded to the Company as set forth in this tariff, the Company shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of these rules and any IDWC or compliance directive issued hereunder. Users shall allow the Company ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (b) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Company shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- (c) The Company shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling or metering of the User's operations.
- (d) The Company may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least one per year, and more frequently if necessary, to ensure their accuracy.
- (e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the User at the written or verbal request of the Company and shall not be replaced. The costs of clearing such access shall be borne by the User.
- (f) Unreasonable delays in allowing the Company access to the User's premises shall be a violation of these rules.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****8. CONFIDENTIAL INFORMATION**

Information and data on a User obtained from reports, surveys, IWDC applications, IWDCs, and monitoring programs, and from the Company's inspection and sampling activities, shall be made available at the discretion of the Company, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Company that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state or federal law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR § 2.302, shall not be recognized as confidential information and may be available to the public.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****9. FEES AND CHARGES****9.1 General Fees.**

- (a) IWDC Application Fee: \$500.00
- (b) IWDC Transfer/Modification/Renewal Fee: \$200.00
- (c) Facility Inspection Fee: \$200.00 per inspection.
- (d) Monitoring Report Review Fee: \$200.00 per report.
- (e) Accidental Discharge, Slug Control, and/or Monitoring Fee: Actual cost of response to accidental discharges or discharges of slugs loads, including but not limited to the costs incurred for any additional treatment or other actions required to manage such discharges, monitor and respond to such discharges, correct any resulting contamination or other impacts to the Company's System.
- (f) Compliance and Enforcement Fee: Administrative and Legal: Actual cost incurred by the Company for investigation and actions to address a User's non-compliance with the terms of these rules or any IWDC.
- (g) Damage Repair: Actual cost for cleaning, repair, replacement or correction of any damage to the Company's System caused or contributed to by a User's discharge.

9.2 Administration.

- (a) All fees shall be payable by the User within forty-five (45) days of notification, or the User will be subject to such enforcement action deemed appropriate by the Company, including, but not limited to, termination of service and a revocation of the IWDC.
- (b) Fees may be modified or amended as the Company deems necessary, subject to review and approval by the Commission.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****10. ADMINISTRATIVE ENFORCEMENT REMEDIES****10.1 General**

Users of the Company's System are obligated to comply with applicable provisions of these rules, pretreatment standards, and the terms and conditions of IWDCs issued by the Company. Failure to comply with these requirements may lead to suspension or termination of service, IWDC revocation, assessment of costs, and/or legal action. In determining what enforcement remedies are appropriate, the Company, in its discretion, may consider the nature and extent of the violation, the harm or threat of harm presented by the discharge, the compliance history of the user, and whether the user is in "significant noncompliance" as defined by 40 CFR § 403.8(f)(2)(viii)(A)-(H), among other factors.

10.2 Notice of Violation

When the Company finds that a User has violated, or continues to violate, any provision of these rules, an IWDC, a compliance or cessation directive issued hereunder, or any pretreatment standard or requirement, the Company may deliver to that User a written notice of violation stating the nature of the violation(s). Within the timeframe set forth in such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific remedial actions, shall be submitted by the User to the Company. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt the notice. Nothing in this section shall limit the authority of the Company to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

10.3 Compliance Orders

When the Company finds that a User has violated, or continues to violate, any provision of these rules, an IDWC, a compliance order or Discontinue Notice issued hereunder, or any pretreatment standard or requirement, the Company may issue a compliance order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the Company's System. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****10.4 Discontinue Notice**

- (a) When the Company finds that a User has violated, or continues to violate, any provision of these rules, an IWDC, a compliance order or Discontinue Notice issued hereunder, or any pretreatment standard or requirement, or that the User's past violations are likely to recur, the Company may issue a Discontinue Notice to the User directing it to cease and desist all such violations and directing the User to:
 - (i) Immediately comply with all requirements; and
 - (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cessation directive shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.5 Emergency Response

- (a) The Company may immediately suspend a User's discharge or the IWDC of any User, upon notice to the User, whenever such suspension is necessary, in the opinion of the Company, to stop an actual or threatened discharge, which presents or reasonably appears to present, or cause, an imminent or substantial endangerment to the health or welfare of persons. The Company may also immediately suspend a User's discharge, upon notice to the User, that causes or contributes to a violation of any condition of the Company's NPDES permit, or threatens to interfere with the operation of the Company's System, or which presents, or may present, an endangerment to the environment.
- (b) Any User notified of a suspension of its discharge shall immediately stop or eliminate its discharge to the Company's System. In the event of a User's failure to immediately comply voluntarily with the suspension notice, the Company may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the Company's System, its receiving stream, or endangerment to any individuals or the environment.

RULES AND REGULATIONS**SECTION H – WASTEWATER CONTROL REGULATIONS (cont'd)****11. JUDICIAL ENFORCEMENT REMEDIES****11.1 Injunctive Relief and Civil Actions**

When the Company finds that a User has violated, or continues to violate, any provision of these rules, an IWDC, a compliance order or Discontinue Notice issued hereunder, or any pretreatment standard or requirement, the Company may petition the Court of Common Pleas in the county in which the User is located for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the IWDC, compliance order, Discontinue Notice, or other requirement imposed by these rules. The Company also may seek such other action as is appropriate for legal or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive or other judicial relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.2 Remedies Nonexclusive

The remedies provided for in these rules are not exclusive and the Company may take any, all, or any combination of actions against a noncompliant User. As a general policy, however, the Company will seek to resolve compliance matters informally with a User before pursuing formal enforcement proceedings.

12. PROTECTION OF COLLECTION SYSTEMS**12.1 Service Areas Where the Company Provides Collection and Conveyance Only Service**

In circumstances where the Company provides wastewater collection and conveyance services but not wastewater treatment services within a service territory, all Users shall comply with all rules, regulations and requirements established by the treatment plant operator and/or the municipality where wastewater is treated, including but not limited to requirements specifying prohibited discharges, assuring compliance with applicable pretreatment standards and discharge limitations, providing for user permitting, and assessing administrative and pollutant loading fees with respect to wastewaters that are not composed entirely of sanitary sewage.

RULES AND REGULATIONS**SECTION I – MAIN EXTENSIONS****General Provisions:**

1. A Bona Fide Service Applicant (“Applicant”) or Builder must include with the initial written request for a Main extension to the Company, the following information: location for service, gallons/day flow, and type of use. The Company will evaluate its ability to serve for the requested Main extension. Applicant or Builder must provide all necessary and required documentation as determined in Company’s sole discretion to determine whether Main extension can be made. Once the Company has determined the Main extension can be made, Application and Company will develop and enter into an appropriate agreement(s).
2. The Company shall have the exclusive right to determine the type and size of Mains to be installed, and any other facilities or fixtures required to render adequate service
3. In determining the length and size of, and necessity for Main extensions, the terminal point of such extensions will, in all cases, be at that point in the curb-line which is equidistant from the side property lines of the lot for which wastewater service is requested. A street Service Connection will be provided only for service lines from the curb to the premises to be served, and will be installed in a straight line, at right angles, to the curb line. Where the Prospective Customer’s Property is landlocked, the Prospective Customer may be required to obtain, at no cost to the Company, an easement or right-of-way that shall not cross multiple properties. The Prospective Customer shall present the Company with a certified copy of a duly recorded instrument that is recorded in the County Office of the Recorder of Deeds.
4. Should it be necessary, at the Company's sole discretion, to extend beyond the last lot in any street to connect to an existing Main to provide more adequate and reasonable service, this additional extension shall be considered part of the total and orderly system development so long as the last lot in the street is not more than one hundred fifty (150) feet from that existing Main, and may be included in the cost of the extension to be paid for by the Applicant or Potential Customer.

RULES AND REGULATIONS**SECTION I – MAIN EXTENSIONS (cont'd)****Bona Fide Service Applicant Initiated Main Extensions:**

1. Where an adequate wastewater collection Main does not abut an Applicant's Property such that a service connection cannot be made to serve such Property in accordance with these Rules and Regulations, the Applicant (or an authorized agent for the Applicant) must apply to the Company for a Main extension. Such extension will be made under and pursuant to the terms of a Sewer Extension Agreement (which may include a reasonable allowance for overhead costs) subject to applicable provisions of these Rules and Regulations. The construction of facilities to serve such Applicant will not commence until a Sewer Extension Agreement has been executed and all applicable terms and conditions therein have been satisfied by the Applicant.

In conjunction with executing a Sewer Extension Agreement, an Applicant shall deposit with the Company an amount totaling \$1,000, representing a Service Line Deposit. If the total cost to connect the Applicant exceeds the total of the Service Line Deposit and the Company's contribution to the extension, the Applicant will be required to pay the difference. However, if the Company's contribution to the extension fully funds the amount needed to connect the Applicant, the Service Line Deposit will be refunded to the Applicant within 90 days after the Applicant's requesting and receiving wastewater service from the Company, provided, however, that if the Applicant does not request connection to the Company's Main extension within six months of the completion of the Main extension, the Service Line Deposit shall become non-refundable.

Where a proposed Main extension is capable of serving multiple structures or facilities and at least 80% of the Prospective Customers who could receive service from the Main extension become Bona Fide Service Applicants and satisfy all applicable terms and conditions of the foregoing provisions, the Customer Advance, if any, required of each Bona Fide Service Applicant shall be calculated as if 100% of such Prospective Customers had become Bona Fide Service Applicants.

For a period of ten (10) years following completion of the Main extension, the Company shall refund to each Applicant his/her pro rata share of an amount equal to the Company Contribution for each additional Customer who attaches a service line to the main extension and requests service. No refunds shall be made, however, in those situations where at least 80%, but less than 100%, of the Prospective Customers who could receive service from the Main extension become Applicants and their Customer Advances are calculated as if 100% of such Prospective Customers had participated in the initial funding of the project. In addition, the total amount refunded shall not exceed the amount of the Customer Advance paid by the Applicant.

2. The Applicant must have complied with all other conditions of service provided elsewhere in these Rules and Regulations in order to receive wastewater service from the Main extension.

RULES AND REGULATIONS

SECTION I – MAIN EXTENSIONS (cont'd)**Definitions:**

Bona Fide Service Applicant ("Applicant"): shall mean a person or entity applying for wastewater service to an existing or proposed structure or facility within the Company's certificated service territory, and which is either: (1) the primary residence of the Applicant; (2) a place of business; or (3) a public school, building, library, park or playground which is owned by a governmental unit or school district having the power of taxation. A person or entity shall not be deemed a Bona Fide Service Applicant if: (1) applying for service to a building lot, subdivision, or a secondary residence; (2) the request for service is part of a plan for the development of a residential dwelling or subdivision; or (3) requesting Special Utility Service. To become an Applicant, a person or entity must file a signed application to connect the qualifying structure or facility with the Company's distribution system and request service to begin immediately following such connection.

Builder: Any person(s) requesting an extension to provide service to an existing lot or group of lots, either existing or to be subdivided, where service is to be provided to something other than a preexisting Residential Structure; namely, a newly constructed structure, structures to be constructed in the future, or to a preexisting non-Residential Structure.

Company Contribution: shall mean that portion of the Main extension costs which generate annual line extension costs equal to annual revenue from the line extension and that the Company will fund based upon the following formula, where X equals the Company Contribution attributed to each Bona Fide Service Applicant:

$$X = \frac{AR - O\&M}{(P \cdot I) + D}$$

Whereby:

AR = the expected annual revenue from the Bona Fide Service Applicant based upon the Company's currently effective Tariff rates as established in the Company's last base rate case and on the average annual usage of customers similar in nature and size to the Bona Fide Service Applicant.

O&M = the average annual operating and maintenance expenses associated with serving an additional Customer, including customer accounting, billing and collection, wastewater treated, power purchased, chemicals, and other variable costs based on the current total Company level of such costs, as well as any costs particular to the specific needs of the Bona Fide Service Applicant.

I = the Company's current debt ratio multiplied by its weighted cost of long-term debt as established in the Company's last base rate case; and

D = the Company's depreciation accrual rate for facilities to be installed, as established in the Company's last base rate case.

RULES AND REGULATIONS**SECTION I – MAIN EXTENSIONS (cont'd)**

Customer Advance: shall mean (1) the Estimated Cost of the wastewater Main extension less (2) the Company Contribution.

Line extensions to Bona Fide Service Applicants shall be funded without Customer Advance where the annual revenue from the line extension will equal or exceed the Company's line extension costs. If the annual revenue from the line extension will not equal or exceed the Company's line extension costs, a Bona Fide Service Applicant may be required to provide a Customer Advance to the Company's cost of construction for the line extension.

Where a Customer Advance is required, and the Bona Fide Service Applicant is unable to advance the entire amount due, the Company, at its sole option, will either (1) allow the Bona Fide Service Applicant to pay the remaining portion of the Customer Advance ratably over a period of not less than three years, or (2) provide information to the applicant on financial institutions that may offer financing to the Bona Fide Service Applicant for the line extension. If the Company chooses option (1), it may require that up to one-third of the total Customer Advance be deposited prior to extending its facilities and may recover from the Bona Fide Service Applicant, over the payment term selected, its costs of financing the construction by applying to the amount outstanding interest charges calculated at the then-prevailing residential mortgage lending rate specified by the Secretary of Banking in accordance with the act of January 30, 1974 (P.L. 13, No. 6), known as the Loan Interest and Protection Law.

RULES AND REGULATIONS**SECTION I – MAIN EXTENSIONS (cont'd)**

Special Utility Service: shall mean residential or business service which exceeds that required for ordinary residential purposes. By way of illustration and not limitation, Special Utility Service shall include: the installation of facilities such as oversized mains, lift stations, disposal systems, wastewater treatment facility ("WWTF") expansion, etc., as necessary to handle increased flows, hydraulic loading and / or organic loading, or service to large wastewater producing commercial and industrial facilities. An otherwise Bona Fide Service Applicant requesting service which includes a "Special Utility Service" component is entitled to a Bona Fide Service Applicant status, including the corresponding Company contribution toward the costs of the line extension which does not meet the Special Utility Service criteria.

Builder Initiated Main Extensions: In the event any Main extension is requested or required to provide service to newly constructed structure(s) to be constructed in the future on existing or subdivided lots, or to preexisting non-Residential Structures except as provided below, the Builder shall be required to install the wastewater Main and service lines through a pre-qualified contractor retained by the Builder and to pay all costs related thereto. The Company has the sole right to accept or reject the proposed contractor. At the sole discretion of the Company, the Company may undertake construction of facilities otherwise subject to this Rule, in which event, a Builder's Extension Agreement shall be applicable except that the Builder will retain financial responsibility for the installation of the wastewater Main, service lines and appurtenances as specified herein.

Under the provisions of this Rule, prior to construction, the Builder must enter into a Builder's Extension Agreement, in a form acceptable to the Company, detailing the terms and conditions under which the Company will accept, and provide service through, facilities constructed by Builder. All construction costs, whether initially incurred by the Company or the Builder, related to the Main extension shall be the responsibility of the Builder. The Builder's Extension Agreement shall contain, at a minimum, the following terms and conditions:

1. Main and service line installation work shall be performed in accordance with the specifications and conditions of the Company.
2. All costs of material and installation required to serve Builder's lots shall be the responsibility of Builder. Builder shall contract directly with a pre-qualified contractor, recognized and approved by the Company, for all Main and service line installation work, and all appurtenances required to serve the project.
3. Any specialty material required to interconnect with the Company's existing facilities shall be provided by the Company.
4. Any construction involving preexisting facilities of the Company, including but not limited to relocation of existing facilities and connections of Mains or services with existing facilities, shall be performed only by the Company except where otherwise agreed upon by the Company in its sole discretion.
5. Builder's estimate of the cost of construction must be acceptable to the Company. Estimates which appear to be understated may be rejected by the Company in its sole discretion.

RULES AND REGULATIONS**SECTION I – MAIN EXTENSIONS (cont'd)**

6. Builder shall obtain all necessary permits from federal, state and local authorities. If any of these authorities require the Company to obtain such permits, the Builder shall do all engineering, design, research and complete the application for the Company's submittal. Any fees associated with any such permits shall be the sole responsibility Builder.

7. All construction shall be subject to inspection by Company personnel. No trenches shall be backfilled prior to approval from Company inspectors.

Main Extensions to Governmental Bodies: The Company may negotiate and enter into customized Extension Agreements with Governmental Agencies where the main extension is for a public purpose and is funded entirely with public funds. These agreements may include a waiver of the tax requirements of the "Extension Agreement;" provided, however, that where such waiver is given, the Company will not refund any portion of the cost of the main extension.

RULES AND REGULATIONS**SECTION J – WAIVERS**

The Company may, at its sole discretion, waive any of the Rules and Regulations contained herein that operate for the benefit of the Company; provided, that no such waiver will be valid unless in writing and signed by an authorized representative of the Company, and provided that no waiver will be allowed where the waiver would constitute a violation of the Public Utility Code, the regulations of the Commission or of any other applicable statute, law or regulation.

SECTION K – AMENDMENT OF COMMISSION REGULATIONS

Whenever Commission regulations in Title 52 of the Pennsylvania Code are duly amended in such a way as would produce a difference between Commission regulations and this Tariff, the Tariff is deemed to be amended so as to be consistent with the amendments to the regulations, except that if application of the amendment to Title 52 is discretionary, this Tariff will remain unchanged.

SECTION L – PRIVILEGE TO INVESTIGATE/RIGHT TO ACCESS

The Company shall have the right by its employees to have access at all reasonable times to all parts of any Premises connected with the Company's System, including meters, Service Connections and other Property owned by it on the Premises of the Customer for the purpose of examining and inspecting the connections and fixtures, including the water and/or wastewater metering arrangement, or for disconnecting service for any proper cause or for purposes of replacement, maintenance, operation or repair thereof. The existing ground grade over any Sanitary Sewer in the utilities right of way shall not be changed nor shall any manhole be covered with earth and no shrubbery or trees be placed over Sanitary Sewer lines or facilities.

RULES AND REGULATIONS**SECTION M – INDUSTRIAL AND COMMERCIAL SERVICE LIMITATIONS**

Pretreatment: At the User's expense, all industrial and commercial waste proposed for discharge into the wastewater system shall be studied to determine the degree of Pretreatment, if any, necessary in order that the Waste will not adversely affect the Company's System, and for compliance with Section H of this tariff. The Company will have the authority to properly control any Waste discharged into the Company's System by regulating the rate of any Waste discharged into the Company's System by requiring necessary Pretreatment, and excluding certain Waste, if necessary, to protect the integrity of the Company's System.

Customer Limitations: Users specifically agree that service applies exclusively for domestic/household sewage. If any User discharges industrial or commercial Waste that:

- The existing wastewater treatment plant is unable to satisfactorily treat; or,
- Is not in compliance with discharge permit standards, disrupts the normal functioning of the existing wastewater treatment plant; or
- Requires the utilization of more wastewater treatment plant capacity per gallon of effluent than that required by average typical domestic wastewater.

Then the User shall provide, at the User's own expense, such Pretreatment as may be necessary before such Waste is discharged into the Company's System. No commercial or industrial Waste, whether pretreated or not, may be discharged without prior written authorization from the Company.

Company Limitations: The Company will not be liable nor bound to increase wastewater treatment plant operations to accommodate industrial or commercial Waste.

Specific Dangers: In general, any Waste will be considered harmful to the Company's System if it may cause any of the following damaging effects:

- Chemical reaction either directly or indirectly with the materials of construction of the Company's System in such a manner as to impair the strength or durability of the sewer structures;
- Mechanical action that will destroy the sewer structures;
- Restriction of the hydraulic capacity of the sewer structures;
- Restriction of the normal inspection or maintenance of the sewer structures;
- Danger to public health and safety; or
- Obnoxious condition contrary to public interest.

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held July 11, 2024

Commissioners Present:

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

Pennsylvania Public Utility Commission

R-2023-3043189
(Water)

Office of Consumer Advocate	C-2023-3044289
Office of Small Business Advocate	C-2023-3044375
Mark Henderson	C-2023-3044156
Kathleen Schwartz	C-2023-3044190
Amanda Johnsen	C-2023-3044185
Adam Nemchick	C-2023-3044191
Kirk Spencer	C-2023-3044189
Keith Sauer	C-2023-3044218
Andrew Kulp	C-2023-3044225
Jim Davidson	C-2023-3044223
Robert K. Ralls	C-2023-3044220
Richard Tawadros	C-2023-3044244
Natalie Rarick	C-2023-3044234
Tracy M. Rutherford	C-2023-3044293
David Ross	C-2023-3044348
Phyllis Connelly	C-2023-3044352
Thomas J. Hollenbach	C-2023-3044389
Alecia M. Lilley	C-2023-3044359
Lynn Mugno	C-2023-3044365
Michelle White	C-2023-3044369
Dr. Mostafa Easa	C-2023-3044567
Lynn DeAcosta	C-2023-3044380
Jeff Henry	C-2023-3044406
Anh Duong	C-2023-3044354

William Cameron & Linda Long	C-2023-3044355
Nicole Glimp	C-2023-3044565
Anthony McCann	C-2023-3044578
Shanna Weagle	C-2023-3044399
Brian Dugas	C-2023-3044563
Todd Blum	C-2023-3044583
Jennifer Dianna	C-2023-3044394
Mallory & Glenn Kercher	C-2023-3044686
Danielle Gabriel	C-2023-3044683
Devon Landis	C-2023-3044442
Morgan Wengert	C-2023-3044426
Angelica Alvarez	C-2023-3044405
John P. Dolekary	C-2023-3044580
John Miller	C-2023-3044416
Carl & Sharon Winter	C-2023-3044607
Paul & Catherine Brown	C-2023-3044611
Raymond Volsario	C-2023-3044614
Matthew J. Miller	C-2023-3044429
William R. Thomas	C-2023-3044601
Horace R. Battle	C-2023-3044600
Christopher Blake	C-2023-3044443
Laura Semel	C-2023-3044461
Robert M. Nowotarski	C-2023-3044676
Matthew & Melissa Mengel	C-2023-3044673
Tracy Cosgrove	C-2023-3044672
Richard Peal	C-2023-3044622
Patricia A. Finley	C-2023-3044504
Joseph Donahue	C-2023-3044524
Robert Bifano	C-2023-3044534
Gary Sirois	C-2023-3044830
Michelle Zebrowski	C-2023-3044868
Mary Ann Maro	C-2023-3044869
Joel Hernandez	C-2023-3044872
Dan Nebeker o/b/o Coldwater Lemoyne Carwash	C-2023-3044874
Mary Chibatar	C-2023-3044876
Mary Tanealian	C-2023-3044576
Tao Lu	C-2023-3044585
Jennifer Cohen	C-2023-3044682
Carla Seidel	C-2023-3044679
Amy E. Dalton	C-2023-3044677
Nicholas Orman	C-2023-3044642
Jay Phillips	C-2023-3044707
Carl W. Tunall, Jr.	C-2023-3044725

Steven Solomon	C-2023-3044733
Debora A. Sokol	C-2023-3044768
Shaun Keperling	C-2023-3044801
Audrey Gerold	C-2023-3044785
Robert Anderson	C-2023-3044799
Carl Kupchunas	C-2023-3044826
Matthew Jordan	C-2023-3044813
Cindy Cabrera	C-2023-3044816
Marie Sweeney	C-2023-3044918
Pennsylvania-American Water Large Users Group	C-2023-3044871
West Norriton Township	C-2023-3044965
John J. Heilenman	C-2023-3044908
Thalia Karalis	C-2023-3044929
Daniel Bergey	C-2023-3044984
Richard Matijasich	C-2023-3044981
Nicholas Collette	C-2023-3045023
Angela P. Kern	C-2023-3045039
Dennis McConnell	C-2023-3045053
James & Peggy Lingwall	C-2023-3045054
Wolfram Milz	C-2023-3045055
Donald Jones	C-2023-3045059
Marie Dougherty	C-2023-3045061
Michael & Mary Weishner	C-2023-3045062
Michelle R. Miller	C-2023-3045063
Carol Patterson	C-2023-3045064
Zachary Sprowls	C-2023-3045072
Elizabeth Sprowls	C-2023-3045073
Catharine Anderson	C-2023-3045082
Kathleen Donell	C-2023-3045083
Paul & Eileen Miller	C-2023-3045084
Norman T. Carpenter	C-2023-3045085
David Duquette	C-2023-3045087
Wesley Hartman	C-2023-3045088
Don Anderson	C-2023-3045089
Melissa Harper	C-2023-3045090
Charles E. Schwering	C-2023-3045093
Beth A. Gandelman	C-2023-3045094
Catherine & Kenneth Green	C-2023-3045095
Violet B. Kern	C-2023-3045105
Paul J. Walaski	C-2023-3045113
Cindy Murphy	C-2023-3045123
Gino Purchiaroni	C-2023-3045124
Christopher Nicholson	C-2023-3045134

Richard Small	C-2023-3045121
Nancy and Charles Wilson	C-2023-3045138
Harry Haas	C-2023-3045137
Jean Ustaszewski	C-2023-3045146
Kathryn Wilson	C-2023-3045152
Thomas McAuliffe	C-2023-3045156
Keith Pinkerton	C-2023-3045159
Kelly Knapp	C-2023-3045185
Alicia W. Shussett	C-2024-3045187
Patrick F. Boyle	C-2024-3045190
Jefferson Township Municipal Authority, c/o	
Patricia Lawrence, Secretary	C-2024-3045202
Juan F. Ramos	C-2024-3045208
Kyle Donahue	C-2024-3045210
John Erbicella	C-2024-3045209
Angela Gilmore	C-2024-3045212
Tracy L. Duff	C-2024-3045220
Timothy J. Creelman	C-2024-3045249
Frank Cerra	C-2024-3045257
Thomas F. Miller	C-2024-3045261
Mark Schuette	C-2024-3045263
Andrea Devlin	C-2024-3045285
Alena Trently	C-2024-3045258
Vicki DiArchangelo	C-2024-3045278
Thomas C. Kidwell	C-2024-3045315
Barry S. & Ethel Wagner	C-2024-3045320
Priscilla T. Gentry	C-2024-3045341
Matthew & Heather Heliger	C-2024-3045343
Barbara Stettenbauer	C-2024-3045360
Elizabeth Clark	C-2024-3045366
East Norriton Township	C-2024-3045399
Beth A. Gandelman	C-2024-3045422
Naomi Conte	C-2024-3045457
Ryan Gandelman	C-2024-3045467
Priscilla Jovais & Walter Baginski	C-2024-3045871
George M. Kamage, Jr.	C-2024-3045968
Julia Wright	C-2024-3045983
Anita Sakevich	C-2024-3045907
Michael W. Knoll	C-2024-3045985
Joseph Koza	C-2024-3045992
Randy McDaniels	C-2024-3045701
Christine Janiga	C-2024-3045987
Nereida Colon-Gonzalez	C-2024-3045788

Ruth McMullan	C-2024-3045997
Miranda Connors	C-2024-3046001
Deborah Nystrom	C-2024-3046000
Lora Gibb	C-2024-3045999
Ernest & Kathy Mayer	C-2024-3046292
Kathleen & William Nole	C-2024-3046296
Frances S. Kearney	C-2024-3046246
William Stevens	C-2024-3046071
Joe Dominick	C-2024-3046262
Andrea O'Neill-Hoffman	C-2024-3046195
Leslie Spindler	C-2024-3046230
Richard Brill	C-2024-3046111
Josephine Roman	C-2024-3046059
Mildred Decelles	C-2024-3046085
Gerald Smurl	C-2024-3046220
William Roman	C-2024-3046082
Harold Kiefer	C-2024-3046263
James G. Haggerty	C-2024-3046164
Ronald Benke	C-2024-3046112
Jodi Mayer	C-2024-3046291
James Wynder	C-2024-3046294
Billydon Hickson	C-2024-3046079
Elaine F. Campbell	C-2024-3046261
John Borer	C-2024-3046172
Thomas Tomeo	C-2024-3046047
Mary McKenna	C-2024-3046218
Bill Gaughan	C-2024-3046094
Jimmy Allen	C-2024-3046080
Mark Mecca	C-2024-3046055
Chris Casciano	C-2024-3046114
John Laskowski	C-2024-3045814
Colleen M. Gaughan	C-2024-3046044
Sean McAndrew	C-2024-3046252
Brian Cadugan	C-2024-3046169
Timothy Brier	C-2024-3046254
Joseph Baronski	C-2024-3046170
Michael Bussacco	C-2024-3046240
Robert Meyers	C-2024-3046219
Arthur F. Werner, Jr.	C-2024-3045244
Marianne Vergnetti	C-2024-3046108
Edmund Moroney	C-2024-3046061
Alice Lord	C-2024-3046043
Giselle Rutchford	C-2024-3046095

Ann McDermott	C-2024-3046046
Patricia Shultz	C-2024-3046050
Frank S. Sislo	C-2024-3046087
Linda Kiefer	C-2024-3046265
Dominic Cuchara	C-2024-3046109
Anthony Palmere, Jr.	C-2024-3046243
Debbie Wilson	C-2024-3046276
Gerard Dombroski	C-2024-3046259
Roberta Brentano	C-2024-3046098
William Seeger	C-2024-3046057
Elizabeth Zangardi	C-2024-3046226
Paul DelRossso	C-2024-3046217
Joseph Guerra	C-2024-3046168
Michael Shafer	C-2024-3046215
Marty Flynn	C-2024-3046257
Patrick H. Brentano	C-2024-3046099
Gary Shiner	C-2024-3046166
David F. Sevensky	C-2024-3046267
Susan Gilday	C-2024-3046238
Bernadette Bussacco	C-2024-3046221
Theodore Parchinski	C-2024-3046053
John Blackledge	C-2024-3046274
John Kulick	C-2024-3046353
Richard & Carmella Zaleski	C-2024-3046482
Nadine Simms	C-2024-3046351
James P. McDermott	C-2024-3046301
Lucy Jason	C-2024-3046302
Lynn King	C-2024-3046249
John McAuliffe	C-2024-3046392
Laura Virtue-Delayo	C-2024-3046397
Jessica Libassi	C-2024-3045805
David A. Grecco	C-2024-3046096
Leroy James Watters	C-2024-3046404
James Metzger	C-2024-3046411
Lorraine Perry	C-2024-3046408
Stephen Marr	C-2024-3046410
Brian A. McDonald	C-2024-3046741
Patricia A. Perri	C-2024-3046970
Patricia Barbuti	C-2024-3046810
Ryan & Leslie Ferguson	C-2024-3046467
Natalie Davis	C-2024-3046744
Patricia A. Perri	C-2024-3046745
Gary Graziano	C-2024-3046736

Joseph & Erin Kreis	C-2024-3046470
Caesar Bordo	C-2024-3046870
Ann McDonald	C-2024-3046746
Janice M. Mcdonald	C-2024-3046874
Jennifer Comparetta	C-2024-3046471
Sharon Cuff	C-2024-3046477
Karen Schuster	C-2024-3046742
Valerie Mendicino	C-2024-3046737
William J. O'Malley, III	C-2024-3046734
Louis Guzzi, Jr.	C-2024-3046406
Francis Kranick, Jr.	C-2024-3046811
Tara & Tom Schuster	C-2024-3046738
Colleen Demuro	C-2024-3046867
Charlotte DeRosier	C-2024-3046466
Albert Denunzio	C-2024-3046871
Mary C. Jennings	C-2024-3046743
James F. McCormick	C-2024-3046873
Laura A. O'Malley	C-2024-3046405
Mary & David Dobrzyn	C-2024-3046875
Gene Stanavitch	C-2024-3046403
Pat Stanavitch	C-2024-3046402
Robert Barry	C-2024-3046399
John Borgia	C-2024-3047073
Domenic P. Cafarella	C-2024-3046878
Michael D. Brooks	C-2024-3046880
Daniel E. Skvarla	C-2024-3046881
Donna Antonelli	C-2024-3046882
Michael Dempsey	C-2024-3046884
Marianne Brown	C-2024-3046886
Sharon Soudas	C-2024-3046885
Gina McCarthy	C-2024-3047515
Gerald Fabricatore	C-2024-3047312
Gerald R. Fabricatore	C-2024-3047375
Laura Wisniewski	C-2024-3047521
Julie Janosy	C-2024-3047695
Lackawanna County	C-2024-3048333
Vincent Ennis	C-2024-3048341
Clyde H. Morgan	C-2024-3045569
Colleen Adams	C-2024-3045573
Mark J. Mazurkiewicz	C-2024-3045579
Linda Culbertson	C-2024-3045650
Larry Wise	C-2024-3045668
James Lyband Jackson	C-2024-3045674

Gail Y. Gayeski	C-2024-3045666
Veronica A. Hannevig	C-2024-3045667
Theresa Skobel	C-2024-3045670
Jordan Henning	C-2024-3045678
Kyle & Lori Rompella	C-2024-3045681
Stefanie Adams	C-2024-3045685
Deborah & Robert May	C-2024-3045687
David & Lynn Griffith	C-2024-3045686
Paul Krammes	C-2024-3045690
Thomas Campisano	C-2024-3045691
Nelson Moeller	C-2024-3045703
Paulette Knott	C-2024-3045741
Gene & Patricia Malaspina	C-2024-3045750
Stephanie Sienkel	C-2024-3045767
Robert Boni	C-2024-3045765
Janice M. Reynolds	C-2024-3045768
Bilal Salaam	C-2024-3045812
Michael Troutman	C-2024-3045835
Kendra Robinson	C-2024-3045838
Gertrude Terrell	C-2024-3045842

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Pennsylvania Public Utility Commission	R-2023-3043190
	(Wastewater)
Office of Consumer Advocate	C-2023-3044292
Office of Small Business Advocate	C-2023-3044377
Mark Henderson	C-2023-3044159
Brian Gottschall	C-2023-3044170
Leroy Bumbarger	C-2023-3044169
Kathleen Schwartz	C-2023-3044193
Amanda Johnsen	C-2023-3044187
Adam Nemchick	C-2023-3044192
Anne Lockwood & Michael Haehnel	C-2023-3044168
Keith Sauer	C-2023-3044219
Natalie Rarick	C-2023-3044239
Darlene Hamilton	C-2023-3044170
Tracy M. Rutherford	C-2023-3044333
David Ross	C-2023-3044349
Alecia M. Lilley	C-2023-3044367

Lynn DeAcosta	C-2023-3044401
Nicole Glimp	C-2023-3044564
William H. Rissmiller	C-2023-3044569
Michelle White	C-2023-3044371
Jennifer Dianna	C-2023-3044395
Thomas J. Hollenbach	C-2023-3044685
Mallory Kercher	C-2023-3044681
Devon Landis	C-2023-3044448
Morgan Wengert	C-2023-3044427
Jeff Henry	C-2023-3044407
John Miller	C-2023-3044413
Angelica Alvarez	C-2023-3044566
Andrew Kulp	C-2023-3044468
Sharon Winter	C-2023-3044615
Paul Brown	C-2023-3044616
Charles L. Heydt	C-2023-3044618
William R. Thomas	C-2023-3044604
Linda Allison	C-2023-3044595
Chirstopher Blake	C-2023-3044444
Richard Peal	C-2023-3044620
Tracy Cosgrove	C-2023-3044667
Donald D. Dickerson	C-2023-3044662
Patricia A. Finley	C-2023-3044505
Jennifer Cohen	C-2023-3044671
Michael D. Fletcher	C-2023-3044688
Mary Tanealian	C-2023-3044577
Tao Lu	C-2023-3044573
Amy E. Dalton	C-2023-3044678
Mark Coogan	C-2023-3044704
Carla Seidel	C-2023-3044732
Anh Duong	C-2023-3044353
Borough of St. Lawrence	C-2023-3044757
Debora A. Sokol	C-2023-3044767
Audrey Gerold	C-2023-3044786
Matthew Jordan	C-2023-3044814
Laura Semel	C-2023-3044821
Lynn Mugno	C-2023-3044366
Pennsylvania-American Water Large Users Group	C-2023-3044873
Joel Hernandez	C-2023-3044877
Mary Chibatar	C-2023-3044879
Dennis McConnell	C-2023-3044880
Marie T. Ratchford-Demkosky	C-2023-3044881
Cindy Cabrera	C-2023-3044916

Thalia Karalis	C-2023-3044915
Richard Matijasich	C-2023-3044982
Daniel B. Fletcher	C-2023-3045056
James Lingwall	C-2023-3045065
Donald Jones	C-2023-3045066
Marie Dougherty	C-2023-3045067
Jay Phillips	C-2023-3045069
Carl W. Tunall, Jr.	C-2023-3045070
Catharine Anderson	C-2023-3045074
Kathleen Donell	C-2023-3045075
Paul & Eileen Miller	C-2023-3045077
Norman T. Carpenter	C-2023-3045079
David Duquette	C-2023-3045091
Wesley Hartman	C-2023-3045092
Shaun Keperling	C-2023-3044802
Cindy Murphy	C-2023-3045125
Patrick O'Donnell	C-2023-3045140
Kathryn Wilson	C-2023-3045153
Keith Pinkerton	C-2023-3045164
Nancy and Charles Wilson	C-2023-3045160
Dayna Gardecki	C-2023-3045167
Kelly Knapp	C-2023-3045186
Alicia W. Shussett	C-2024-3045188
Patrick F. Boyle	C-2024-3045191
Juan F. Ramos	C-2024-3045206
Kyle Donahue	C-2024-3045211
Angela Gilmore	C-2024-3045213
John Erbicella	C-2024-3045255
Vicki DiArchangelo	C-2024-3045279
Alena Trently	C-2024-3045259
Andrea Devlin	C-2024-3045296
Thomas C. Kidwell	C-2024-3045316
Lloyd Simmers	C-2024-3045332
Anne-Marie Trace	C-2024-3045331
Borough of Port Vue	C-2024-3045334
Christopher Nicholson	C-2024-3045337
Priscilla T. Gentry	C-2024-3045342
Ruth & Craig Benderoth	C-2024-3045346
Matthew & Heather Heliger	C-2024-3045344
Barbara Stettenbauer	C-2024-3045362
Elizabeth Clark	C-2024-3045367
Catherine & Kenneth Green	C-2023-3045441
Naomi Conte	C-2024-3045464

Clyde H. Morgan	C-2024-3045571
Colleen Adams	C-2024-3045572
Mark Pezone	C-2024-3045574
Mark J. Mazurkiewicz	C-2024-3045582
Larry Wise	C-2024-3045669
James Lyband Jackson	C-2024-3045673
Janice M. Reynolds	C-2024-3045684
Veronica A. Hannevig	C-2024-3045694
Theresa Skobel	C-2024-3045695
David & Lynn Griffith	C-2024-3045696
Thomas Campisano	C-2024-3045723
Paulette Knott	C-2024-3045734
Gene & Patricia Malaspina	C-2024-3045747
Jordan Henning	C-2024-3045773
Kyle & Lori Rompella	C-2024-3045779
Richard Hamilton	C-2024-3045806
Kenneth Stoudt Jr.	C-2024-3045811
Bilal Salaam	C-2024-3045826
Ashley Sanchez	C-2024-3045815
Kendra Robinson	C-2024-3045839
David Breitegam	C-2024-3045873
Anita Sakevich	C-2024-3045902
George M. Kamage, Jr.	C-2024-3045967
Michael W. Knoll	C-2024-3045984
Joseph Koza	C-2024-3045989
Ruth McMullan	C-2024-3045994
Thomas Tomeo	C-2024-3046051
David A. Grecco	C-2024-3046052
Theodore Parchinski	C-2024-3046054
Mark Mecca	C-2024-3046056
William Seeger	C-2024-3046058
Josephine Roman	C-2024-3046060
Edmond Maroney	C-2024-3046062
Nereida Colon-Gonzalez	C-2024-3046072
William Roman	C-2024-3046081
Frank S. Sislo	C-2024-3046088
Patrick H. Brentano	C-2024-3046083
Bill Gaughan	C-2024-3046089
Giselle Rutchford	C-2024-3046091
Roberta Brentano	C-2024-3046093
Brian Cadugan	C-2024-3046119
John Fletcher	C-2024-3046121
Marianne Vergnetti	C-2024-3046126

Dominic Cuchara	C-2024-3046128
Richard Brill	C-2024-3046130
Ronald & Lucy Benke	C-2024-3046133
Gary Shiner	C-2024-3046134
Suzanne Horishny	C-2024-3046145
Chris Casciano	C-2024-3046150
James G. Haggerty	C-2024-3046152
Joseph Baronski	C-2024-3046154
Joseph Guerra	C-2024-3046156
John Borer	C-2024-3046159
Michael Shafer	C-2024-3046160
Joel Hoffman	C-2024-3046185
Paul DelRosso	C-2024-3046193
Ferentz Irrevocable Grantor Trust c/o Joseph Surenko	C-2024-3046197
Robert Meyers	C-2024-3046198
Bernadette Bussacco	C-2024-3046222
Susan Gilday	C-2024-3046223
Arthur F. Werner, Jr.	C-2024-3046242
Timothy Brier	C-2024-3046239
Frances S. Kearney	C-2024-3046251
Sean McAndrew	C-2024-3046255
Elaine F. Campbell	C-2024-3046256
Marty Flynn	C-2024-3046258
Gerard Dombroski	C-2024-3046260
Harold Kiefer	C-2024-3046264
Linda Kiefer	C-2024-3046266
David F. Sevensky	C-2024-3046268
John Blackledge	C-2024-3046273
John Mayer	C-2024-3046280
Lucy Jason	C-2024-3046247
Lynn King	C-2024-3046248
Ernest & Kathy Mayer	C-2024-3046293
James & Marie Wynder	C-2024-3046295
Kathleen Nole	C-2024-3046297
James P. McDermott	C-2024-3046300
Nadine Simms	C-2024-3046350
David A. Grecco	C-2024-3046352
John Kulick	C-2024-3046354
Richard & Carmella Zaleski	C-2024-3046355
John McAuliffe	C-2024-3046393
Laura Virtue-Delayo	C-2024-3046398
Robert Barry	C-2024-3046400
Mark Perry	C-2024-3046407

Rebecca Pesyna	C-2024-3046409
Louis Guzzi, Jr.	C-2024-3046472
Maureen Guzzi	C-2024-3046473
David Dobrzyn	C-2024-3046474
Albert Denunzio	C-2024-3046475
Caesar Bordo	C-2024-3046476
Gary & Beth Graziano	C-2024-3046739
Valerie Mendicino	C-2024-3046740
Tara & Tom Schuster	C-2024-3046752
Karen Schuster	C-2024-3046807
Mary C. Jennings	C-2024-3046808
Patricia Barbuti	C-2024-3046809
Francis Kranick, Jr.	C-2024-3046812
Natalie Davis	C-2024-3046863
Sharon Cuff	C-2024-3046869
Colleen Demuro	C-2024-3046868
Domenic P. Cafarella	C-2024-3046879
Michael Dempsey	C-2024-3046883
Marianne Brown	C-2024-3046887
Gerald Fabricatore	C-2024-3047362
Gerald R. Fabricatore	C-2024-3047371
Gina McCarthy	C-2024-3047533
Julie Janosy	C-2024-3047696

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BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of Pennsylvania-American Water Company (PAWC, or the Company), the Bureau of Investigation and Enforcement (I&E), the Office of Consumer Advocate (OCA), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Pennsylvania-American Water Large Users Group (PAWLUG), Cleveland-Cliffs Steel (Cleveland-Cliffs), and the City of Scranton, filed on May 17, 2024, to the Recommended Decision (R.D.) of Deputy Chief Administrative Law Judge (ALJ) Christopher P. Pell and ALJ John M. Coogan (collectively, the ALJs), issued on May 7, 2024,¹ in the above -captioned consolidated general rate increase proceedings.² PAWC, I&E, the OCA, the OSBA, CAUSE-PA, PAWLUG, and Cleveland-Cliffs filed Replies to Exceptions on May 22, 2024. Additionally, on May 22, 2024, the OCA filed a Motion for Relief Regarding Ex Parte Communications by PAWC (OCA Motion). PAWC filed an Answer to the OCA Motion (Motion Answer) on June 18, 2024.

For the reasons stated, *infra*, we shall: (1) grant, in part, and deny, in part, the Exceptions filed by I&E, the OCA, and CAUSE-PA; (2) deny the Exceptions filed by PAWC, PAWLUG, Cleveland-Cliffs, and the City of Scranton; and (3) deem the OCA Motion to be moot, consistent with this Opinion and Order.

As discussed below, through its consolidated general rate increase request, *as revised*, PAWC proposed base rate changes that would have increased its total annual operating revenues by \$202.4 million, or approximately 20.0%, based on a fully projected

¹ The Office of Small Business Advocate (OSBA) submitted a letter on May 7, 2024, indicating that it would not be filing Exceptions.

² By Prehearing Order #1, dated January 5, 2024, Docket Nos. R-2023-3043189 and R-2023-3043190 and all Formal Complaints filed with respect thereto, were consolidated for further proceedings and disposition, without objection.

future test year (FPFTY) ending June 30, 2025.³ PAWC M.B., Appendix A, Table Act 11 – Step 2. The proposed rate increase for PAWC’s water customers comprised \$198.9 million (24.1% increase) of the combined \$202.4 million rate increase, including \$69.5 million of the wastewater revenue requirement re-allocated to water customers

³ In its initial filing, PAWC proposed base rate changes that would have increased its total annual operating revenues by \$203.9 million, or approximately 20.2%. See, PAWC Exh. 3-A. As shown in Table 1, during the rebuttal phase of the proceeding, PAWC prepared a revised statement of its revenue requirement, shown in PAWC Exhibit 3-A Revised, which supported an increase in revenue requirement of \$204.3 million. PAWC St. 1-R at 3. Ultimately, in light of the concerns Parties have raised in this proceeding with the Company’s acquisitions that have not yet closed, PAWC revised its request for rate relief to remove the Brentwood acquisition and to incorporate Step 2 Rates for the Butler Area Sewer Authority (BASA) acquisition to ensure that customers do not pay rates reflecting the Commission-approved BASA ratemaking rate base until that transaction closes. PAWC M.B. at 10.

Table 1: PAWC’s Requested Increase

	Pro Forma Present Rate Revenue 6/30/25	Additional Revenue Requirement	Act 11 Allocation	Rate Increase/Decrease	Pro Forma Revenues Under Proposed Rates 6/30/25
As-Filed					
(PAWC Exh. 3-A)					
Water	\$824,117,186	\$128,149,690	\$71,087,394	\$199,237,084	\$1,023,354,270
WW SSS General	\$95,470,867	\$31,793,150	(\$31,962,411)	(\$169,261)	\$95,301,606
CSS WW	\$78,636,216	\$15,780,126	(\$16,007,052)	(\$226,926)	\$78,409,290
BASA WW	\$11,847,402	\$26,288,308	(\$21,552,699)	\$4,735,609	\$16,583,011
Brentwood WW	\$1,824,191	\$1,934,637	(\$1,565,232)	\$369,405	\$2,193,596
Total Company	\$1,011,895,862	\$203,945,911	\$0	\$203,945,911 20.2%	\$1,215,841,773
Rebuttal Testimony					
(PAWC Exh. 3-A Revised)					
Water	\$824,117,186	\$129,343,180	\$71,087,394	\$200,430,574	\$1,024,547,760
WW SSS General	\$95,470,867	\$31,855,090	(\$31,962,411)	(\$107,321)	\$95,363,546
CSS WW	\$78,636,216	\$15,834,928	(\$16,007,052)	(\$172,124)	\$78,464,092
BASA WW	\$12,814,193	\$25,322,947	(\$21,552,699)	\$3,770,248	\$16,584,441
Brentwood WW	\$1,824,191	\$1,935,019	(\$1,565,232)	\$369,787	\$2,193,978
Total Company	\$1,012,862,653	\$204,291,164	\$0	\$204,291,164 20.2%	\$1,217,153,817
Main Brief					
(PAWC M.B., Appendix A, Table Act 11 – Step 2)					
Water	\$824,117,186	\$129,343,180	\$69,522,162	\$198,865,342	\$1,022,982,528
WW SSS General	\$95,470,867	\$31,855,090	(\$31,962,411)	(\$107,321)	\$95,363,546
CSS WW	\$78,636,216	\$15,834,928	(\$16,007,052)	(\$172,124)	\$78,464,092
BASA WW	\$12,814,193	\$25,322,947	(\$21,552,699)	\$3,770,248	\$16,584,441
Brentwood WW	\$0	\$0	\$0	\$0	\$0
Total Company	\$1,011,038,462	\$202,356,145	\$0	\$202,356,145 20.0%	\$1,213,394,607

pursuant to Act 11 of 2012.⁴ Regarding wastewater rates, PAWC's proposal would have increased its total operating revenues for its wastewater service by approximately \$3.5 million, or approximately 1.9%.⁵ *Id.* PAWC also requested approval for a Revenue Decoupling Mechanism (RDM), an Environmental Compliance Investment Charge (ECIC), and deferral accounting mechanisms for pension, Other Post-Employment Benefits (OPEB), and production expenses. PAWC St. 1 at 23-27; PAWC St. 8 at 11-12, 21-30; PAWC St. 10 at 86-106.

⁴ Act 11 of 2012 (Act 11), amending Chapters 3, 13 and 33 of the Pennsylvania Public Utility Code (Code), provides, *inter alia*, the opportunity for wastewater utilities to allocate a portion of their revenue requirement to the combined wastewater and water utility customer base. Specifically, Section 1311(c) of the Code, 66 Pa.C.S. § 1311(c), provides that, upon petition of a utility that provides water and wastewater utility service, the Commission may, *after notice and opportunity to be heard*, allocate a portion of the wastewater utility's revenue requirement to the combined water and wastewater customer base if deemed to be "in the public interest." The benefits of this provision are that the costs of necessary upgrades to wastewater systems to maintain safe and reliable service, which can be substantial on a stand-alone basis, can be spread among the common customer base of the water and wastewater utilities.

⁵ Broken down further, as shown in Table 1, this represents a reduction of \$107,321 to PAWC Wastewater Sanitary Sewer System (SSS) General operations (Wastewater SSS); a reduction of \$172,124 to PAWC Combined Sewer System (CSS) Wastewater operations (CSS Wastewater) (collectively, Wastewater SSS and CSS Wastewater are referred to as Wastewater); and an increase of \$3,770,248 to BASA wastewater operations. *See*, PAWC M.B., Appendix A, Table Act 11 – Step 2. The separate revenue requirements for BASA and Brentwood are the result of commitments made by the Company in each acquisition proceeding. *See*, *Application of Pennsylvania-American Water Company under Section 1329 for Acquisition of the Butler Area Sewer Authority*, Docket No. A-2022-3037047 (Opinion and Order entered November 16, 2023) (BASA); *see also*, *Application of Pennsylvania-American Water Company under Section 1329 for Acquisition of the Borough of Brentwood*, Docket No. A-2021-3024058 (Opinion and Order entered March 4, 2024) (Brentwood). Further, it should be noted that, in BASA, PAWC's application was modified by a settlement of the parties in that application proceeding, and the Commission approved that settlement; however, the Commission's decision was appealed to the Commonwealth Court by Center and Summit Townships, Butler County, on due process grounds. Additionally, recently in *Brentwood*, the Commission rejected PAWC's application for the acquisition of Brentwood on the grounds that the transaction did not meet the requirements of Sections 1102 and 1103 of the Code.

In this Opinion and Order, we shall approve an annual revenue increase of \$88,121,069 to the Company's *pro forma* revenue at present rates of \$820,869,547, or approximately 10.74%, for its water service and an annual revenue increase of \$11,207,944 to the Company's *pro forma* revenue at present rates of \$173,308,937, or approximately 6.47%, for its wastewater service.

I. Introduction and Background

PAWC provides jurisdictional water and wastewater services to approximately 780,000 customers in its service territory, which covers 37 counties across the Commonwealth of Pennsylvania. PAWC St. 2 at 2-3. PAWC is a subsidiary of American Water Works Company, Inc. (AWK) and is a public utility and jurisdictional water distribution and wastewater company as those terms are defined in Section 102 of the Code, 66 Pa.C.S. § 102.

According to PAWC, this rate increase is driven by the need to earn a fair return on investments; to reflect capital additions that the Company has placed into service since its last base rate proceeding and the estimated \$1 billion in capital additions that are projected to be placed in service during the future test year (FTY) ending June 30, 2024 and the FPFTY ending June 30, 2025, including acquired troubled water utilities' distribution systems; and to recover higher levels of operating and maintenance (O&M) expenses resulting from increases in production costs, employee-related expenses, and the cost of bringing high quality and reliable water service to additional communities in the Commonwealth. PAWC St. 1 at 7-9.

II. History of the Proceeding

On November 8, 2023, the Company filed Supplement No. 45 to Tariff Water – Pa. P.U.C. No. 5 (Water Tariff Supplement) and Supplement No. 47 to

Tariff Wastewater – Pa. P.U.C. No. 16 (Wastewater Tariff Supplement) to become effective on January 7, 2024. PAWC’s supporting financial data for the Water Tariff Supplement and Wastewater Tariff Supplement reflected an increase in total annual operating revenues of approximately \$203.9 million.⁶

On November 17, 2023, the OCA filed Formal Complaints, Public Statements, and Notices of Appearances. On November 20, 2023, the OSBA filed Formal Complaints and Notices of Appearances. On November 21, 2023, I&E filed Notices of Appearances. Formal Complaints were also filed by various PAWC customers.⁷ Notices of Appearances were also filed by PAWLUG and Cleveland-Cliffs. Additionally, Petitions to Intervene were received by the Commission on Economic Opportunity (CEO), CAUSE-PA, Cleveland-Cliffs, the City of Scranton, Victory Brewing Company (Victory Brewing), and Exeter Township.

By separate Orders entered December 21, 2023, pursuant to 66 Pa.C.S. § 1308(d) (Suspension Orders), the Commission instituted a formal investigation at Docket Nos. R-2023-3043189 (Water) and R-2023-3043190 (Wastewater) to determine the lawfulness, justness, and reasonableness of the Company’s existing and proposed

⁶ Under the Company’s proposal, the Water Tariff Supplement would increase PAWC’s total annual operating revenues for water service by approximately \$199.2 million, or 24.2%, and the Wastewater Tariff Supplement would increase PAWC’s total annual operating revenues for wastewater service by approximately \$4.7 million, or 2.5%. As previously noted, subsequently, the Company updated its requested increase. Therefore, the Company’s final proposed increase was an increase of approximately \$202.4 million in total annual operating revenues, including an increase of approximately \$198.9 million in total annual operating revenues for its water service and approximately \$3.5 million in total annual operating revenues for its wastewater service. See, PAWC M.B., Appendix A, Table Act 11 – Step 2.

⁷ Additionally, opposition to the proposed rate increases was filed by various individuals and placed into the Public Comment file associated with this proceeding, including a letter filed by AARP Pennsylvania on June 11, 2024, requesting that the Commission deny the proposed rate increases.

rates, rules and regulations. Per the Suspension Orders, the Water Tariff Supplement and Wastewater Tariff Supplement were suspended, by operation of law until August 7, 2024, unless permitted by Commission order to become effective at an earlier date. The matter was assigned to the Office of Administrative Law Judge (OALJ) for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision. This matter was subsequently assigned to the ALJs for the purposes of conducting hearings and issuing a Recommended Decision.

On December 28, 2023, PAWC filed its Petition for Protective Order at Docket Nos. R-2023-3043189 and R-2023-3043190. Additionally, PAWC filed its Petition for Consolidation of Rate Proceedings at the aforementioned dockets. None of the Parties objected to PAWC's Petition for Consolidation.

A Prehearing Conference was held on January 3, 2024, at which two consumer Complainants requested active status in this proceeding, Robert Ralls, and Kyle Donahue. Also, during the Prehearing Conference, the ALJs granted PAWC's Motion to Consolidate these proceedings.

On January 5, 2024, the ALJs issued an order granting PAWC's Petition for Protective Order.

A series of twelve public input hearings were held as scheduled,⁸ at which a total of 217 people testified:

- January 29, 2024 – two in-person public input hearings in Port Vue, PA;

⁸ Vice Chair Kimberly Barrow attended the Scranton public input hearings on January 30, 2024, and the 6 p.m. Harrisburg public input hearing on February 6, 2024. Commissioner Kathryn L. Zarfuss attended the Scranton public input hearings and the Harrisburg public input hearings.

- January 30, 2024 – two in-person public input hearings in Scranton, PA;
- January 31, 2024 – two in-person public input hearings in Exeter Township, PA;
- February 5, 2024 – two telephonic public input hearings;
- February 6, 2024 – two in-person public input hearings in Harrisburg, PA; and
- February 7, 2024 – two telephonic public input hearings.

The evidentiary hearings were held as scheduled on March 7 and 8, 2024. The list of the pre-served testimony and exhibits that were admitted into the record at the evidentiary hearings were attached as Appendix A to the Recommended Decision.⁹

On March 26, 2024, Main Briefs were filed. Reply Briefs were filed on April 5, 2024.

In the Recommended Decision, issued on May 7, 2024, the ALJs recommended that PAWC's Water Tariff Supplement and its Wastewater Tariff Supplement, and the associated proposed revenue increases, be denied because the Company did not meet its burden of proving by a preponderance of the evidence the justness and reasonableness of every element of its requested increases. Instead, the ALJs recommended the approval of an increase in annual water operating revenues in the amount of approximately \$92.6 million, or approximately 11.3% over present rates, and an increase in annual wastewater operating revenues in the amount of approximately \$11.5 million, or approximately 6.6% over present rates. R.D. at 1.

As previously noted, PAWC, I&E, the OCA, CAUSE-PA, PAWLUG, Cleveland-Cliffs, and the City of Scranton filed Exceptions to the Recommended

⁹ See, R.D. at 394-400.

Decision on May 17, 2024. On May 22, 2024, PAWC, I&E, the OCA, the OSBA, CAUSE-PA, PAWLUG, and Cleveland-Cliffs filed Replies to Exceptions.

Additionally, on May 22, 2024, the OCA filed its Motion wherein it alleged that the Company had engaged in ex parte communications with Commission employees, when it gave a video presentation on May 20, 2024, at the annual meeting of the Pennsylvania Chapter of the National Association of Water Companies (NAWC). On May 31, 2024, the Commission issued a Secretarial Letter (*May 2024 Secretarial Letter*), wherein it, *inter alia*: (1) served a copy of the OCA Motion on all Parties of Record to this Proceeding; (2) provided a link to the video presentation; and (3) directed interested parties to file an Answer to the OCA Motion within twenty (20) days of the date of issuance of the *May 2024 Secretarial Letter* (i.e., no later than June 19, 2024).¹⁰ On June 18, 2024, PAWC filed its Motion Answer.

III. Public Input Hearings, Comments, and *Pro Se* Complaints

As noted above, in the History of Proceeding, the Commission took extensive public input throughout the course of this rate case proceeding and hosted twelve public input hearings. More specifically, eight in-person public input hearings were convened between January 29, 2024 and February 6, 2024. Additionally, four telephonic public input hearings were held between February 5, 2024 and February 7, 2024. These hearings were held in light of significant public interest in this proceeding, in addition to requests from several Pennsylvania state legislators. During these hearings, PAWC's customers provided public input testimony regarding the Company's proposed water and wastewater rate increases. A total of 217 witnesses testified: 32 in Port Vue, 52 in Scranton, 58 in Exeter, 10 in Harrisburg and 65 by telephone. The Recommended Decision tallied the content of these customers'

¹⁰ As June 19, 2024, was a state holiday, the actual deadline to file an Answer to the OCA Motion was on June 20, 2024.

comments into four categories: affordability, quality of service, PAWC supportive, and other. Table 2, below, indicates the topics covered by location.

Table 2: Public Input Hearing Summary¹¹

Location (Date/Time)	Affordability	Quality of Service	PAWC supportive	Other
Port Vue (1/29/24 1pm)	10	3	7	1
Port Vue (1/29/24 6pm)	12	2	0	7
Scranton (1/30/24 1pm)	23	11	6	11
Scranton (1/30/24 6pm)	22	16	0	12
Exeter (1/31/24 1pm)	31	18	1	22
Exeter (1/31/24 6pm)	17	6	1	10
Telephonic (2/5/24 1pm)	9	3	13	4
Telephonic (2/5/24 6pm)	4	0	2	2
Harrisburg (2/6/24 1pm)	1	2	4	1
Harrisburg (2/6/24 1pm)	1	0	3	1
Telephonic (2/7/24 1pm)	6	3	11	3
Telephonic (2/7/24 6pm)	9	3	5	7
TOTAL	145	67	53	81

R.D. at 35-36.

¹¹ Table 2 displays more than 217 topics testified on because a public input witness may have testified regarding more than one topic. See, R.D. at 36, n.4.

A. Quality of Service¹²

Reviewing the transcripts of the various public-input hearings uncovers a trend of customers claiming negative quality of service experiences mainly due to a lack of water quality. This is especially true in the northeastern Pennsylvania region of PAWC's service territory encompassing the City of Scranton and the greater Lackawanna County region. We note the following examples, below.

Scranton Hearings – January 30th:

- Senator Marty Flynn testified about dirty water issues. Tr. at 400.
- Scranton City Councilmember Jessica Rothchild testified that PAWC is providing dirty water to customers. Tr. at 645-46.
- Scranton School Board Director Sean McAndrew testified that several times throughout the summer he had dirty water or no water at all. Tr. at 670.
- Several PAWC customers complained of having to buy filtered water because their water has rust contaminants, is cloudy, smells funny, tastes like metal, and is not good to drink or use. Tr. at 539, 554-55.
- Several PAWC customers in Scranton claimed their water is dirty, lacking quality, is unpalatable, and smells of excessive chlorine. They noted they were afraid to consume it because of the odor and appearance. Tr. at 677, 726.

Telephonic Hearings:

- Customers claimed poor water quality, including dirt particles in the water, a chlorine odor, and hardness causing harm to appliances. Tr. at 1170, 1270.

¹² In our summary of the public input hearings in this Opinion and Order, we shall focus on the testimony related to quality of service from the Company. For a more detailed summary of the public input hearings, see pages 35-54 of the Recommended Decision.

- Customers contended poor water quality with a chlorine odor and mineral deposits found in toilet water tanks. Tr. at 1701, 1712.
- Customers claimed there was strong chlorine odor and taste. Tr. at 1847.

In addition to the above public input hearing testimony, we note that various comments and complaints filed in this case further exhibit a trend in customer concerns for the quality of service provided in PAWC's northeastern territory. Over thirty *pro se* complaints and over fifty comments were filed asserting negative quality of service. Tables 3 and 4, below, provide a summary of these comments and complaints.

Table 3: Comments Regarding Quality of Service

Quality of Service Comments	Town	Notes
Customer Name		
Diane McLaughlin	Mechanicsburg	Water bubbly with soap suds in it
Arthur Lucarelli	Old Forge	Water occasionally dirty, cloudy
Anthony Reakes	Moscow	Cloudy water; air in lines; excessive chlorine. Leak in line closer to home.
Nadine Ghosn	Dunmore	Water is discolored, yellow on occasion.
Jeff Vesnesky	Scranton	Water stains everything
Teresa and Eldon Parks	Morrisdale	Poor water pressure
William Robison	Camp Hill	Had to install a whole house filter to make water drinkable and not hard on plumbing
Sheila Eboi	Dunmore	Subjected to multiple water breaks; water often brown; water smells like chlorine and is not drinkable; filters water for her pets
Johanna F. Salazar and Jorge M. Salazar	East Stroudsburg, PA	Quality of water is subpar; water color is yellow/ brown; stains appliances and clothing; chlorine taste and smell
Jeanne Schneider	Scranton	discolored water numerous times out of the year
Lucinda Klahr	Annvile	Water is white and cloudy; feels that it is not safe to drink due to chemicals
Natalya Krapman	East Stroudsburg, PA	Quality of water is subpar; water color is yellow/ brown; stains appliances and clothing; chlorine taste and smell
David and Mary Lazarony	East Stroudsburg, PA	Quality of water is subpar; water color is yellow/ brown; stains appliances and clothing; chlorine taste and smell
Mark Johansen	East Stroudsburg, PA	Quality of water is subpar; water color is yellow/ brown; stains appliances and clothing; chlorine taste and smell
Raymond Volsario	East Stroudsburg, PA	Quality of water is subpar; water color is yellow/ brown; stains appliances and clothing; chlorine taste and smell
Loretta and Thomas Kaczmarek	Grindstone	Water smells like chlorine; customer buys bottled water
Marian Reidenbach	Scranton	Dirty, unclean water; has to buy water to drink
Albert Collins	Dunmore	Water quality is subpar; has to buy water to drink
Louise Kurechka	Scranton	Water is cloudy and dirty
Dominic Farino	Scranton	Water is dirty; reliability issues
Andrea Sable	Scranton	Discolored water after pipe replacement; pipes break every winter; has to go without water or with cloudy/ dirty water for hours
Kelly Wary	Clarks Summit	Deals with water main breaks every few months. Water is dirty and laundry needs to be re-washed.
Walter Garner	McKeesport	Water smells like chlorine and other odors. Purchases water to drink.
Lynn Daroczy	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Nancy A. Edmunds	Archbald, PA	Water is undrinkable; contains sediment
John Orbin	Dickson City	Water tastes poor and ruins the taste of food if food is boiled in the water
Ronald Pavlisko	Washington, PA	Bad water quality; undrinkable; has to uses filters
Joanne Galette	Norriston	2-day water outage resulted in a faulty repair that caused a leak in her utility closet
Andrew H. Lake	Coatesville	Water has a foul odor; tastes bad;
Mike Sabin	Coatesville	Water smells like chlorine; uses water filter
Mariam Mahmoud	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Erin Maloney	Scranton	Experiences brown water 1 to 2 times per month. Significant increase in undrinkable/unusable water despite increased pricing
Jennifer Dougherty	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Jessica Ruhl	East Stroudsburg	Lines are frequently flushed producing a brown sediment and residue; Water is high in iron and copper leaving rust and lime colored stains. Filtered water still tastes like chlorine
Elizabeth and Sergio Ferro	East Stroudsburg	Lines are frequently flushed producing a brown sediment and residue; Water is high in iron and copper leaving rust and lime colored stains. Filtered water still tastes like chlorine
Melissa Conniff-Fox	Scranton	Has dirty water
Daniel Tedesco	Shiemanstown	There are days when the water is cloudy and has a slight odor
Guillaume Durand	East Stroudsburg	Water is subpar; yellow/ brown stains on appliances and clothing; water smells and tastes like chlorine
Carl Battistone	McDonald	No alert that customer was under a boil water advisory after a water main break occurred
James DeFrancesco Jr.	Pittsburgh	Water is undrinkable; brown color
Robert and Emily Ott	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
MaryJo Bonadonna	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Shanna McDonald-Campbell	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Michael Grier	Douglassville	Bad water quality
Scott Repella	Carbondale	Water has a mildew, rotten egg smell on a daily basis
Anthony Pennino	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Susan Brace	Dunmore	Water is yellow and has an overwhelming chlorine smell. Installed a whole-home water filter
Neil Bossart	McDonald	Does not have access to safe, clean, and reliable drinking water
James Faye	Nanticoke	Water has a strong chlorine taste. Needed to install a whole home filtration system. Has a buildup of solid sludge like substance that forms in the screens in the faucets and toilets.
Jessica Diaz	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Debra Borosky	Dalton	Corrosion ruined faucets and tiles in bathrooms; water has strong chlorine smell and is not drinkable
Anthony Buffardi	Roaring Brook	Water flows gray from the tap; dark brownish sludge builds up and almost blocks the faucet. Water is not drinkable.

Table 4: *Pro Se* Complaints Regarding Quality of Service

Quality of Service Complaints		
Customer Name	Town	Notes
Michelle R. Miller	Carbondale, PA	Needs filter to drink water; old pipes not replaced until there is an issue
Raymond Volsario	East Stroudsburg, PA	Unclean water; has to change filter every 3 weeks
Nicole Glimp	Reading, PA	Water is "very hard" and tastes "awful"
Susan Gilday	Scranton	Water is discolored; dirty
Gary Shiner	Scranton	Needs to buy bottled water to drink; water is rusty and sometimes is unable to do laundry or dishes
Gene and Patricia Malaspina	Coatesville, PA	Water tastes like chlorine
Paul Walaski	Forest City	Water smells, is discolored and has residue
Mary Ann Maro	Scranton	Pipes are dirty; has purchased water when there is a water main break and no water available
Roberta Brentano	Scranton	Has experienced no water due to broken lines
Tara and Tom Schuster	Scranton	Water line in front yard has been shut off and on, resulting in a subsidence; company not responsive to complaint
Deborah and Robert M. May	Scranton	Dirty water notifications
LeRoy James Watters III	West Norriton	Company "does nothing to protect the watersheds from pollution of stormwater"; previous stormwater flooding complaints remain unfixed
James McDermott	Scranton	Poor service; dirty water
Gerald Fabricatore	Scranton	Overpriced for quality of service received
Julie Janosy	Scranton	Strong chlorine smell; afraid to drink water unfiltered
Gary Graziano	Scranton	Water smells like chemicals
Frank Sislo	Scranton	Water smells like iodine. Purchases drinking water and filters tap water
Janice Reynolds	Reading, PA	Water is yellow or brown
Michael and Mary Weishner	Washington, PA	Dirt in water; had to replace filters multiple times
Paula Krammes	Reading, PA	Water not safe to drink without being filtered
Miranda Connors	Pittsburgh, PA	Lack of support or service; company does not "fix any type of water lines"
Nelson Moeller	Reading, PA	Lack of improvement or extension in water or sewer services
Randy McDaniels	West Mifflin, PA	Water is dirty and smells; needs to purchase a filter to drink it. Water leaks have lasted for many months before addressed.
Vicki DiArchangelo	Reading, PA	Water is distasteful; needs to purchase water from store. Has a whole house water softener and filter but this still does not help
Robert Boni	Reading, PA	Low water quality; must filter drinking water
James Metzger	West Mifflin, PA	Water lines ruptured and unfixed for months; water smells like chlorine; had to purchase water filter
Andrea Devlin	Reading, PA	Water quality hard; needed to purchase a water softener
Gerald R. Fabricatore	Scranton	Bad quality of service; details not provided
Robert Barry	Scranton	Claims that "water quality is terrible"
Keith Sauer	Reading, PA	Bad water quality; uses bottled water for unboiled consumables
Jim Davidson	Reading, PA	Unjustified rate increases compared to the poor water quality
Lynn Mugno	Reading, PA	Bad water flavor and smell; added an "expensive treatment just to shower and do laundry"
Anh Duong	Reading, PA	Water quality is "hard" and "borderline undrinkable"
Laura Semel	Parkeburg, PA	Long sewer line replacement times; brown and white water in pipes; had to run the water to clear sediment "due to their constant interruption of service (without notification)"
Robert Bifano	Archbald, PA	Low water pressure
Debra A. Sokol	Reading, PA	Bad water quality; water has "oily film to it"

We specifically highlight the following comments and complaints:

Comments

- Susan Brace from Dunmore stated her water is yellow, has an overwhelming chlorine smell, and therefore she installed a whole-home water filter.
- Sheila Eboli from Dunmore asserted the company had multiple water main breaks, her water is often brown, it smells like chlorine, is not drinkable, and she filters water for her pets.
- Marian Reidenback from Scranton submitted that her water is dirty and that she has to buy water to drink.

Complaints

- Michelle R. Miller from Carbondale stated that she needs filters to drink water and that old pipes are not replaced until there is an issue.

- Gary Shiner of Scranton asserted that he needs to buy bottled water to drink, his water is rusty, and that he is unable to do his laundry or dishes.
- Frank Sislo of Scranton submitted that his water smells like iodine. He stated that he purchases his drinking water and filters the tap water.

B. Disposition

Based upon the cumulative number of quality-of-service concerns raised in this proceeding via hearing, comments, and complaints, we find that further investigation by this Commission is warranted. Forty percent of such comments, and thirty-eight percent of such complaints raised pertain to the Lackawanna County region. As such, an investigation is necessary to determine the cause of these service quality issues, and, to ensure the Company effectively manages these issues toward remediation. In an effort to carry out this task, we shall direct the Commission's Law Bureau, in conjunction with the Bureau of Technical Utility Services (TUS), to implement an investigation into the quality-of-service issues in PAWC's northeastern service territory. Such investigation may entail conferencing with the utility, issuing data requests, or any other action deemed necessary by Commission Staff to explicate these issues. The Law Bureau, in conjunction with TUS, should coordinate with the Pennsylvania Department of Environmental Protection (PADEP), as it deems necessary, and should complete the investigation within nine months of the effective date of rates in this proceeding.

This investigation should culminate with the issuance of a root cause analysis report exhibiting any key findings. Further, the Bureaus' Staff may make recommendations for future actions by PAWC, including but not limited to, modification to Company practices, procedures, or its Long-Term Infrastructure Investment Plan (LTIIP). Finally, the Law Bureau, in conjunction with TUS, may refer its findings to I&E, the PADEP, or both, should it deem such action necessary.

IV. Legal Standards and Additional Preliminary Matters

A. Legal Standards

At issue here is the Company's request for a general base rate increase, which is governed by Section 1308(d) of the Code, 66 Pa.C.S. § 1308(d). Section 1308(d) of the Code provides the procedures for changing base rates, the time limitations for the suspension of the new rates, and the time limitations on the Commission's actions. 66 Pa.C.S. § 1308(d).¹³ "Under traditional ratemaking, utilities may not change rates charged to customers outside of a base rate case." *McCloskey v. Pa. PUC*, 127 A.3d 860, 863 n.2 (Pa. Cmwlth. 2015).

Section 1301(a) of the Code mandates that "[e]very rate made, demanded, or received by any public utility . . . shall be just and reasonable, and in conformity with [the] regulations or orders of the [C]ommission." 66 Pa.C.S. § 1301(a). Pursuant to the just and reasonable standard, a 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) (*City of Lancaster*). There is no single way to arrive at just and reasonable rates, and "[t]he [Commission] has broad discretion in determining whether rates are reasonable" and "is vested with discretion to decide what

¹³ Among other things, Section 1308(d) of the Code requires the Commission to render a final decision granting or denying, in whole or in part, the general rate increase requested by a public utility, within a general time frame not to exceed seven months from the proposed effective date of the utility's proposed tariff supplement. *See*, 66 Pa.C.S. § 1308(d); *see also*, 52 Pa. Code § 53.31 (requiring a tariff proposing a rate increase to be effective upon sixty days' advance notice). Unless the utility voluntarily extends the suspension period, the Commission's non-action within this timeframe means, by operation of law, the utility's proposed general rate increase will go into effect, as proposed, at the end of such period. *See*, 66 Pa.C.S. § 1308(d).

factors it will consider in setting or evaluating a utility's rates." *Popowsky v. Pa. PUC*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996) (*Popowsky*).

A public utility is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. *Pennsylvania Gas and Water Co. v. Pa. PUC*, 341 A.2d 239, 251 (Pa. Cmwlth. 1975) (citations omitted). In determining a fair rate of return, the Commission must adhere to the constitutional standards established by the United States Supreme Court in the seminal cases *Bluefield Water Works and Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679, 692-93 (1923) (*Bluefield*) and *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) (*Hope Natural Gas*). In *Bluefield*, the Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. 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 maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.

Bluefield, 262 U.S. at 692-93. Twenty years later, in *Hope Natural Gas*, the Supreme Court reiterated:

From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that

standard the return to equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

Hope Natural Gas, 320 U.S. at 603.

The Commission is required to investigate all general rate increase filings. *Popowsky*, 683 A.2d at 961. The burden of proof to establish the justness and reasonableness of every element of a public utility's rate increase request rests solely upon the public utility in all proceedings filed under Section 1308(d) of the Code. 66 Pa.C.S. § 315(a); *see also*, *Lower Frederick Twp. Water Co. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980) (*Lower Frederick*); *see also*, *Brockway Glass Co. v. Pa. PUC*, 437 A.2d 1067 (Pa. Cmwlth. 1981). Section 315(a) of the Code provides as follows:

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 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. *Lower Frederick* at 507.

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. There is no similar burden placed on parties to justify a proposed adjustment to the Company's filing. The Pennsylvania Supreme Court has held:

[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 v. Pa. PUC, 116 A.2d 738, 744 (Pa. 1955).

However, in proving that its proposed rates are just and reasonable, a public utility need not affirmatively defend every claim it has made in its filing, even those which no other party has questioned. As the Pennsylvania Commonwealth Court has held:

While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.

Allegheny Center Assocs. v. Pa. PUC, 570 A.2d 149, 153 (Pa. Cmwlth. 1990) (citation omitted); *see also*, *Pa. PUC v. Equitable Gas Co.*, 73 Pa. P.U.C. 301, 359-360 (1990).

Additionally, Section 315(a) of the Code cannot reasonably be read to place the burden of proof on the utility with respect to an issue the utility did not include in its general rate case filing and which, frequently, the utility would oppose. 66 Pa.C.S. § 315(a). The burden of proof must be on the party who proposes a rate increase beyond that sought by the utility. *Pa. PUC v. Metropolitan Edison Company*, Docket No. R-00061366, 2007 Pa. PUC LEXIS 5 (Order entered January 11, 2007). The mere rejection of evidence contrary to that presented by the public utility is not an

impermissible shifting of the evidentiary burden. *United States Steel Corp. v. Pa. PUC*, 456 A.2d 686 (Pa. Cmwlth. 1983).

In their Recommended Decision, the ALJs made 194 Findings of Fact and reached 14 Conclusions of Law. R.D. at 5-35, 389-91. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

Finally, any issue or Exception that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

B. The OCA's Motion

1. The OCA's Motion and PAWC's Answer

The OCA Motion was filed pursuant to 66 Pa.C.S. § 334(c) and 52 Pa. Code § 5.103, alleging that PAWC had engaged in ex parte communications with Commission employees, and requesting that the Commission: (1) find that PAWC engaged in prohibited ex parte communications under 66 Pa.C.S. § 334(b)-(c) when it gave a video presentation on May 20, 2024 at the annual meeting of the Pennsylvania Chapter of the NAWC relating to PAWC's receivership of the East Dunkard Water Authority (EDWA); (2) direct PAWC to cure the ex parte communication violation by circulating the video presentation to all the active parties in this proceeding; (3) admonish PAWC for its attempt to proffer extra-record evidence through prohibited ex parte

communications; (4) ensure that the Commission and Commission advisory staff assigned to this proceeding will not consider the extra-record video presentation as it relates to the issue of PAWC's claim for a management performance adder and its receivership of the EDWA system; and (5) consistent with paragraph 19 of the March 11, 2024 Order on Briefs and Closing of the Record issued by the ALJs, assure the parties that the Commission will not consider PAWC's position on its management performance adder claim as it pertains to PAWC's receivership of the EDWA system. OCA Motion at 1-2.

In support of its Motion, the OCA contends that the video presentation given by PAWC at the NAWC – Pennsylvania Chapter's annual meeting on May 20, 2024, contained information regarding PAWC's managerial performance, capital contributions, operational expenses, and improvements to the EDWA system, which PAWC manages in a receivership appointed by the Commonwealth Court of Pennsylvania, along with asserted improvements to communications to customers served by the EDWA system. The OCA states that, in the instant proceeding, PAWC is requesting up to twenty-five (25) basis points be added to its cost of equity for management performance and efficiency, including its receivership of EDWA; however, the OCA avers that PAWC did not present any record evidence in this proceeding regarding its management of the EDWA system. The OCA further states that the Recommended Decision in this proceeding only makes mention of the EDWA by way of reference to Public Input Hearing testimony and citation to PAWC's Reply Brief regarding how the Company has been appointed as receiver, and that there is no discussion in the Recommended Decision regarding capital improvements to the EDWA system or the efficacy of PAWC's management as receiver. OCA Motion at 5-7.

With respect to the video presentation on May 20, 2024, the OCA argues that PAWC's video presentation consisted of factual averments and images regarding PAWC's management of the EDWA water system. The OCA submits that evidence of the

efficacy of PAWC's management of the EDWA system as receiver is not admissible in this proceeding because it was presented after the close of record and is not otherwise admissible under the Commission's Regulations or Pennsylvania Rules of Evidence. In addition, the OCA avers that the NAWC annual meeting was not a public event, but open only to those who were invited, and included Commission staff that were present during the video presentation and who are responsible for advising Commissioners on decisions for proceedings before them, such as the instant proceeding. The OCA stated that not all of the Parties to the instant proceeding were invited to the NAWC annual meeting or present for PAWC's presentation. OCA Motion at 7-8.

The OCA submits that the PAWC presentation constitutes an ex parte communication, which is prohibited pursuant to 66 Pa.C.S. § 334 (b)-(c), because: (1) it was given to an invited audience that included employees of the Commission; (2) it pertained to the merits of PAWC's request for a cost of equity adder for management efficiency in the instant proceeding; (3) the instant proceeding constitutes a contested, on-the-record proceeding; and (4) any factual averments made by a party to this proceeding are off-the-record communications because the proceeding is still pending before the Commission after hearings were conducted and the record was closed. OCA Motion at 8-9. Moreover, the OCA avers that in prior proceedings before the Commission, Commission staff in receipt of ex parte communications have distributed such communications to the parties to the proceeding to ensure all parties remain apprised of all information provided to Commission staff. *Id.* at 9 citing *Zenmon v. Pa. Power Co.*, C-2022-3030679 (October 27, 2022) (*Zenmon*).

The OCA argues that the Commission should admonish PAWC because the Company is sophisticated legally and technically, and its counsel and management are well versed in the rules of process and procedure. In addition, the OCA states that admonishment may deter similar ex parte communications from occurring in the future. The OCA contends that PAWC knew, had reason to know, or should have known that:

(1) the instant proceeding was a contested, on-the-record proceeding that was currently pending before the Commission; (2) the information contained in the video and accompanying oral presentation was relevant to the Company's request for a management adder to its rate of return request; (3) PAWC did not present any evidence on the efficacy of its management of or capital improvements to the EDWA system following receipt of receivership; (4) PAWC was not obligated to provide a presentation on the EDWA at the NAWC annual meeting to which Commission staff were specifically invited; and (5) Commission staff who may influence the outcome of the instant proceeding would be in attendance at the presentation, the presentation before such Commission staff constituted an ex parte communication in violation of 66 Pa.C.S. § 334(c). OCA Motion at 10-11.

The OCA contends that PAWC must be directed to cure the violation by distributing its video presentation to all parties in the proceeding to ensure that procedural due process is considered by providing all parties with the opportunity to review the information provided in PAWC's video presentation at the NAWC annual meeting on May 20, 2024. Also, the OCA requests assurance that no information offered during PAWC's presentation will be considered by Commission employees when advising the Commission on its decision on the instant proceeding and that the Commission will rely solely on the record evidence presented prior to the close of record. Finally, the OCA argues that PAWC's claim for the management performance adder as premised on its management and receivership of the EDWA should not be considered as an appropriate sanction for the attempt to inject extra-record evidence into the instant proceeding through prohibited ex parte communications. OCA Motion at 11-13.

In conclusion, the OCA requests that the Commission grant the Motion and: (1) find that PAWC engaged in prohibited ex parte communications under 66 Pa.C.S. § 334(b)-(c) when it gave its video presentation on May 20, 2024 at the NAWC annual meeting; (2) direct PAWC to cure the ex parte communication violation by circulating the

video presentation to all the active parties in this proceeding; (3) admonish PAWC for its attempt to proffer extra record evidence through strictly prohibited ex parte communications; (4) ensure that the Commission and Commission advisory staff assigned to this proceeding will not consider the extra-record presentation as it relates to the issue of PAWC's claim for a management performance adder and its receivership of the EDWA system; and (5) assure the parties that the Commission will not consider PAWC's position on its management performance adder claim as it pertains to PAWC's receivership of the EDWA system. OCA Motion at 14.

In its Motion Answer, PAWC urges the Commission to reject the OCA Motion and OCA's attempt to prevent the Commission from considering PAWC's assistance to the community served by the EDWA through this allegation of ex parte communications. PAWC argues that the OCA is wrongly trying to do so by falsely claiming that a short, publicly-available video (video) played during a widely-attended annual meeting of a trade association (event) somehow constitutes an ex parte off-the-record communication. Motion Answer at 1.

PAWC portrays the event in question, at which the video was viewed, as an annual meeting of the Pennsylvania chapter of the NAWC, with chapters spread across the United States. PAWC states that this annual meeting was held on May 20, 2024, from 8:30 a.m. to 1:30 p.m., at which seven presentations were made, including one presentation, which was a 45-minute panel entitled "Executives' Panel Discussion" consisting of executives from regulated utilities and chaired by the NAWC-Pennsylvania Chapter leader. In that session, PAWC avers that the PAWC panelist presented a two-minute and forty-five second video that focused on PAWC's actions as a receiver of the troubled EDWA system, a system that is the subject of a separate and uncontested proceeding. PAWC explains that the panelist from PAWC, Justin Ladner, is President of PAWC and was one of several panelists, including the presidents of Aqua PA, Veolia, the York Water Company, and Columbia Water Company. PAWC emphasizes that the panel

topic was focused on timely issues facing the Commonwealth's regulated water and wastewater utilities, of which PAWC was one, and not this proceeding. Motion Answer at 2.

PAWC claims that the Section 334 prohibition in the Code regarding ex parte communications defines an ex parte communication as limited to any "off-the-record communication to or by any member of the commission," and that the video in question was neither "to or by" a member of the Commission nor did it address the merits of any "fact or issue" in this proceeding. PAWC further stresses that the event and the video are publicly available, and that the event at which the video was played was open to members and non-members with over 100 people in attendance. Motion Answer at 2.

PAWC disputes the OCA's claim as a mischaracterization of the video as part of its effort to have the Commission disregard the undisputed record evidence related to PAWC's appointment as a receiver for EDWA when deliberating on a management performance adjustment to their authorized Return on Equity (ROE) sought by PAWC in this proceeding. PAWC dismisses this OCA effort, to undermine PAWC's demonstrated management performance, as entirely inappropriate.¹⁴ Motion Answer at 2-3.

PAWC also disputes the OCA's requests to have the Commission circulate the video to all Parties and provide assurances that no information offered by PAWC during the NAWC meeting will be considered by the Commission. PAWC states that the video had already been distributed by the Commission and PAWC does not object to the

¹⁴ PAWC notes that prior to being publicized on YouTube, the video presented at the event was slightly revised to address a safety concern by replacing a brief image that was in the original version. Motion Answer at 3, n. 6. PAWC further states that the video uploaded to the Commission's Sharepoint site, in response to the *May 2024 Secretarial Letter*, was the same version of the video shown at the NAWC event. *Id.* at 4, n. 8.

Commission assuring the OCA that the video played no role in the recommendations or determinations in this proceeding. Motion Answer at 4.

Furthermore, PAWC asks the Commission to deny the OCA Motion because the video is not an ex parte communication in violation of Section 334 of the Code. PAWC avers that the video was not a communication “by or to” the Commission or Commission staff, the subject matter of the video was not “regarding the merits of any fact in issue” in the proceeding. PAWC claims that watching the video at the event was no different than coming across a newspaper article or televised news event on PAWC’s actions as a receiver. PAWC submits that the presentation of the video was to a public audience during an industry meeting that happened to include some Commission employees, and that this bears no resemblance to those off-the-record communications that are relied upon as precedent in the OCA Motion. Motion Answer at 6-7.

PAWC contends that precedent has not classified filings that pointed out a calculation error, after the Commission adopted a motion, regarding the amortized return of taxes, as ex parte communications. Moreover, PAWC argues that the video does not address the merits of PAWC’s rate case nor the receivership that is the subject of an uncontested docketed proceeding. PAWC further notes that no Commission staff raised concerns about the video being an ex parte communication at the event. Motion Answer at 6-10.

2. Disposition

These currently pending rate proceedings contain contested on the record matters before the Commission for disposition. Consequently, these proceedings are subject to the statutory prohibition on ex parte communications under Section 334(c) of the Code. 66 Pa.C.S. § 334(c).

Upon review of the OCA Motion and PAWC's Motion Answer, we deem the OCA Motion to be moot and find that there is no need to consider or take any further action with respect to the issues raised in the OCA Motion. We conclude that determining whether or not the video presentation provided by PAWC at the NAWC annual meeting held on May 20, 2024 may constitute an ex parte communication, as defined and prohibited by 66 Pa.C.S. § 334, is not necessary at this time.

Assuming otherwise, *arguendo*, in the event an ex parte communication occurs, the proper remedy is to circulate all such communications received to all parties to the contested, on the record proceeding. *See, Zenmon; Haverstick v. Pa. Office of Att'y Gen.*, 273 A.3d 600; *Pa. PUC v. Pennsylvania Electric Co.*, Docket Nos. R-80051197; C-80072106, 54 Pa. PUC 436 (Order entered December 4, 1980). Upon receipt of the OCA Motion, out of an abundance of precaution, the Commission, in its *May 2024 Secretarial Letter*: (1) provided notice to the Parties in this proceeding concerning the video; (2) created a link on its website for interested Parties to access the video; (3) enclosed a copy of the OCA Motion; and (4) provided an opportunity for Parties to file a response to the OCA Motion. *See, May 2024 Secretarial Letter* at 1-2.

Inasmuch as the *May 2024 Secretarial Letter* provided the Parties to this proceeding with notice of, and access to, the video presentation, as well as an opportunity to comment on the OCA Motion, we find that any potential ex parte communication violation was appropriately and successfully remedied. Therefore, there is no reason to consider further or take action regarding this issue at this time. Accordingly, the OCA's Motion is deemed to be moot.

V. Rate Base

Rate base, also known as measure of value, is the depreciated original cost of a utility's investment in plant a utility has in place to serve customers plus other

additions and deductions that the Commission determines to be necessary in order to keep the utility operating and providing safe and reliable service to its customers. I&E St. 3 at 78. Rate base is one part of the financial equation used by the Commission to determine the appropriate revenue that a utility is granted in a rate proceeding.

According to PAWC, its final total claimed rate base of \$6,071,315,148 for the FPFTY ending June 30, 2025, reflects the culmination of four separate rate base claims: (1) \$4,700,940,379 associated with the proposed revenue requirement of its water operations; (2) \$649,336,105 associated with the proposed revenue requirement of its wastewater SSS operations; (3) \$489,501,661 associated with the proposed revenue requirement of its CSS wastewater operations; and (4) \$231,537,003 associated with the proposed revenue requirement of its anticipated acquisition of BASA.¹⁵ The calculations of each of these amounts are shown in PAWC Exhibit 3-A Revised under the respective rate base sections for each revenue requirement, which are summarized in Table 5, as follows:

¹⁵ As previously noted, in light of the concerns raised by the Parties in this proceeding regarding the Company's acquisitions that have not yet closed, PAWC revised its request for rate relief to remove the Brentwood acquisition and to incorporate Step 2 rates for the BASA acquisition, reflecting the Commission-approved BASA ratemaking rate base only after the transaction closes. PAWC M.B. at 10.

Table 5: PAWC's FPFTY Rate Base Claim

	Water	WW SSS General	WW CSS	BASA	Total
Utility Plant in Service	\$7,350,692,906	\$1,011,374,526	\$867,858,794	\$243,068,327	\$9,472,994,553
Less:					
Reserve for Depreciation	\$1,241,627,202	\$256,394,760	\$297,870,665	\$8,496,233	\$1,804,388,860
Total Depreciated Plant in Service	\$6,109,065,704	\$754,979,766	\$569,988,129	\$234,572,094	\$7,668,605,693
Add:					
Materials and Supplies	\$21,781,099	\$439,941	\$492,348	\$117,597	\$22,830,985
Cash Working Capital - Expenses	\$23,152,054	\$2,235,324	\$1,881,933	\$373,674	\$27,642,985
Accrued and Prepaid Taxes	\$1,684,837	\$352,273	\$245,319	\$65,342	\$2,347,771
Acquisition Adjustments	\$13,205,080	\$3,749,235	\$3,686,015	\$1,092,393	\$21,732,723
Other Additions	\$327,057	\$0	\$0	\$0	\$327,057
Deduct:					
CIAC	\$290,552,978	\$50,089,276	\$12,011,932	\$0	\$352,654,186
Customer Advances	\$63,679,220	\$833,590	\$0	\$0	\$64,512,810
Excluded Property	\$1,558,014	\$0	\$0	\$0	\$1,558,014
CWC - Int and Div	\$8,347,179	\$1,186,101	\$894,111	\$422,915	\$10,850,306
Unamortized Itc (3%)	\$213,324	\$0	\$0	\$0	\$213,324
Extension Deposits in Suspense	\$20,895	\$0	\$0	\$0	\$20,895
Citizens Acquisition CIAC & CAC	\$17,729,494				\$17,729,494
Tax Cuts and Jobs Act - Stub Period	\$1,508,401	\$84,324	\$64,842	\$0	\$1,657,567
Other Deductions	\$431,508	\$0	\$0	\$0	\$431,508
Deferred Income Taxes	\$1,084,234,439	\$60,227,143	\$73,821,198	\$4,261,182	\$1,222,543,962
PAWC's Rate Base Claim	\$4,700,940,379	\$649,336,105	\$489,501,661	\$231,537,003	\$6,071,315,148

See, PAWC Exh. 3-A Revised at 25R, 96R, 145R, 217R.

The depreciated plant-in-service is determined by subtracting the book reserve, which is the accumulation of all prior annual depreciation expense, and other items such as retirements and salvage value, from the original cost of the plant-in-service that is projected to be used and useful in the public service at the end of the FPFTY. I&E St. 3 at 78.

Further, for a utility plant to be included in rates, the plant must be used and useful in the provision of utility service to the customers. Therefore, by definition, only plant currently providing or capable of providing utility service to customers or plant

projected to be completed and in service by the end of the FPFTY is eligible to be reflected in rates.

PAWC has proposed the inclusion of two water system acquisitions in this base rate proceeding: (1) Farmington Township (Farmington); and (2) Audubon Water Company (Audubon),¹⁶ as well as three wastewater system acquisitions:

(1) Farmington;¹⁷ (2) Sadsbury Township Municipal Authority (STMA),¹⁸ and (3) BASA. Therefore, the Company's rate base claims include the cost of water assets to be acquired from Farmington and Audubon, and the wastewater assets to be acquired from Farmington, STMA, and BASA. PAWC M.B. at 5.

I&E and the OCA contended that the five¹⁹ anticipated acquisitions should be excluded from this base rate proceeding, as it would be improper to approve rate recovery at this time-because there is no way to know whether, and when, those

¹⁶ On September 21, 2023, PAWC filed an application for Commission approval to acquire Audubon at Docket No. A-2023-3043194.

¹⁷ On August 28, 2023, PAWC filed an application for Commission approval to acquire Farmington (wastewater) at Docket No. A-2023-3042587 and Farmington (water) at Docket No. A-2023-3042567.

¹⁸ On August 3, 2023, PAWC filed an application for Commission approval to acquire STMA at Docket No. A-2023-3042058.

¹⁹ Including Brentwood, *supra*, the Company originally proposed to include six anticipated acquisitions in this rate proceeding.

transactions will be approved.^{20, 21} I&E M.B. at 11; OCA M.B. at 10. The arguments surrounding these objections to the Company's claim for rate recognition of the pending acquisitions, as it relates to its impact on rate base, are discussed below.²²

The second remaining point of contention regarding the calculation of the appropriate rate base is the OCA's disagreement with the service life/survivor curve information used in PAWC's depreciation studies for its water operations, and therefore, proposed adjustments to the Company's claimed depreciation reserve.

²⁰ The OSBA did not propose any adjustments pertaining to the STMA or the Farmington acquisitions. However, with respect to the acquisitions of BASA and Audubon, the OSBA stated that, if any acquisition does not close, all of the costs of the non-closing acquisition should be removed from PAWC's revenue requirement. If the BASA and Audubon acquisitions do close, however, the OSBA proposed "mitigation" adjustments that would: (1) deny the Company recovery of all amortization expense and rate base related to the Audubon acquisition in excess of the net book value of Audubon's assets; and (2) require PAWC shareholders to absorb a portion of the PUC-approved ratemaking rate base for the BASA acquisition. OSBA St. 1 at 20-26, 28-30. The BASA mitigation adjustment is discussed more fully in Section VI.D of this Opinion and Order, *infra*.

²¹ PAWC stated that if, however, the Commission agrees with the OCA, I&E, and the OSBA with respect to the certainty of closing the BASA acquisition, PAWC's proposed two-step rate increase structure addresses this concern. *See*, PAWC St. 1-R at 4. According to PAWC's proposal, Step 1 rates would become effective on August 7, 2024 (the end of the normal suspension period in this case). Step 2 rates would become effective on one day's notice, no earlier than August 7, 2024, and only after the Company has certified to the Commission that it closed on the BASA acquisition. If, for any reason, the BASA acquisition does not close, Step 2 rates would never become effective. PAWC stated that this two-step methodology ensures that customers are protected by not allowing any rate changes to occur until the Company has closed on the purchase of the BASA system. PAWC R.B. at 12-13.

²² As discussed, *infra*, the denial of any rate base recognition related to these pending acquisitions, as claimed by the Company, results in concomitant adjustments to O&M expenses, operating revenue, taxes, amortization expense, and depreciation expense.

A. Utility Plant-in-Service

1. Positions of the Parties

PAWC's revenue requirement, as presented in PAWC's Exhibit 3-A Revised, reflected a ratemaking rate base claim for each of the five not yet completed acquisitions. According to PAWC, these acquisitions were included in the filing because the Company anticipates them closing before the end of the FPFTY. See, PAWC St. 6-R at 12. PAWC's witness, Mr. E. Christopher Abruzzo, estimated that each of the acquisitions discussed above could be closed within a few weeks following approval. PAWC St. 6-R at 3-5. PAWC cited to its two prior base rate cases in *Pa. PUC v. Pennsylvania American Water Company*, Docket Nos. R-2020-3019369 and R-2020-3019371 (Opinion and Order entered February 25, 2021) (*PAWC 2020*) and *Pa. PUC v. Pennsylvania American Water Company*, Docket No. R-2022-3031672 (Order entered December 8, 2022) (*PAWC 2022*). PAWC asserted that there is no reason to treat the pending acquisitions at issue in this current base rate proceeding any differently than any other plant that the utility places in service during the FPFTY or any differently than the Commission treated the Company's pending acquisitions in *PAWC 2020* and *PAWC 2022*, wherein the Commission allowed the Company's then-pending acquisitions to be included in PAWC's rates.²³ PAWC M.B. at 12-14.

²³ See, PAWC M.B. at 13-14 (citing *Application of PAWC, Pursuant to the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1102(a) and 1329, for Approval of the Transfer, by Sale, of the Wastewater Collection and Treatment System of the Borough of Kane Authority*, Docket No. A-2019-3014248 (Order entered June 18, 2020); *Pa. PUC v. Winola Water Co.*, Docket No. P-2018-3006216 (Order entered August 6, 2020) (*Winola Water 2020*) (Section 529 acquisition); *Investigation Instituted per Section 529 Into Whether the Commission Shall Order a Capable Public Utility to Acquire Delaware Sewer Company*, Docket No. I-2016-2526085 (Opinion and Order entered March 26, 2020) (*Delaware Sewer 2020*); *Application of PAWC to Acquire the Wastewater Collection and Treatment System Owned by the York City Sewer Authority*, Docket No. A-2021-3024681 (Order entered April 14, 2022) (Section 1329 transaction); *Application of PAWC under Sections 1102 and 1329 of the Pa. Public Utility Code, to*

PAWC characterized its dispute with I&E, the OCA, and the OSBA regarding the pending acquisitions at issue in this current proceeding as one of timing. PAWC stated that as explained in its Main Brief, including assets in a rate case is appropriate, if those assets will be used and useful by the end of the FPFTY. According to the Company, the Commission should not find that closing on an acquisition must occur prior to the closing of the record in a rate case. Instead, PAWC contended that when the Commission enters its final order in this proceeding, it should review the status of the acquisition proceedings and determine whether closing is reasonably certain to occur before the end of the FPFTY. PAWC R.B. at 10-11.

According to PAWC's filing, of its claimed \$4,700,940,379 rate base related to its water operations, the Company is reflecting \$2,502,811 of net plant as a result of the Farmington (water) acquisition and \$360,229 as a result of the Audubon acquisition. Likewise, of its claimed \$649,336,105 Wastewater SSS rate base, PAWC is reflecting \$2,826,700 and \$1,935,612 of net plant as a result of the Farmington (wastewater) and STMA acquisitions, respectively, as illustrated in Table 6 below.

Acquire the Wastewater Collection and Conveyance System of Upper Pottsgrove Twp., Docket No. A-2020-3021460 (Order entered September 15, 2021); Application of PAWC to Acquire Certain Wastewater Assets from Foster Township, Docket No. A-2021-3028676 (Order entered July 14, 2022) (Section 1102 acquisition); Application of PAWC to Acquire Certain Water System Assets from Creekside Homeowners Association, Docket No. A-2022-3031020 (Order entered May 18, 2023) (Section 1102 acquisition)).

Table 6: PAWC's FPFTY Rate Base Attributable to Pending Acquisitions

		Water		Wastewater SSS General	
		Farmington (Water)	Audubon	Farmington (WW)	STMA
<u>Utility Plant in Service</u>					
Total Utility Plant in Service	*	\$5,257,100	\$9,187,482	\$5,720,178	\$3,390,193
Depreciation Reserve	**	(\$1,079,659)	(\$6,101,415)	(\$1,689,290)	(\$849,730)
Depreciated Utility Plant in Service		\$4,177,441	\$3,086,067	\$4,030,888	\$2,540,463
CIAC	**	(\$1,674,630)	(\$2,725,838)	(\$1,204,188)	(\$604,851)
Net Utility Plant in Service		\$2,502,811	\$360,229	\$2,826,700	\$1,935,612
<u>Acquisition Costs</u>					
Acquisition Adjustment	***	\$195,736	\$6,939,459		
Transaction Costs	***	\$49,799	\$107,142	\$51,761	\$83,085
Total Acquisition Adjustment		\$245,535	\$7,046,601	\$51,761	\$83,085
Claimed FPFTY Rate Base		\$2,748,346	\$7,406,830	\$2,878,461	\$2,018,697

* See , PAWC Exh. 3-A at 26, 97

** See , PAWC Exh. 3-C at 14-15, 21, 23, 28-31

*** See , PAWC Exh. 3-A at 36, 106

I&E's and the OCA's opposition to the inclusion of these not-yet-acquired systems in the Company's FPFTY ratemaking rate base is based largely on the fact that PAWC does not own the systems, and the transaction closing dates, if any, are unknown. I&E St. 3 at 6; I&E St. 4 at 5-6; I&E M.B. at 10-11; OCA M.B. at 22. I&E asserted that PAWC has the burden to demonstrate that the property is actually used and useful in the public service, and since the Audubon, Farmington, STMA, and BASA acquisitions have not closed, the property is not owned by PAWC nor is the property used and useful in service to its customers. I&E M.B. at 10-11. The OCA's witness, Mr. Ralph Smith, proposed two conditions precedent for inclusion of the to-be-acquired systems in rates: (1) a final Commission Order approving the acquisition; and (2) no uncertainty as to

whether the utility will close on the acquisition for reasons other than Commission approval. OCA St. 2 at 19; OCA St. 2-SR at 21.

Therefore, according to I&E, given that there is no reasonable certainty that the Audubon, Farmington, STMA, or BASA systems will be acquired and used and useful by the end of the FPFTY, I&E proposed that the revenue requirement associated with these systems be removed from the present proceeding, including all costs, revenues, taxes, and amortizations. I&E M.B. at 13-15. Likewise, the OCA argued that the Commission should deny PAWC's utility plant-in-service claims for property the Company aspires to own but does not yet own because PAWC has failed to demonstrate, by a preponderance of evidence, that there is reasonable certainty that the property will be acquired and used and useful by PAWC by the end of the FPFTY. OCA M.B. at 22.

Further, the OCA rejected PAWC's proposed multi-step revenue increase for two main reasons. First, Step 1 of the proposal allows the proposed acquisitions for Audubon, Farmington (water and wastewater), or STMA to be included for ratemaking purposes. Second, the OCA stated that it is not known under what terms or conditions any of these acquisitions would close, or if they will close. For example, the OCA reasoned, BASA could be remanded by an appellate court and conditions or renegotiations could impact ratemaking rate base or result in other costs. But under PAWC's multi-step proposal, rates would increase in Step 2 as claimed in PAWC's filing, with no recognition of those changes. OCA St. 2-SR at 16-17. The OCA argued this presents due process concerns because parties present evidence in response to the Company's proposal regarding utility property in an acquisition proceeding only to have to respond to the Company's different proposal about the same utility property in the parallel rate proceeding. The OCA posited that it also has the effect of usurping the Commission's authority to make decisions on legal issues as the Company presents its position in one proceeding (*i.e.*, an acquisition proceeding) only to "pull the rug out from under" that position in a parallel proceeding (*i.e.*, the base rate case). Additionally, the

OCA stated that the Company's rebuttal proposal, as modified in rejoinder, would circumvent the procedural due process afforded to parties by PAWC needing to petition to reopen the record. OCA M.B. at 30-31 (citing OCA St. 2-SR at 18).

2. Recommended Decision

In their Recommended Decision, the ALJs agreed with the positions of I&E and the OCA that it would be premature to include the five anticipated acquisitions in PAWC's FPFTY rate base, and therefore, recommended that PAWC's rate base exclude utility plant-in-service related to Audubon, Farmington (water and wastewater), STMA, and BASA.^{24, 25} R.D. at 73-77. The ALJs noted that, with the exception of BASA, these acquisitions are currently pending before the Commission, and Commission action could necessitate a change to depreciated original cost or any acquisition adjustment for the difference between purchase price and depreciated original cost or may deny the proposed transaction in its entirety. R.D. at 75 (citing I&E M.B. at 12-13; OCA R.B. at 22-23).

Further, the ALJs found that I&E and the OCA adequately distinguished the disputed acquisitions from the pending acquisitions that were allowed to be included in the Company's rates in *PAWC 2020* and *PAWC 2022*, reasoning as follows:

First, I&E detailed how the Commission had entered orders approving the acquisitions for the Borough of Kane Authority, Winola Water Company, Delaware Sewer

²⁴ As discussed in Section VI.D, *infra*, the ALJs noted that they did not make a recommendation concerning the OSBA's advocated BASA mitigation adjustment since they did not recommend that BASA be included in PAWC's FPFTY rate base. See, R.D. at 77, 94.

²⁵ The ALJs also agreed with the OCA, recommending that, since the BASA and Brentwood systems should be excluded from the FPFTY rate base, PAWC's claims for rate base additions for improvements to these systems should similarly be excluded. R.D. at 77.

Company, York City Sewer Company, and Upper Pottsgrove Township before the record had closed in the relevant rate cases. Although not included in I&E's Reply Brief, the Commission similarly approved the Foster Township acquisition by an order entered on July 14, 2022, which was before the record closed in PAWC's 2022 base rate proceeding. In this proceeding, as shown by PAWC's status descriptions above, the Commission has not approved any of the disputed Acquisitions, except BASA. The Commission did not approve the Creekside Development acquisition until May 2023, which was after 2022 base rate case record had closed. However, we agree with I&E that this case is distinguishable as a non-litigated proceeding involving only 49 residential customers. We also agree with the OCA that the acquisitions included in the 2020 and 2022 rate cases are distinguishable because acquisitions in those proceeding were in the context of cases where there were settlements.

R.D. at 75-76 (citations omitted).

Additionally, the ALJs concluded that the BASA acquisition should not be included in PAWC's FPFTY rate base at this time because there is no basis to predict how the Commonwealth Court or, if the case is appealed, the Supreme Court of Pennsylvania will act on the BASA acquisition with any certainty. Likewise, the ALJs agreed with the concerns outlined by the OCA and recommended that the proposed two-step rate increase, conditioned upon the closing date of the BASA transaction, not be approved, since there is no certainty that the BASA acquisition will close with the same terms approved by the Commission because an appellate court could remand the case to the Commission for further proceedings. R.D. at 76-77.

3. PAWC Exception No. 3 and Replies

In its Exception No. 3, PAWC objects to the ALJs' recommendation to deny the two-step rate increase proposal and exclude the BASA acquisition from rates,

contending that BASA is distinguishable from the STMA, Farmington, and Audubon acquisitions, since it has been approved by the Commission and has a separate revenue requirement, such that the rate impact can be implemented conditioned on the transaction closing as approved before the end of the FPFTY.²⁶ PAWC Exc. at 13.

In support, PAWC maintains that “Section 315(e) does not require *absolute certainty* that the facilities will be in service by the end of the FPFTY.” PAWC Exc. at 14. PAWC submits that, as noted in the Recommended Decision, in *PAWC 2020* and *PAWC 2022*, the Commission approved including several acquisitions in PAWC’s rates before closing occurred. *Id.* (citing R.D. at 75). PAWC explains that while the Commission’s decision in *BASA* has been appealed to the Commonwealth Court, it expects to close as soon as a decision becomes final and unappealable and that it is reasonably certain that BASA will close prior to the end of the FPFTY. PAWC Exc. at 13-14.

Asserting that it is prudent and fair for the BASA acquisition to be timely integrated into PAWC’s rates in order to mitigate regulatory lag, the Company notes that it does not object to the Step 2 rates being conditioned on a final, non-appealable Commonwealth Court order affirming the Commission’s decision in *BASA* approving the BASA transaction without modification. PAWC Exc. at 15.

In their Replies, I&E, the OCA, and the OSBA each assert that the ALJs correctly determined that all six of the acquisitions, including BASA, should be excluded from this base rate proceeding. I&E R. Exc. at 6-7; OCA R. Exc. at 2; OSBA R. Exc. at 2.

²⁶ PAWC notes that it does not except to the ALJs’ recommendation to exclude the STMA, Farmington, and Audubon acquisitions from the Company’s rates at this time. PAWC Exc. at 13. Thus, PAWC has waived any claim that it has to include each of those systems in ratemaking rate base for the FPFTY in this proceeding.

The OCA maintains that it does not dispute that the Commission can take official notice of a final, unappealable order in another proceeding, pursuant to 52 Pa. Code § 5.408. However, the OCA explains that what PAWC is asking the Commission to do is to take official notice that the acquisitions at issue will close in the FPFTY – a fact that does not exist in the record – and to simultaneously adopt PAWC’s ratemaking claims related thereto without modification. OCA R. Exc. at 3 (citing OCA R.B. at 22). The OCA argues that, given that the record is closed, the Parties to the instant base rate case must have an opportunity to respond to the new fact of the occurrence of an acquisition closing, the determinations of the final, unappealable order, and the resulting impact on PAWC’s ratemaking claims related thereto. The OCA contends that to hold otherwise would create an undue burden on party litigants in base rate cases to take multiple positions on the same issue in a rate case based on various steps of acquisitions being approved by the end of the FPFTY despite none of the closings having occurred on or before the close of the record in the base rate case. OCA R. Exc. at 4.

On the issue of regulatory lag, the OCA submits that the FPFTY is designed to reduce regulatory lag for utilities; however, for the concept to not be abused, there must be reasonable certainty by the close of the record in the rate case that the property claimed in rate base will be used and useful by the end of the FPFTY. OCA R. Exc. at 4 (citing *Pa. PUC v. UGI Utilities, Inc. - Electric Division*, Docket No. R-2017-2640058, at 27-31 (Opinion and Order entered October 25, 2018) (*UGI Electric 2018*) *aff’d* by *McCloskey v. Pa. PUC*, 225 A.3d 192 (Pa. Cmwlth. 2020)).

In its Replies, the OSBA argues that “PAWC’s torturing of the statutory language (‘absolute certainty!’) is a baseless argument that should be rejected by the Commission.” Rather, the OSBA explains that Section 315(e) of the Code requires “appropriate data evidencing the accuracy of the estimates contained in the future test year,” and as no one can predict the actions of the Commonwealth Court, no such

“accuracy” regarding the outcome of the BASA case can be ascertained. OSBA R. Exc. at 2.

4. Disposition

PAWC’s original request for rate relief included six acquisitions that had not yet closed; two water system acquisitions: (1) Farmington (water) and (2) Audubon, as well as four wastewater system acquisitions: (1) Farmington (wastewater); (2) STMA; (3) BASA; and (4) Brentwood. Ultimately, in light of the concerns the Parties have raised in this proceeding with the Company’s acquisitions that have not yet closed, PAWC revised its request for rate relief to remove the Brentwood²⁷ acquisition and to incorporate Step 2 Rates for the BASA acquisition to ensure that customers do not pay rates reflecting the Commission-approved BASA ratemaking rate base until that transaction closes. PAWC M.B. at 10.

As discussed, *supra*, I&E and the OCA argued against the inclusion of utility plant-in-service related to Audubon, Farmington, STMA, and BASA in PAWC’s claimed FPFTY rate base. Upon review, we agree with the ALJs that it would be premature to include the five anticipated acquisitions, including BASA, in PAWC’s FPFTY rate base, and therefore, PAWC’s rate base should exclude utility plant-in-service related to Audubon, Farmington (water and wastewater), STMA, and BASA.

The Company’s position is based on the assumption that the Commonwealth Court will find in PAWC’s favor with respect to *BASA*, and that if it does, no party to that proceeding will file a further appeal. PAWC’s prediction is pure speculation; the Commission cannot assume that PAWC correctly knows with any

²⁷ The Commission’s decision in *Brentwood* ultimately denied PAWC’s acquisition application.

certainty how the Commonwealth Court will rule on this matter. Therefore, accepting such assumptions is not in the public interest.

Further, PAWC's suggestion – that the frequency of its rate cases may increase if the Commission's decision in *UGI Electric 2018* is followed here – rings hollow given the frequency of PAWC's filings. PAWC uses a Distribution System Improvement Charge (DSIC)²⁸ and the FPFTY,²⁹ and both tools are meant to reduce rate case frequency; yet this is PAWC's rate case in four years, even though it was allowed to include not-yet-acquired property in the rate case settlements in both *PAWC 2020* and *PAWC 2022*. It is within PAWC's discretion as to when it files a base rate case and a decision by this Commission will not dictate its timing. Indeed, it was PAWC that decided to file the current base rate case within the same year that base rates increased from its 2022 rate filing, rather than waiting until the BASA acquisition could be properly included in the FPFTY.

Therefore, BASA should be excluded from the Company's rate base claim in this proceeding, including PAWC's claims for rate base additions for improvements to this system. Additionally, related revenue, expenses, taxes, and the corresponding revenue shortfall of \$25,322,947³⁰ from the BASA system should be similarly excluded

²⁸ A DSIC is a surcharge on customers' bills that is revised quarterly and allows recovery of costs to replace aging infrastructure between rate cases. 66 Pa.C.S. §§ 1353, 1357. Therefore, it "provides utilities with an additional rate mechanism to recover the capitalized costs related to repair, improvement, and replacement [of] utility infrastructure. A DSIC can reduce regulatory lag, improve access to capital at lower rates, and accelerate infrastructure improvement and replacement." *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Final Implementation Order entered August 2, 2012) at 57 (*Act 11 Implementation Order*).

²⁹ An FPFTY was implemented by the Pennsylvania legislature to "reduce regulatory lag due to the use of rate case inputs that are outdated by the time new base rates become effective and, further, to provide more ratemaking flexibility for the timely recovery of prudently incurred infrastructure costs." *Act 11 Implementation Order* at 4.

³⁰ See, PAWC M.B., Appendix A, Table Act 11 – Step 2.

from this proceeding. Excluding such property in this case protects the public interest by ensuring that utility consumers, who ultimately pay the revenue requirement to the utility, will pay enough, *but no more than is necessary*, to ensure that service remains adequate, reliable and safe, while allowing the utility to have the opportunity to recover its costs and earn a fair rate of return on its investments. Accordingly, we shall deny PAWC's Exception No. 3.

Consistent with the above, as set forth in Table II-Water and Table II-Wastewater SSS, in the rate tables that outline the Commission Tables Calculating Allowed Revenue Increase, which are attached to this Opinion and Order, we shall remove the following claimed net utility plant-in-service amounts: (1) \$360,229 of net utility plant-in-service associated with the Audubon system; (2) \$2,502,811 of net utility plant-in-service associated with the Farmington (water) system; (3) \$1,935,612 of net utility plant-in-service associated with the STMA system; and (4) \$2,826,700 of net utility plant-in-service associated with the Farmington (wastewater) system.

B. Depreciation Reserve

1. Positions of the Parties

The Company's depreciation reserve, based upon the Straight-Line Average Remaining Life Method, was calculated by the Company's witness, Mr. John J. Spanos, and was applied to the original costs of Company plant-in-service on June 30, 2023,

June 30, 2024, and June 30, 2025.³¹ *See*, PAWC St. 4 at 21; *see also generally*, PAWC St. 11.

As discussed, *supra*, I&E and the OCA argued against the inclusion of utility plant-in-service related to Audubon, Farmington, STMA, and BASA in PAWC's claimed FPFTY rate base. Concomitant to I&E's and the OCA's previously discussed proposals are adjustments to the Company's claimed depreciation reserve at the end of the FPFTY. These adjustments remove the amount of depreciation reserve that the Company included in the FPFTY related to the Audubon, Farmington, STMA, and BASA pending acquisitions, as shown in Tables 5 and 6, above.

In order to estimate the Company's depreciation reserve as of June 30, 2023, June 30, 2024, and June 30, 2025, Mr. Spanos completed depreciation studies to estimate the annual depreciation accruals related to water and wastewater plant-in-service. *See generally*, PAWC St. 11. PAWC stated that service life studies were the basis for the service lives and survivor curves Mr. Spanos used to calculate annual accruals. PAWC's most recent service life studies were performed in 2022 for the Company's water assets (based on plant data through 2021) and in 2020 for its wastewater assets (based on plant data through 2019). *Id.* at 7.

The OCA has raised concerns regarding service lives for some water plant accounts and corresponding annual depreciation expense. The OCA argued that recent shortening of service lives has increased annual depreciation expense for PAWC's water

³¹ PAWC Exhs. 11-A, 11-D, and 11-K present the results of the depreciation studies for each water and wastewater operation as of June 30, 2023, except BASA and Brentwood because PAWC was not anticipating acquiring those systems until the FTY. PAWC Exhs. 11-B, 11-E, 11-G, 11-I, and 11-L present the results of the depreciation study for each water and wastewater operation as of June 30, 2024. PAWC Exhs. 11-C, 11-F, 11-H, 11-J, and 11-M present the results of the depreciation study for each water and wastewater operation as of June 30, 2025.

operations by \$15.479 million. OCA St. 2 at 64-66. Specifically, the OCA’s witness, Mr. Smith, objected to PAWC’s use of service life/survivor curve information from the most recent water asset service life study (the 2021 Water Service Life Study) for three water accounts, as follows:

Account (Water)	Prior Approved Useful Life R-2022- 3031673	PAWC’s Proposed Useful Life	Years shortened by PAWC	OCA’s Recommended Useful Life
Acct. 304.15, Other Water Source Structures	60	50	10	60
Acct. 331.00, Mains and Accessories	110	90	20	110
Acct. 335.00, Fire Hydrants	75	60	15	75

See, OCA M.B. at 44. Contending that PAWC has not justified the shortening of useful service lives for certain water plant, which was a change from PAWC’s last base rate case in *PAWC 2022*, the OCA proposed a downward adjustment to depreciation expense of \$15.479 million. See, OCA Exh. LA-2, Sch. C-17.

PAWC asserted that Mr. Smith’s objections have no reasonable basis and should be rejected by the Commission. First, regarding water accounts 304.15 (Other Water Source Structures), 331.00 (Mains and Accessories), and 335.00 (Fire Hydrants), Mr. Smith argued that information from the 2021 Water Service Life Study should not be used solely because the life parameters were “drastically shortened” as compared to the service life information presented in PAWC’s 2022 rate case proceeding that was taken from an earlier service life study (the 2016 Water Service Life Study). For these three water accounts only, he recommended use of the outdated service life information from the 2016 Water Service Life Study. In his rebuttal testimony, Mr. Spanos provided detailed survivor curve information for the three water accounts at issue and shows that, for each account, the updated information from the 2021 Water Service Life Study was a better statistical fit with the most current historical data than the 2016 Water Service Life Study. PAWC M.B. at 18-19 (citing PAWC St. 11-R at 5-10).

2. Recommended Decision

In their Recommended Decision, the ALJs agreed with PAWC that it demonstrated that its 2021 Water Service Life Study was a better statistical fit with the most current historical data than the 2016 Water Service Life Study. Therefore, the ALJs recommended that the Commission adopt PAWC's claim for depreciation reserve; however, the ALJs noted that consistent with their recommendation regarding utility plant-in-service, above, depreciation reserve related to Audubon, Farmington, STMA, and BASA should be excluded. R.D. at 79-80.

3. OCA Exception Nos. 3 and 9 and Replies

In its Exception Nos. 3 and 9, the OCA objects to the ALJs' recommendation that the Commission accept PAWC's use of service life/survivor curve information from the 2021 Water Service Life Study, rather than utilizing data from the previous 2016 Water Service Life Study. OCA Exc. at 5-6,12.

For the reasons argued, *supra*, as well as summarized in the Section VII.O of this Opinion and Order, *infra*, PAWC asserts that the Commission should reject the OCA's proposed \$15.5 million downward adjustment to depreciation expense, as it ignores the most recent and complete information available. PAWC R. Exc. at 11-12.

4. Disposition

For the reasons set forth in our disposition of the issue pertaining to the OCA's proposed \$15.5 million downward adjustment to depreciation expense, contained in Section VII.O of this Opinion and Order, we shall deny the OCA's Exception Nos. 3 and 9 and adopt the ALJs' recommendation, which accepts PAWC's claim for depreciation reserve with one exception. Consistent with our decision regarding utility

plant-in-service, *supra*, depreciation reserve related to Audubon, Farmington, STMA, and BASA should be excluded.

C. Cash Working Capital (CWC) Addition to Rate Base

For ratemaking purposes, CWC is the capital needed to operate a utility between the rendition of service and the receipt of revenues in payment for services rendered. In short, CWC covers the lag between the payment of operating expenses and the receipt of revenues from ratepayers. All cash-based expenses are included in the Company's overall CWC claim; therefore, any adjustments to the Company's O&M expense claims impact the CWC allowance. I&E M.B. at 15-16.

1. Positions of the Parties

In the current proceeding, PAWC proposed the following CWC amounts:³²

- Water Operations – Approximately \$23.2 million for O&M expenses and negative \$8.35 million for Interest and Dividend expenses;
- Wastewater SSS Operations - \$2.2 million for O&M expenses and negative \$1.19 million for Interest and Dividend expenses;
- CSS Wastewater Operations - \$1.9 million for O&M expenses and negative \$894,111 for Interest and Dividend expenses; and

³² For the calculations of the water, wastewater SSS, CSS wastewater, and BASA operations' rate base claims, a net offset to CWC requirements was deducted from each to reflect the timing of the payment of interest and preferred dividends. *See*, PAWC St. 4 at 8.

- BASA Operations - \$373,674 for O&M expenses and negative \$422,915 for Interest and Dividend expenses.

See, PAWC Exh. 3-A Revised at 25R, 96R, 145R, 217R.

The Company represented that its CWC allowance was derived using the Commission-approved lead-lag method, by which the CWC component of rate base is calculated by multiplying the net lag days (revenue lag days less expense lag days) by the average operating expenses per day (total operating expenses ÷ 365 days). PAWC St. 4 at 13-15.

While I&E and the OCA did not dispute the Company's method of calculating CWC, as shown in Table 7 below, I&E and the OCA both recommended downward adjustments to the Company's claim because of their respective adjustments to the Company's claimed operating expenses.

Table 7: I&E and the OCA Proposed Adjustments to PAWC's CWC Claim

	PAWC's Claim	I&E		OCA	
	PAWC Exh. 3-A Revised at 25R, 96R, 217R	<u>Adjustment</u> I&E Exh. 1-SR, Sch. 1	<u>Proposed</u>	<u>Adjustment</u> OCA Exh. LA-2 Schs. B-5.B, B-5.C and B-5.D	<u>Proposed *</u>
Water					
CWC - Expenses	\$23,152,054	(\$1,088,631)	\$22,063,423	(\$812,585)	\$22,339,469
CWC - Int and Div	(\$8,347,179)	\$0	(\$8,347,179)	(\$941,091)	(\$9,288,270)
	\$14,804,875	(\$1,088,631)	\$13,716,244	(\$1,753,676)	\$13,051,199
Wastewater SSS					
CWC - Expenses	\$2,235,324	(\$30,925)	\$2,204,399	(\$56,107)	\$2,179,217
CWC - Int and Div	(\$1,186,101)	\$0	(\$1,186,101)	(\$100,225)	(\$1,286,326)
	\$1,049,223	(\$30,925)	\$1,018,298	(\$156,332)	\$892,891
CSS Wastewater					
CWC - Expenses	\$1,881,933	\$0	\$1,881,933	(\$17,767)	\$1,864,166
CWC - Int and Div	(\$894,111)	\$0	(\$894,111)	(\$82,363)	(\$976,474)
	\$987,822	\$0	\$987,822	(\$100,130)	\$887,692
TOTAL	\$16,841,920	(\$1,119,556)	\$15,722,364	(\$2,010,138)	\$14,831,782

* It should be noted that the OCA's adjustments shown on OCA Exhibit LA-2 were calculated using the Company's request in PAWC Exhibit 3-A, prior to the Company's updates provided in PAWC Exhibit 3-A Revised.

Specifically, I&E ultimately recommended that PAWC's O&M expense claims be reduced by \$8,111,532 for water operations and \$504,709 for wastewater SSS operations, which reduced the Company's CWC allowance by \$1,119,556, as shown in Table 7 above. No O&M adjustments were made by I&E to CSS wastewater operations; therefore, there is no corresponding CWC adjustment shown in the above table. I&E averred that because its recommended expense adjustments are prudent, I&E's recommended \$1,119,556 reduction to PAWC's CWC claim is reasonable. I&E M.B. at 16-17.

The OCA's proposed adjustments to PAWC's CWC claim are based on the OCA's proposed adjustments to PAWC's O&M expenses and interest and dividend expenses, and the capital structure recommended by the OCA's witness, Mr. David Garrett. The OCA's proposals regarding CWC are summarized in Table 7 above and are derived on Schedules B-5.B, B-5.C, and B-5.D of OCA Exhibit LA-2 for water operations, wastewater SSS operations, and CSS wastewater operations, respectively.³³ The OCA asserted that should the Commission adopt the OCA's recommended adjustments to expenses, the Commission should also adopt the OCA's resulting adjustments to CWC for PAWC's existing systems. OCA M.B. at 33.

2. Recommended Decision

Based on the ALJs' other recommendations in their Recommended Decision, the ALJs recommended that PAWC's claim for CWC should be adjusted for interest and dividends, taxes, and O&M expenses detailed in Tables II, IV, V, and VI for Water, Wastewater SSS, and CSS Wastewater in the Appendix to the Recommended Decision. R.D. at 82.

³³ Since the BASA and Brentwood revenue requirements have been proposed to be removed in their entirety, no separate adjustments to BASA and Brentwood CWC requirements were made by the OCA.

3. OCA Exception No. 4 and Replies

In its Exception No. 4, the OCA disputes the basis for the ALJs' CWC adjustment, to the extent that the ALJs failed to account for the proper adjustment based on a capital structure of 51% equity and 49% debt. The OCA's dispute is not with the methodology used by the ALJs, but with the underlying calculations, which rejected the capital structure adjustment proposed by the OCA, as explained at length in the OCA's Exception No. 10, *infra*. Therefore, the OCA submits that the ALJs' recommendation regarding CWC must be adjusted accordingly if the OCA's proposed use of a hypothetical capital structure is accepted by the Commission. OCA Exc. at 7.

In Replies, PAWC argues that for the reasons discussed in response to OCA Exception No. 10, objecting to the OCA's hypothetical capital structure, the OCA's Exception No. 4 should also be denied. PAWC R. Exc. at 12.

4. Disposition

As noted by the ALJs, none of the Parties opposed the methodology used by PAWC for determining its claim for CWC. However, the CWC calculation, known as an iteration, effectively prevents the determination of a precise calculation until such time as all proposed adjustments to PAWC's claims have been considered by the Commission.

We concur with the ALJs and the Parties that the methodology utilized by the Company is appropriate for calculating CWC. Therefore, the CWC allocation is based on our adjustments to PAWC's expenses and denial of the OCA's Exception No. 10, in Section VII.U of this Opinion and Order, *infra*. Accordingly, we shall deny the OCA's Exception No. 4.

D. Acquisition Adjustment and Amortization Expense

An acquisition adjustment occurs when a utility purchases another system for more or less than the book value. It can also include transaction costs incurred to acquire a system and is typically claimed in rate base and amortized over a reasonable period of time. Annual amortization expense is an operating expense. It represents the recovery or refund of regulatory assets and liabilities over an agreed upon period of time. Regulatory assets and liabilities may or may not be included in a company's rate base. I&E M.B. at 18.

1. Positions of the Parties

PAWC claimed acquisition adjustments of \$13,205,080, \$3,749,235, and \$3,686,015 for its water, wastewater SSS, and CSS wastewater operations, respectively. *See*, PAWC Exh. 3-A Revised at 25R, 96R, 217R.

As previously discussed, four small water and wastewater acquisitions are contemplated as part of this base rate filing, with applications pending before the Commission: (1) Farmington (water); (2) Audubon; (3) Farmington (wastewater); and (4) STMA; however none of these are being acquired under 66 Pa.C.S. § 1329 (Section 1329) for fair market value. As such, there are acquisition adjustment proposals associated with each of these pending acquisitions.

Regarding its water operations, the Company has included positive acquisition adjustments in its rate base claim related to the Farmington (water) and Audubon systems. For the Farmington (water) system, PAWC proposed to amortize the difference between the purchase price and the net book value, \$215,489, over ten years as a utility plant acquisition adjustment and to include the unamortized balance in rate base. PAWC St. 4 at 5-6; PAWC Exh. 3-B at 341. Similarly, PAWC is proposing to acquire

Audubon's assets through a merger transaction valued at \$8.0 million³⁴ even though the net book value of the Audubon assets is only \$360,229 as of December 31, 2024. PAWC proposed to amortize the difference between the purchase price and the net book value, \$7,639,771, over ten years as a utility plant acquisition adjustment and to include the unamortized balance in rate base. PAWC St. 4 at 6; PAWC Exh. 3-B at 341. As shown in Table 6, *supra*, PAWC proposed to include \$195,736 (\$215,489 – \$19,753)³⁵ in its FPFTY rate base related to the unamortized balance of the \$215,489 acquisition adjustment associated with the Farmington (water) system and \$6,939,459 (\$7,639,771 – \$700,312)³⁶ related to the unamortized balance of the \$7,639,771 acquisition adjustment associated with the Audubon system. In addition, as illustrated in Table 6, *supra*, PAWC's total acquisition adjustment claimed in its Water operations rate base included \$49,799 of transaction costs related to the Farmington (water) system and \$107,142 of transaction costs related to the Audubon system. *See*, PAWC Exh. 3-C at 72.

Regarding the wastewater SSS operations, the Company also claimed a negative plant acquisition adjustment in the total amortization expense related to the STMA system. For the STMA system, the Company projected that the purchase price will be \$945,612 less than the net book value of the STMA plant. PAWC Exh. 3-B at 344. Because it is a negative acquisition adjustment, the Company is required to amortize the adjustment as a credit back to customers over ten (10) years. While there is no rate base adjustment, the Company is claiming a negative \$94,561 (\$945,612 /10) acquisition adjustment expense be credited back to customers over ten (10) years. *See*, PAWC Exh. 3-A at 130. In addition, as illustrated in Table 6, *supra*, PAWC's total acquisition adjustment claimed in its wastewater SSS operations rate base includes

³⁴ *See*, PAWC St. 6 at 11-12, 18.

³⁵ Amortized 11 months starting August 2024. PAWC Exh. 3-C at 72.

³⁶ Amortized 11 months starting August 2024. PAWC Exh. 3-C at 72.

\$51,761 of transaction costs related to the Farmington (wastewater) system and \$83,085 of transaction costs related to the STMA system. *See*, PAWC Exh. 3-C at 79.

I&E and the OCA proposed to remove the acquisition adjustments, transaction costs, and amortization expenses related to the Audubon, Farmington (water), Farmington (wastewater), and STMA systems concomitant to their proposed exclusion of the disputed acquisitions discussed previously. I&E M.B. at 12-13, 21, 29; OCA M.B. at 41-43.

As I&E and the OCA have recommended the Audubon and Farmington (water) acquisitions be removed from this proceeding in total, I&E and the OCA argued that it will also be necessary to remove from rate base the acquisition adjustments of \$195,736 and \$6,939,459 related to the Farmington (water) and Audubon systems, respectively. I&E M.B. at 12-13, 21, 29; OCA M.B. at 41-43. Additionally, both Parties argued that \$49,799 of transaction costs related to the Farmington (water) system and \$107,142 of transaction costs related to the Audubon system included in the acquisition adjustments should be removed from the total acquisition adjustment claimed in rate base. *See*, OCA Exh. LA-2, Schs. B-1 and B-2.

If the Commission adopts I&E's and the OCA's recommendation to exclude the Audubon and Farmington (water) systems, I&E and the OCA argued that there should be a corresponding \$775,772 (\$763,977 + \$11,795) reduction of amortization expense claimed for the Audubon system and \$27,032 (\$21,549 + \$5,483) claimed for the Farmington (water) system. *See*, PAWC Exh. 3-A at 67.

As I&E and the OCA have recommended the STMA acquisition be removed from this proceeding in total, I&E stated that it will also be necessary to remove the negative \$94,561 acquisition adjustment claimed in the Company's total amortization expense related to the STMA system. I&E M.B. at 18; OCA M.B. at 41-43.

I&E's witness, Mr. Joseph Kubas, argued that \$83,085 of transaction costs related to the STMA system and \$51,761 of transaction costs related to the Farmington (wastewater) system included in the acquisition adjustments should be removed from the total acquisition adjustment claimed in rate base. These systems are not yet owned by PAWC; therefore, I&E contended that PAWC should not be able to include the corresponding transaction costs incurred to acquire these systems as part of the total acquisition adjustment in rate base from these systems in the wastewater SSS operations. I&E M.B. at 18-19; OCA Exh. LA-2, Schs. B-3 and B-4.

If the Commission adopts I&E's and the OCA's recommendations to exclude the STMA and Farmington (wastewater) system, I&E argued that there should be a corresponding \$9,147 reduction of amortization expense claimed for the STMA system and \$5,699 claimed for the Farmington (wastewater) system. I&E M.B. at 19; *See also*, PAWC Exh. 3-A at 130.

In addition, if the \$83,085 of transaction costs related to the STMA system and \$51,761 of transaction costs related to the Farmington (wastewater) system are removed from the total acquisition adjustment claimed in rate base, I&E contended there should be a corresponding reduction of \$8,385 of annual amortization related to the STMA system and a reduction of \$5,224 of annual amortization related to the Farmington (wastewater) system. I&E M.B. at 19.

2. Recommended Decision

In their Recommended Decision, the ALJs agreed with I&E and the OCA and recommended that if the disputed acquisitions are removed from rate base, the Commission should also remove the acquisition adjustments, transaction costs, and related amortization expenses, for the Audubon, Farmington (water), Farmington

(wastewater) and STMA systems. The ALJs' recommendation is reflected in Table II Water and Wastewater SSS in the Appendix attached to the Recommended Decision.

3. Disposition

None of the Parties filed Exceptions to the ALJs' recommendation. We find the ALJs' recommendation to be reasonable and shall adopt it. Accordingly, as set forth in Table II Water and Table II-Wastewater SSS, in the rate tables that outline the Commission Tables Calculating Allowed Revenue Increase, which are attached to this Opinion and Order, we shall remove the following amounts claimed by the Company, which are outlined in Table 6, *supra*: (1) the acquisition adjustments of \$195,736 and \$6,939,459 related to the Farmington (water) and Audubon systems, respectively; (2) the transaction costs included in the acquisition adjustments of \$49,799 related to the Farmington (water) system and \$107,142 related to the Audubon system; (3) the transaction costs of \$51,761 related to the Farmington (wastewater) system and \$83,085 related to the STMA system.³⁷

E. Annual Depreciation Expense

1. Positions of the Parties

Annual depreciation expense is an operating expense that represents the loss of service value of plant over the life of the plant. I&E St. 3 at 80. PAWC is claiming \$214,460,165, \$27,482,112, and \$20,500,959 of annual depreciation expense for the FPFTY for its water, wastewater SSS, and CSS wastewater operations, respectively. See, PAWC Exh. 3-A Revised at 1R, 76R, 204R.

³⁷ The related amortization expenses are addressed in Section VII.M of this Opinion and Order, *infra*.

Concomitant to its proposed exclusion of the disputed acquisitions discussed previously, I&E proposed that \$310,188 of annual depreciation expense associated with the Audubon system and \$607,272 of annual depreciation expense associated with the Farmington (water) system be removed from the water operations annual depreciation expense. *See*, I&E M.B. at 14. Similarly, I&E submitted that \$24,342³⁸ of annual depreciation expense associated with the STMA system and \$11,611 associated with the Farmington (wastewater) system should be removed from the Wastewater SSS operations annual depreciation expense.³⁹ I&E M.B. at 19-20.

Concomitant to its proposed exclusion of the disputed acquisitions discussed previously, the OCA similarly proposed that \$269,599 of annual depreciation expense associated with the Audubon system and \$101,751 of annual depreciation expense associated with the Farmington (water) system be removed from the Water operations annual depreciation expense, and \$51,847 of annual depreciation expense associated with the STMA system and \$137,987 associated with the Farmington (wastewater) system be removed from the wastewater SSS operations annual depreciation expense.⁴⁰ OCA St. 2 at 52-54.

³⁸ *See*, PAWC Exh. 3-C at 30-31.

³⁹ I&E's witness, Mr. Kubas, explained that the filing did not contain a breakdown of annual depreciation expense for the Farmington system; therefore, he applied the approximately 1.26% composite depreciation rate applicable in the STMA system to the Farmington (wastewater) system net plant to arrive at the \$11,611 (\$923,272 x 0.012576) of Farmington (wastewater) annual depreciation expense. I&E St. 3 at 81.

⁴⁰ OCA's witness, Mr. Smith, utilized plant amounts from pages 26 and 97 of PAWC Exhibit 3-A and depreciation rates from PAWC Exhibit 11-C, Water Operations, June 30, 2025 Depreciation Study, Table 2 and PAWC Exhibit 11-F, Wastewater SSS General Operations, June 30, 2025 Depreciation Study, Table 2. *See*, OCA Exh. LA-2, Schs. C-5, C-6, C-7, C-8.

In addition to depreciation expense adjustments associated with acquisitions, the OCA proposed adjustments to depreciation expense concomitant to its objections to service life/survivor curves employed in the depreciation studies prepared by PAWC's witness, Mr. Spanos, as discussed in Section V.B above.

2. Recommended Decision

In their Recommended Decision, the ALJs agreed with I&E and the OCA and recommended that, if the disputed acquisitions are removed from rate base, the Commission should also remove annual depreciation expense for the Audubon, Farmington (water), Farmington (wastewater), and STMA systems. The ALJs' recommendation, reflecting agreement with the OCA's calculated amounts, is reflected in Table II Water and Wastewater SSS attached to the Appendix of the Recommended Decision.

The ALJs noted that further adjustments to depreciation expense concomitant to the OCA's objections to service life/survivor curves employed in the depreciation studies prepared by PAWC's witness, Mr. Spanos, would be discussed in the Expenses section of the Recommended Decision. R.D. at 85-86.

3. OCA Exception Nos. 3 and 9 and Replies

As discussed, *supra*, in its Exception Nos. 3 and 9, the OCA objects to the ALJs' recommendation that the Commission accept PAWC's use of service life/survivor curve information from the 2021 Water Service Life Study, rather than utilizing data from the previous 2016 Water Service Life Study. OCA Exc. at 5-6,12.

For the reasons argued, *supra*, as well as summarized in the Depreciation Expense section in Section VII.O of this Opinion and Order, *infra*, PAWC asserts that the

Commission should reject the OCA's proposed \$15.5 million downward adjustment to depreciation expense, as it ignores the most recent and complete information available. PAWC R. Exc. at 11-12.

4. Disposition

I&E's and the OCA's proposed adjustments to the Company's claimed annual depreciation expense are, in part, concomitant to their proposed exclusion of the Audubon, Farmington (water), Farmington (wastewater), and STMA acquisitions. As none of the Parties filed Exceptions to the ALJs' recommendation on this issue, we find the ALJs' recommendation to be reasonable and, therefore, adopt it, concomitant with our disposition regarding utility plant-in-service, *supra*. Accordingly, we shall exclude the Company's claimed depreciation expense related to Audubon, Farmington (water and wastewater), and STMA.⁴¹ As set forth in Table II-Water and Table II-Wastewater SSS, in the rate tables that outline the Commission Tables Calculating Allowed Revenue Increase, which are attached to this Opinion and Order, we shall remove the following claimed annual depreciation amounts: (1) \$269,599 of annual depreciation expense associated with the Audubon system; (2) \$101,751 of annual depreciation expense associated with the Farmington (water) system; (3) \$51,847 of annual depreciation expense associated with the STMA system; and (4) \$137,987 associated with the Farmington (wastewater) system. These amounts reflect our agreement with the OCA's calculated amounts, *supra*.

Additionally, as previously discussed, the OCA proposed further adjustments to annual depreciation expense concomitant to its objections to service life/survivor curves employed in the depreciation studies prepared by PAWC's witness, Mr. Spanos. For the reasons set forth in our disposition of the issue pertaining to the

⁴¹ As we are excluding BASA in this proceeding, we shall also exclude all depreciation amounts related to BASA.

OCA's proposed \$15.5 million downward adjustment to depreciation expense, contained in Section VII.O of this Opinion and Order, *infra*, we shall deny the OCA's Exception Nos. 3 and 9 and adopt the ALJs' recommendation, which accepts PAWC's claim for depreciation reserve with one exception. Consistent with our decision regarding utility plant-in-service, *supra*, amounts related to Audubon, Farmington (water), Farmington (wastewater), STMA, and BASA should be excluded, as described above.

F. Reporting – Utility Plant-in-Service

1. Positions of the Parties

I&E proposed that the Company provide I&E and the OCA with updates to PAWC Exhibit 3-A, pages 26, 97, 146, 179, and 218 no later than December 1, 2025, under this docket number. I&E stated that PAWC's updates should include actual plant additions and retirements for the twelve months ending June 30, 2024, and for the twelve months ending June 30, 2025. I&E M.B. at 20.

The Company is estimating that it will add approximately \$742,020,740 of plant additions in the FTY ending June 30, 2024, and approximately \$797,874,110 of plant additions in the FPFTY. PAWC St. 3 at 9. I&E averred that there is value in determining how closely PAWC's projected investments in future facility comport with the actual investments that are made by the end of the FTY and the FPFTY. Determining the correlation between PAWC's projected and actual plant additions and retirements will help verify the validity of PAWC's projections. I&E M.B. at 20.

PAWC has indicated that it agrees with I&E's reporting requirement recommendation and that it will provide the updates as requested. PAWC St. 4-R at 7.

2. Recommended Decision

The ALJs recommended that the Company provide I&E and the OCA with updates to PAWC Exhibit 3-A, pages 26, 97, 146, 179, and 218 no later than December 1, 2025, under the R-docket numbers in this proceeding, and PAWC's updates should include actual plant additions and retirements for the twelve months ending June 30, 2024, and for the twelve months ending June 30, 2025. R.D. at 86-87.

3. Disposition

None of the Parties filed Exceptions to the ALJs' recommendation. Finding the ALJs' recommendation to be reasonable, we adopt it without further comment.

VI. Revenues at Present Rates, Revenue Increase, and Revenue Requirement

A. Present Rate Revenue / Revenues Related to the Six Proposed Acquisitions

1. Positions of the Parties

PAWC's overall claim for *pro forma* revenue at present rates for the FPFTY was \$1,011,038,462.⁴² The Company developed this claim using the level of water and wastewater sales revenue generated during the historic test year (HTY) ended

⁴² PAWC's claim consisted of the sum of its Water, Wastewater SSS, Wastewater CSS, and BASA Operations, respectively, as follows: [\$824,117,186 + \$95,470,867 + \$78,636,216 + \$12,814,193 = \$1,011,038,462]. PAWC represented that its claimed revenues did not include any impacts of the Company's attempt to acquire Brentwood. PAWC M.B. at Appendix A, Table Act 11 – Step 2. We further note that in the body of its Main Briefs, the Company stated that its claim for *pro forma* revenue at present rates was \$1,213,394,607. However, this figure is the Company's proposed overall revenue requirement on a total company basis, as discussed, *infra*.

June 30, 2023, and, in accordance with well-established Commission practice, PAWC made appropriate adjustments to eliminate non-recurring items and to annualize the effect of known or anticipated changes. These included adjustments: (1) to eliminate unbilled revenue; (2) to annualize revenues associated with acquired systems; (3) to reflect changes affecting the consumption of specific large customers; and (4) to reflect changes in the number of customers during the HTY and as projected for the FTY ending June 30, 2024, and the FPFTY ending June 30, 2025. Additionally, for residential, commercial, and municipal customers, PAWC proposed adjustments to the actual FTY billing determinants related to trends in declining use, weather normalization, and the impact of the COVID-19 pandemic on water consumption. PAWC M.B. at 20, Appendix A, Table Act 11 – Step 2.

I&E argued that \$12,814,193 of present rate revenue from the Company's pending acquisition of BASA and \$1,824,191 of present rate revenue from the Company's attempted acquisition of Brentwood should be excluded from rate recovery.⁴³ I&E also argued that the following additional present rate revenues should be excluded: (1) \$2,965,024 from the Company's pending acquisition of Audubon; (2) \$266,371 from the Company's pending acquisition of Farmington (water); (3) \$322,926 from the Company's pending acquisition of Farmington (wastewater); and (4) \$471,228 from PAWC's pending acquisition of STMA. I&E restated its argument, *supra*, that because PAWC does not yet own these systems, nor is it clear at what point the Company will own these systems, the associated revenue impacts should be removed from the Company's claims in this proceeding. I&E M.B. at 22; I&E St. 4 at 10.

⁴³ I&E acknowledged that the Company already excluded any Brentwood impacts from its revenue claim. Nonetheless, I&E explained that, for purposes of clarity, it noted its recommendation related to the exclusion of revenue impacts from Brentwood. I&E M.B. at 22, n.59.

The OCA, likewise, maintained that because the Company does not currently own any of the property associated with its six proposed acquisitions, the following should be excluded from PAWC's revenue claims: (1) the \$2.965 million and \$266,371 in operating revenues at present rates related to Audubon and Farmington (water), respectively; (2) the \$322,926 and \$471,228 in operating revenues at present rates related to Farmington (wastewater) and STMA, respectively; and (3) all revenues associated with BASA and Brentwood. OCA M.B. at 34.

The OSBA proposed a BASA mitigation adjustment, which is discussed in Section VI.D, below. OSBA M.B. at 8-9. The OSBA added that if the Audubon acquisition is rejected by the Commission, or if the Commission does not issue a final order in the Audubon acquisition proceeding prior to the record closing in the instant proceeding, all costs related to Audubon should be removed from the revenue requirement in this case. Additionally, the OSBA submitted that once the Commission decides the PAWC/Audubon case, that result can be addressed in the Company's next rate case. OSBA R.B. at 7-8.

2. Recommended Decision

As previously noted, the ALJs concluded that it would be premature to include the BASA acquisition in PAWC's FPFTY rate base. Consistent with this finding, the ALJs found that PAWC's operating revenues should be adjusted downward to remove revenues associated with BASA, Audubon, Farmington, and STMA, consistent with the positions of I&E and the OCA. The ALJs explained that these downward revenue adjustments require concomitant adjustments for bad debt and general assessment expenses and forfeited discounts/late payment fee/penalties revenues that are determined as a percentage of revenues. R.D. at 90-91.

3. PAWC Exception No. 3 and Replies

As noted in Section V.A of this Opinion and Order, PAWC, in its Exception No. 3, objects to the ALJs' recommendation that the Commission disallow the Company's revenue requirement claims related to the acquisition of BASA. PAWC submits, *inter alia*, that the ALJs' conclusion, that the BASA acquisition should not be included in PAWC's rates at this time because there is no certainty that the Company will close on the BASA acquisition during the FPFTY, was in error. According to PAWC, Section 315(e) of the Code does not require absolute certainty that the facilities will be in service by the end of the FPFTY. PAWC reasons that if the Commission desires absolute certainty that the Company will close on the BASA acquisition prior to the end of the FPFTY before including BASA in PAWC's rate base, then the Company supports the Commission imposing a condition. Namely, PAWC supports the Commission requiring that the Company certify that closing has occurred on the BASA acquisition prior to the end of the FPFTY in order to implement Step 2 of its stepped rate increase proposal. PAWC reasons that if closing on the BASA acquisition does not occur by the end of the FPFTY, its proposed Step 2 rates will not be implemented. PAWC Exc. at 12-16.

In its Replies to Exceptions, I&E argues, *inter alia*, that PAWC's position is based on its assumption that the Commonwealth Court will find in PAWC's favor, and that if it does, no party to that proceeding will file for a further appeal. I&E cautions, however, that accepting those assumptions is not in the public interest, nor can the Commission assume PAWC knows with absolute certainty how the Commonwealth Court will rule. Therefore, I&E maintains that the BASA present rate revenues must be removed from PAWC's revenues. I&E R. Exc. at 6-7.

In its Replies to Exceptions, the OCA argues, *inter alia*, that the ALJs were correct in recommending that BASA and the other not-yet-acquired systems, *supra*,

should be excluded from the Company's claimed rate base and revenues. OCA R. Exc. at 1-6.

Similarly, the OSBA, in its reply, submits that the ALJs properly recommended that the BASA acquisition be excluded from the Company's rates. The OSBA stresses that this acquisition is still before the Commonwealth Court, and there is no certainty as to when the Court will reach a decision. OSBA R. Exc. at 2-3.

4. Disposition

We have previously determined, in Section V.A, *supra*, that it would be premature to include the acquisitions of BASA, Audubon, Farmington (water), Farmington (wastewater), and STMA in PAWC's rate base. As noted above, because the Company does not yet own these systems, they are not yet used and useful in the provision of utility service to PAWC's customers. I&E M.B. at 10. Further, there is no certainty as to when the Company will own these systems. OSBA R. Exc. at 3. Therefore, we shall also adopt the associated recommendation of the ALJs that the revenues related to these proposed acquisitions be removed from the Company's claim for *pro forma* revenue at present rates. Accordingly, we shall remove: (1) \$12,814,193 of present rate revenue from the Company's pending acquisition of BASA; (2) \$2,965,024 from the Company's pending acquisition of Audubon; (3) \$266,371 from the Company's pending acquisition of Farmington (water); (4) \$322,926 from the Company's pending acquisition of Farmington (wastewater); and (5) \$471,228 from PAWC's pending acquisition of STMA.⁴⁴ Our above adjustments for the Audubon, Farmington (water), Farmington (wastewater) and STMA systems are set forth in Table II-Water and Table II-Wastewater SSS, in the rate tables that outline the Commission

⁴⁴ As previously noted, PAWC has already removed its claimed present rate revenues related to the Brentwood system.

Tables Calculating Allowed Revenue Increase, which are attached to this Opinion and Order.

PAWC's Exception No. 3, as it relates to the Company's revenue at present rates and its revenues related to its proposed acquisitions at issue in this proceeding is denied.

B. Late Payment Revenue

1. Positions of the Parties

I&E explained that late payment revenue is received from customers when they are assessed late payment charges for not paying their bills on time. I&E reasoned that because such revenues are based upon a percentage of a customer's bill, an increase in base rates will generally result in late payment revenues increasing by the same percentage as the bills' increase. I&E M.B. at 9. I&E noted that in its wastewater SSS operations, PAWC included late payment fees under "Other Operating Revenue." Accordingly, I&E proposed an increase of \$154,448 in Other Operating Revenue, or from \$3,241,057 to \$3,395,505, to appropriately reflect additional late payment revenues. I&E multiplied the present rate late payment revenue of \$463,681 by the 35.1% increase in tariff rates and then subtracted the \$8,332 increase the Company reflected to arrive at its proposed late payment revenue increase of \$154,448.⁴⁵ *Id.* (citing PAWC Vol. 9, Exh. 10-B at 33).

The Company did not oppose I&E's method of calculating late payment revenues, but it did assert that I&E's proposed increase to Other Operating Revenue

⁴⁵ [\$463,681 x 35.106%=\$162,780]; [\$162,780-\$8,332=\$154,448].

should be rejected if the Commission rejects I&E's proposed increases in rates for wastewater SSS and CSS customers.⁴⁶ PAWC R.B. at 15-16.

2. Recommended Decision

As will be discussed in Sections X.E and X.H, *infra*, the ALJs did not recommend that the Commission adopt I&E's proposed increases in rates for wastewater SSS and CSS customers. Accordingly, the ALJs recommended that I&E's proposed adjustment to late payment revenues and other operating revenues be rejected. Furthermore, the ALJs recommended that the Commission adopt PAWC's proposed ratio of 0.5027% of penalties to total billed water/wastewater sales revenues to calculate the Company's late payment fee revenues at present and proposed rates. According to the ALJs, this ratio should also be used to calculate concomitant late payment fee revenues when adjusting present rate revenues, and to calculate late payment fee revenues at allowed rates, consistent with the Commission's final authorized increase in billed water/wastewater sales revenues. R.D. at 91-92.

3. Disposition

No Party filed Exceptions to the ALJs' recommendation on this issue. Finding the ALJs' recommendation to be reasonable and supported by substantial evidence in the record, we shall adopt it without further comment.

⁴⁶ These proposed increases are discussed in Sections X.E and X.H of this Opinion and Order.

C. Miscellaneous Revenues

1. Positions of the Parties

For the HTY ended June 30, 2023, PAWC received \$659,624 of revenues related to the “on-bill” billing of charges on behalf of American Water Resources (AWR) for its non-utility products and services. PAWC represented that it recorded these revenues above-the-line, which provides a benefit to PAWC’s customers by offsetting the Company’s operating and maintenance expenses recovered through rates. The Company included \$659,624 of miscellaneous revenue from AWR in the revenue requirement for the FPFTY ending June 30, 2025. PAWC St. 1-R at 20. PAWC stated that if the Commission determines that the Company cannot continue its long-standing on-bill arrangement with AWR, the associated revenues must also be removed from the Company’s revenue requirement. However, the Company stressed that it disagrees with the position of the OCA, *infra*, that this arrangement should be discontinued. PAWC R.B. at 15.

The OCA stated that it has not challenged PAWC’s miscellaneous revenue claims. Rather, as discussed, in detail, in section XIII.D, *infra*, the OCA provided that its concerns regarding the Company’s relationship with AWR center on its contention that PAWC is engaging in deceptive and discriminatory billing and marketing practices for non-utility “protection services” of customer-owned service lines and in-home plumbing provided by AWR, to the detriment of consumer interests. Despite these concerns, the OCA disagreed with PAWC’s argument that if the Commission determines that the Company should cease its on-bill agreement with AWR, then these revenues should be removed. The OCA reasoned that: (1) the \$659,624 revenue that PAWC receives from AWR is fully substantiated by the Company for the FPFTY; and (2) reflecting this miscellaneous revenue benefits consumers by offsetting the Company’s proposed revenue requirement. Moreover, the OCA stated that, at present, it has simply

recommended an investigation and a pause on any new customer enrollments until the Commission concludes its investigation. OCA M.B. at 34-35, 106.

2. Recommended Decision

As explained in Section XIII.D of this Opinion and Order, *infra*, the ALJs recommended that the Commission reject the OCA's proposal to open an investigation into PAWC's relationship with AWR. As such, the ALJs did not recommend any corresponding adjustment to PAWC's claim for miscellaneous revenues related to AWR. R.D. at 93.

3. OCA Exception No. 5 and Replies

In its Exception No. 5, the OCA states that it agrees with the ALJs' recommendation that PAWC's miscellaneous revenues related to AWR should not be adjusted. However, the OCA submits that the ALJs erred in their reasoning for why these revenues should not be adjusted. The OCA restates its argument that the Company's claim is fully substantiated and provides a benefit to ratepayers. Additionally, the OCA maintains that it has simply recommended an investigation and a pause on any new enrollments pending such an investigation. The OCA posits that if the Commission adopts the OCA's recommendation to open an investigation, it would be speculative to predict the outcome thereto. In light of this uncertainty, the OCA insists that no adjustment is necessary to PAWC's miscellaneous revenue claim. OCA Exc. at 7-8.

As will be discussed in greater detail in Section XIII.D of this Opinion and Order, PAWC, in its Replies to Exceptions, takes the position that the Commission should reject the OCA's request to initiate an investigation of PAWC's relationship with

AWR. PAWC avers, *inter alia*, that its billing arrangement with AWR is not discriminatory. PAWC R. Exc. at 16-17.

4. Disposition

As will be discussed in Section XIII.D, *infra*, we shall adopt the recommendation of the ALJs and will reject the OCA's proposal to open an investigation into PAWC's relationship with AWR. As a result, we disagree with the OCA that the ALJs erred in their reasoning for why PAWC's claim for miscellaneous revenues related to AWR should be adopted. Accordingly, the OCA's Exception No. 5 is denied.

D. BASA Mitigation Adjustment

1. Positions of the Parties

The OSBA argued that as part of the Settlement Agreement approved in BASA, PAWC agreed to move BASA's rates to the lower of: (1) 1.40 times the current BASA rates; or (2) PAWC's proposed Rate Zone 1 system-average wastewater rates, upon the latter of the first anniversary of Closing or January 1, 2025. The OSBA stated that although PAWC has adhered to this settlement condition, it has proposed in this instant proceeding to recover \$21.6 million in annual Act 11 revenues from water customers associated with the acquisition of BASA. The OSBA claimed that such recovery should be denied. According to the OSBA, it is unreasonable for the Company to shift this cost burden to water customers. Namely, the OSBA argued, PAWC "negotiated" the BASA acquisition price and negotiated with the OSBA and other parties to mitigate the impact on BASA customers in this rate case. Consequently, the OSBA recommended setting the BASA-related revenue requirement increase at the 40% capped increase for BASA wastewater customers, or \$4,735,610, with no Act 11 revenue shift to water customers. The OSBA reasoned that this recommended "BASA Mitigation

Adjustment” simply requires PAWC to adhere to its commitment under the settlement in *BASA*. The OSBA added that its proposed adjustment is effectuated by temporarily imputing revenues to the *BASA* system in the amount necessary to recover the *BASA* revenue requirement without shifting costs to non-*BASA* customers. Finally, the OSBA posited that PAWC can revisit this issue in its next base rate proceeding. OSBA M.B. at 8-9.

PAWC submitted that, in making its proposed adjustment, the OSBA has mischaracterized the terms of the settlement in *BASA*. In this regard, the Company argued that the OSBA relied on the fact that PAWC agreed to propose rates at the lower of 1.4 times current *BASA* rates or the proposed Rate Zone 1 rates to imply that the Commission *must* limit *BASA* rates to this amount, and that PAWC agreed that any resulting shortfall in revenue would be imputed to its shareholders. According to PAWC, this is inaccurate. Rather, PAWC insisted that while the Company agreed that it would propose moving *BASA* rates to 1.4 times the lower of current *BASA* rates or 1.4 times PAWC’s proposed Rate Zone 1 rates, the Commission has the authority to set rates at an amount that it determines is reasonable. In addition, PAWC asserted that the Commission and the parties to the settlement in *BASA* clearly recognized that the terms of the settlement would result in a revenue shortfall and that PAWC might propose in a future rate case to allocate this shortfall to its water customers. Therefore, PAWC submitted that the Commission should reject the OSBA’s proposed *BASA* mitigation adjustment. PAWC R.B. at 13-14.

2. Recommended Decision

As previously noted, the ALJs recommended that the Commission exclude *BASA* from PAWC’s rate base. Therefore, the ALJs declined to make a recommendation regarding the OSBA’s proposed *BASA* mitigation adjustment. R.D. at 94.

3. Disposition

None of the Parties filed Exceptions with regard to the ALJs' decision to refrain from making a recommendation on this issue. As we have adopted the ALJs' above recommendation to exclude the BASA acquisition from PAWC's rate base in this proceeding, we find this issue to be moot. Provided that PAWC physically owns the BASA system by its next base rate proceeding, we note that this issue can be raised in that proceeding.

E. Revenue Increase and Revenue Requirement

A utility's revenue requirement represents "the total revenue that the utility needs to collect through the rates charged to the public to cover its cost of service." James H. Cawley & Norman J. Kennard, *A Guide to Utility Ratemaking* at 102 (2018 ed.) (*PUC Rate Case Handbook*). The formula to calculate the utility's revenue requirement is set forth, as follows:

$$RR=T+E+D+(RB \times ROR)$$

Where: RR=Revenue Requirement

T=Taxes

E=Operating Expense

D=Depreciation Expense

RB=Rate Base

ROR=Overall Rate of Return

I&E St. 2 at 2-3. The central issue in a base rate case involves identifying the appropriate cost-of-service, or revenue requirement, for the utility, in this case PAWC.⁴⁷ *PUC Rate Case Handbook* at 102.

⁴⁷ We have discussed the Company's rate base, *supra*, and will discuss the remaining components of the Company's Revenue Requirement formula in the sections that follow.

1. Positions of the Parties

PAWC's final overall proposed revenue requirement on a total Company basis was approximately \$1,213,394,607, representing a proposed revenue increase of \$202,356,145 over *pro forma* revenues at present rates of \$1,011,038,462. As previously discussed, PAWC proposed a two-step revenue increase. Thus, the Company's final proposed revenue increase and revenue requirement was broken down as follows:

- (1) A Step 1 revenue requirement of \$1,175,257,467, representing a proposed revenue increase of \$177,033,198 over *pro forma* revenues at present rates of \$998,224,269. After allocating a portion of the wastewater revenue requirement to water customers, this consisted of a proposed water revenue requirement of \$1,001,429,829, representing a proposed revenue increase of \$177,312,643 over water revenues at present rates of \$824,117,186; and a proposed wastewater revenue requirement of \$173,827,638, representing a proposed revenue decrease of \$279,445 over wastewater revenues at present rates of \$174,107,083. PAWC represented that its Step 1 revenue increase did not include any revenue requirement associated with the BASA acquisition, and that it excluded all impacts of the Brentwood acquisition.
- (2) PAWC then proposed a Step 2 revenue increase, to be effective on one-day's notice upon the closing of the BASA acquisition. Thus, the Step 2 revenue requirement included the revenue requirement proposed in Step 1, *supra*, plus the addition of the revenue requirement associated with the BASA acquisition. As previously noted, PAWC's proposed Step 2 revenue increase led to a final proposed revenue requirement of \$1,213,394,607 on a total company basis, representing a proposed revenue increase of \$202,356,145 over *pro forma* revenues at present rates of \$1,011,038,462. After allocating a portion of the wastewater revenue requirement to water customers,

this consisted of a proposed water revenue requirement of \$1,022,982,528, representing a proposed revenue increase of \$198,865,342 over water revenues at present rates of \$824,117,186; and a proposed wastewater revenue requirement of \$190,412,079, representing a proposed revenue increase of \$3,490,803 over wastewater revenues at present rates of \$186,921,276.⁴⁸

PAWC M.B. at 10, Appendix A, Table Act 11 – Water and Wastewater Revenue Requirement Summary – Step 1 and Table Act 11 – Water and Wastewater Revenue Requirement Summary – Step 2.

I&E recommended a revenue requirement of \$1,050,249,404 for PAWC, on a total company basis. I&E’s proposal would result in a total revenue increase of approximately \$56,050,684 over revenues at present rates of \$994,198,720. This consisted of a proposed water revenue requirement of \$850,229,374, representing an increase of approximately \$29,343,583 to the Company’s water revenues of \$820,885,791 at present rates; and a proposed wastewater revenue requirement of \$200,020,030, representing an increase of approximately \$26,707,101 to the Company’s wastewater revenues of \$173,312,929 at present rates. As previously noted, I&E opposed the inclusion of any revenue and rate increases associated with the Company’s pending BASA acquisition, as that transaction has not yet closed. Therefore, I&E opposed the Company’s Step 2 increase in its entirety. I&E M.B. at 6, Appendix A, Table Act 11 Allocation.⁴⁹

⁴⁸ Included in this wastewater revenue requirement was a revenue requirement for BASA of \$16,584,441, representing a proposed revenue increase for BASA of \$3,770,248 over revenues at present rates of \$12,814,193. PAWC M.B. at Appendix A, Table Act 11 – Water and Wastewater Revenue Requirement Summary – Step 2.

⁴⁹ As discussed in Section X.E of this Opinion and Order, *infra*, I&E took the position that the Commission should not permit the Company to allocate any of its wastewater revenue requirement to its water customers.

The OCA proposed a final revenue requirement of \$1,057,332,943 on a total Company basis. The OCA's proposal would result in a total revenue increase of \$45,437,081 over revenues at present rates of \$1,011,895,862. After allocating a portion of the wastewater revenue requirement to water customers, this consisted of a proposed water revenue requirement of \$860,808,007, representing an increase of approximately \$36,690,821 to the Company's water revenues of \$824,117,186 at present rates; and a proposed wastewater revenue requirement of \$182,853,342, representing an increase of approximately \$8,746,259 to the Company's wastewater revenues of \$174,107,083 at present rates. OCA M.B. at Appendix A, Summary Table. As previously noted, the OCA, likewise, opposed the inclusion of any revenue requirement associated with the Company's pending BASA acquisition. *Id.* at 34.

The OSBA proposed a maximum revenue increase for the Company of \$109,088,498. As discussed above, the OSBA proposed the inclusion of a BASA mitigation adjustment. OSBA M.B. at 7-9.

CAUSE-PA did not take a specific position as to the revenue requirement in this proceeding. However, CAUSE-PA stated that it is highly concerned that the Company's proposal to "dramatically" increase rates for basic water and wastewater services will negatively affect the accessibility of service for residential customers, especially low-income customers. Therefore, CAUSE-PA requested that PAWC's proposed revenue increase and revenue requirement be rejected in its entirety because the Company has failed to demonstrate that its proposals are just, reasonable, and in the public interest. CAUSE-PA M.B. at 18.

PAWLUG, likewise, did not propose an independent revenue requirement recommendation. However, PAWLUG submitted that the Commission should review the expense adjustments proposed by I&E and the OCA, *infra*, to ensure the Company's

proposed rates are adjusted, as necessary, to protect customer interests, including moderating the impact of the proposed Act 11 allocation. PAWLUG M.B. at 5.

2. Recommended Decision

As previously noted, the ALJs concluded that it would be premature to include the BASA acquisition in PAWC's FPFTY rate base. Consistent with this finding, the ALJs recommended that the Company's proposed two-step rate increase proposal be denied. Instead, the ALJs recommended an overall revenue requirement of approximately \$1,098,260,686 for PAWC on a total Company basis, based on the various adjustments that they recommended that the Commission adopt in their Recommended Decision, resulting in an overall distribution revenue increase of approximately \$104,082,203. After allocating a portion of the wastewater revenue requirement to water customers, the ALJs' recommendation consisted of: (1) a revenue requirement of \$913,459,551 for PAWC's water service, representing an increase of approximately \$92,590,004 over *pro forma* present rate water revenues of \$820,869,547; and (2) a revenue requirement of \$184,801,136 for PAWC's wastewater service, representing an increase of approximately \$11,492,198 over *pro forma* present rate wastewater revenues of \$173,308,937. The ALJs' recommendation represented an increase of approximately 11.28% in water operating revenues and an increase of approximately 6.63% in wastewater operating revenues. R.D. at 1, Appendix Table Act 11 – Water and Wastewater Revenue Requirement - Summary.

3. Exceptions and Replies

As discussed elsewhere in this Opinion and Order, PAWC, I&E, and the OCA each filed Exceptions to certain recommendations the ALJs made regarding the components of PAWC's revenue requirement. Additionally, I&E and the City of

Scranton filed specific Exceptions to the ALJs' recommended revenue increase and revenue requirement, as discussed below.

a. I&E Exception No. 7⁵⁰

In its Exception No. 7, I&E submits that based upon the flaws I&E alleged are present in the Recommended Decision, as discussed in its Exception Nos. 1 through 6 and presented elsewhere in this Opinion and Order, the ALJs arrived at an erroneous recommended revenue increase for PAWC that will result in unjust and unreasonable rates for its customers. I&E insists that PAWC should receive a revenue increase of no more than \$56,050,684, on a total Company basis, including a revenue increase of \$29,343,583 for the Company's water operations and \$26,707,101 for its wastewater operations. I&E claims that modifying the ALJs' recommendation and adopting the position of I&E regarding: (1) the Company's ROE; (2) the Act 11 subsidy; and (3) the proposed rate design for both water and wastewater, *infra*, will adjust the Company's allowed revenue increase and revenue requirement to a more appropriate level that produces just and reasonable rates. I&E Exc. at 15-16.

b. City of Scranton Exception No. 1 and Replies

In its Exception No. 1, the City of Scranton argues that the ALJs erred as a matter of law by supporting rate increases after finding that PAWC did not meet its burden for its request for relief, especially in the context of the wastewater rate increase. The City of Scranton contends that it was improper for the ALJs to recommend the adoption of another Party's request for relief when the burden of proof did not shift and the rate increase proposed by PAWC was denied. The City of Scranton submits that the Parties opposing the rate increase prevailed because the Recommended Decision denies

⁵⁰ None of the Parties proffered a direct response to I&E's Exception No. 7.

the relief requested by PAWC. However, the City of Scranton avers that despite holding that PAWC did not meet its burden of proof to substantiate its requested rate increases, the ALJs improperly recommended a rate increase as to wastewater, which was over four times the rate requested by PAWC in its wastewater filings, and whereby the majority of the affected customers reside in the City of Scranton and surrounding areas. The City of Scranton argues that the Commission should deny both rate increases. City of Scranton Exc. at 1-5.

In reply to the City of Scranton's Exception No. 1, PAWC argues that the City of Scranton misinterprets the Recommended Decision and Commission precedent. PAWC avers that the ALJs did not find that the Company failed to meet its burden of proof to warrant any rate increase; rather, the ALJs found that PAWC did not appropriately support every element of its requested increase, which resulted in a recommended increase in rates that is substantially less than the increase sought by PAWC. Furthermore, PAWC states that there were many components of the Company's requested increase, and alternative proposals advanced by other parties, that the ALJs determined were adequately supported. PAWC submits that it would be an absurd result, and inconsistent with the principle that a public utility is entitled to an opportunity to earn a fair rate of return, to deny the Company's rate increase in its entirety because the ALJs did not find that each and every element of PAWC's proposed rate increase was adequately supported. PAWC R. Exc. at 20-21.

4. Disposition

a. I&E Exception No. 7 and City of Scranton Exception No. 1

As noted above, I&E represents that its Exception No. 7 is based upon the arguments made in its other Exceptions to the Recommended Decision. We shall address I&E's Exception Nos. 1 through 6 in the remaining sections of this Opinion and Order.

As we shall adopt neither the ALJs' recommended revenue increase and revenue requirement nor that proffered by I&E, I&E's Exception No. 7 is granted, in part, and denied, in part.

With respect to the City of Scranton's Exception No. 1, we agree with PAWC that the City of Scranton has misinterpreted the Recommended Decision. Upon review, we find that the ALJs did not conclude that PAWC failed to meet its burden to support *any* rate increase. The ALJs instead concluded that PAWC failed to support every element of its requested increase. Therefore, while the ALJs recommended an increase in rates less than the increase requested by PAWC, here were certain components of PAWC's requested increase and other proposals of the opposing Parties that were adequately supported. We have adopted certain of these components and proposals in reaching the revenue increase and revenue requirement that we shall authorize for the Company, *infra*. Accordingly, we shall deny the City of Scranton's Exception No. 1.

b. Authorized Revenue Increase and Revenue Requirement for PAWC

Based upon our findings regarding certain inputs to PAWC's rate base, *supra*, to its revenues, as discussed in this section of our Opinion and Order, and to PAWC's expenses, cost of common equity, and overall rate of return, discussed, *infra*, we shall approve an overall revenue requirement of \$1,093,507,496, on a total company basis, which will result in a maximum allowed overall distribution revenue increase of \$99,329,012, on an annual basis. After allocating a portion of the wastewater revenue requirement to PAWC's water customers, we shall approve: (1) a revenue requirement of \$908,990,615 for PAWC's water service, representing a revenue increase of \$88,121,069,

or 10.74%, on an annual basis; and (2) a revenue requirement of \$184,516,880⁵¹ for PAWC's wastewater service, representing a revenue increase of \$11,207,944,⁵² or 6.47%, on an annual basis. These amounts are depicted in Table Act 11 Water and Wastewater Revenue Requirement – Summary, which is part of the Commission Tables Calculating Allowed Revenue Increase that are attached to this Opinion and Order.

VII. Expenses

A. Payroll Costs – Vacancy Rate

1. Positions of the Parties

PAWC provided that the Company's payroll allowance for the FPFTY was developed based on PAWC's authorized complement of 1,294 equivalent employees. PAWC M.B. at 21 (citing PAWC St. 5 at 4-7).

The OCA proposed an adjustment to reflect a 1.76% vacancy rate, to reduce: (1) salaries and wages by \$1,045,353; (2) related payroll taxes by \$79,970; (3) annual performance pay by \$85,523; and (4) related payroll tax by \$6,543. The OCA further recommended accompanying adjustments based on the vacancy rate for: (1) group insurance by \$200,623; and (2) 401K, Defined Contribution Plan (DCP), and Employee Stock Purchase Plan (ESPP) by \$72,817. As such, the OCA proposed a

⁵¹ As set forth in Table Act 11 – Water and Wastewater Revenue Requirement – Summary, which is included in the Commission Tables Calculating Allowed Revenue Increase, attached to this Opinion and Order, this amount consists of the following individual wastewater revenue requirements: \$100,729,441 for wastewater SSS and \$83,787,440 for CSS wastewater.

⁵² This amount consists of the following individual allowed annual revenue increases: \$6,056,720, or 6.40%, for Wastewater SSS and \$5,151,224, or 6.55%, for CSS Wastewater. *See, Id.*

reduction to the Company's claim for salaries, wages, payroll taxes, and related benefits totaling \$1,490,829. OCA M.B. at 35 (citing PAWC St. 5R at 2-3; OCA St. 2-SR at 2; OCA St. 2 at 56-59; OCA M.B. at Appendix H). Additionally, the OCA recommended that PAWC remove the Company's expense claim of \$123,250 because PAWC eliminated its external Board as of December 31, 2023. PAWC agreed to remove this expense claim. OCA M.B. at 35-36 (citing OCA St. 2-SR at 2; OCA St. 2 at 62).

PAWC accepted the OCA's vacancy rate adjustment and updated payroll expense to reflect a merit increase that became effective January 8, 2024, for non-collective bargaining unit hourly employees and exempt employees (2024 Merit Increase). PAWC M.B. at 21 (citing PAWC St. 5-R at 2-3; PAWC Exh. 3-A Revised). PAWC submitted a final payroll expense claim of \$78,161,527, with the inclusion of the accepted adjustment and 2024 Merit Increase. PAWC M.B. at 21-22.

2. Recommended Decision

The ALJs recommended that PAWC's Payroll Costs - Vacancy Rate be adjusted to reflect the OCA's proposed adjustment of a 1.76% vacancy rate because PAWC accepted the OCA's proposed adjustments. The ALJs also recommended that PAWC's claim of \$123,250, related to its external Board, be eliminated because the Company accepted the OCA's recommendation to remove \$123,250 from its external Board expense claim. The ALJs noted that because PAWC adopted these adjustments to its initial claims in rebuttal, their recommended adjustment was reflected in the Company Adjustments column in Table I-Water, Table I-Wastewater SSS, and Table I-Wastewater CSS in the Appendix of their Recommended Decision. R.D. at 95-96.

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendations that: (1) PAWC's Payroll Costs - Vacancy Rate be adjusted to reflect a 1.76% vacancy rate; and (2) PAWC's external Board claim of \$123,250 be eliminated.

B. Annualized Performance Pay (PAWC)

1. Positions of the Parties

PAWC provided that the performance compensation challenged by PAWLUG's witness, Ms. Billie LaConte, and the OSBA's witness, Mr. Kevin Higgins, is an integral part of the compensation package that is necessary to compete for and retain qualified employees. PAWC M.B. at 22 (citing PAWC St. 2-R at 4-10; PAWC St. 2 at 39-42). PAWC averred that the Commission has historically found that the focus for ratemaking purposes is the reasonableness of overall compensation awards, and not the size or nature of individual pieces of the compensation package. PAWC M.B. at 22-23 (citing *PAWC 2020* at 50-53; *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket Nos. R-2021-3027385 and R-2021-3027386 (Opinion and Order entered May 16, 2022 (*Aqua 2022*) at 100-01; *UGI Electric 2018* at 73-74; *Pa. PUC v. PPL Electric Utilities Corporation*, Docket No. R-2012-2290597 (Opinion and Order entered December 28, 2012) (*PPL 2012*) at 26; *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Order entered July 31, 2008), at 20-21; *Pa. PUC v. PPL Gas Utilities Corporation*, Docket No. R-00061398 (Order entered February 8, 2007) (*PPL Gas 2007*) at 40). Further, PAWC averred that no Party contested that the Company's total market-based employee compensation is unreasonable, and the Company provided evidence concerning how performance pay benefits customers by encouraging, *inter alia*, operational efficiency. PAWC M.B. at 23 (citing PAWC St. 2-R at 4-10). Moreover, PAWC averred that its performance-based compensation expense, including the Annual

Performance Plan (APP) and the Long-Term Performance Plan (LTPP), was recently reviewed and approved by the Commission in the PAWC 2020 base rate proceeding. PAWC M.B. at 23 (citing *PAWC 2020* at 53). As such, PAWC submitted that the OSBA and PAWLUG neither addressed nor acknowledged the adverse precedent presented by the Company. PAWC R.B. at 18.

The OCA asserted that its proposed adjustments to reduce the APP expense by \$85,523, and related payroll tax expense by \$6,543 for Water, are supported by the Company's acceptance of the OCA's recommended vacancy rate of 1.76%. OCA M.B. at 36 (citing OCA St. 2 at 59-60).

The OSBA recommended that 50% of the APP expense be eliminated from the revenue requirement, based on: (1) the weight of the earnings per share (EPS) goal included in the APP corporate performance calculation; and (2) placing more of the financial burden for the APP on PAWC's shareholders, because rewarding employees for financial performance rests primarily on the shareholders. The OSBA's recommended adjustment decreased the FPFTY revenue requirement by approximately \$5,153,394 in total, which includes: (1) the impact of removing 50% of the APP expense directly related to PAWC employees and 50% of the APP expense allocated to PAWC by its Service Company from the revenue requirement; and (2) the estimated impact of payroll tax expense. OSBA M.B. at 11 (citing OSBA St. 1 at 11-12).

2. Recommended Decision

Consistent with their recommendation that the Commission adopt the OCA's proposed adjustment to PAWC's Payroll Costs - Vacancy Rate, the ALJs also recommended that this adjustment be applied to PAWC's APP expense claim. R.D. at 98 (citing OCA M.B. at 36). The ALJs noted that because PAWC adopted this adjustment to its initial claims in rebuttal, their recommended adjustment was reflected in the Company

Adjustments column in Table I-Water, Table I-Wastewater SSS, and Table I Wastewater CSS of the Appendix to their Recommended Decision. R.D. at 98.

The ALJs also recommended that the Commission reject the OSBA's proposed adjustments to APP. The ALJs explained that consistent with the OSBA's recommendation to reduce APP expense in half, the OSBA acknowledged that the APP calculation is not based solely on the Company's financial performance. R.D. at 98 (citing OSBA M.B. at 11; PAWC St. 2 at 41). Further, the ALJs found that the Company provided sufficient evidence regarding how its APP calculation benefits customers by encouraging, *inter alia*, operational efficiency and accessing capital at reasonable rates. R.D. at 98 (citing PAWC St. 2-R at 6-7). Moreover, the ALJs agreed with the Company that approval of the APP expense claim, inclusive of financial metrics, is consistent with the Commission's decision in *PAWC 2020*. R.D. at 98-99 (citing PAWC M.B. at 23).

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation that, consistent with adjusting PAWC's Payroll Costs - Vacancy Rate to reflect a 1.76% vacancy rate, this adjustment must be applied to PAWC's APP expense claim. We also agree with the ALJs' recommendation to reject the OSBA's proposed adjustments to APP.

C. Group Insurance Expense

1. Positions of the Parties

PAWC acknowledged that the OCA's proposed adjustments to Group Insurance Expense are concomitant to the OCA's recommended vacancy rate, *supra*. PAWC M.B. at 21-23. The OCA noted that PAWC's acceptance of the OCA's vacancy

rate supports the OCA's adjustment to reduce group insurance expense by \$200,623 for water. OCA M.B. at 36 (citing OCA St. 2SR at 2; OCA St. 2 at 60).

2. Recommended Decision

Given their recommendation that the Commission adopt the OCA's adjustment to vacancy rate, the ALJs recommended that the Commission adopt the OCA's proposed adjustment to group insurance expense. The ALJs noted PAWC's acknowledgement that the OCA's proposed adjustments to group insurance expense are concomitant to the OCA's recommended vacancy rate. R.D. at 99 (citing PAWC M.B. at 23). The ALJs further noted that because the Company adopted this adjustment to its initial claims in rebuttal, their recommended adjustment was reflected in the Company Adjustments column in Table I-Water, Table I-Wastewater SSS, and Table I Wastewater CSS in the Appendix to the Recommended Decision. R.D. at 99

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation that the Commission adopt the OCA's proposed adjustment to group insurance expense.

D. 401K, Defined Contribution Plan (DCP) and Employee Stock Purchase Plan (ESPP)

1. Positions of the Parties

PAWC asserted that the ESPP is available to all active, full- or part-time employees of the Company, and all PAWC employees who become Company

shareholders have additional incentive to establish efficiencies that benefit customers. PAWC M.B. at 24 (citing PAWC St. 5-R at 5; PAWC St. 2-R at 6).

The OCA stated that the Company's acceptance of the OCA's vacancy rate supports the OCA's proposed adjustments to reduce the projected 401K, DCP, and ESPP Expense for 2025 by \$72,817 for water. OCA M.B. at 36 (citing OCA St. 2-SR at 2; OCA St. 2 at 60).

The OSBA submitted that PAWC's proposal, that ratepayers should fund the stock purchase discount, should be rejected. The OSBA argued that ratepayers are not responsible to incentivize employees to purchase Company stock and, because the ESPP operates through payroll deductions, this stock purchase mechanism increases payroll costs for the portion of an employee's compensation that is used to purchase stock. OSBA M.B. at 11 (citing OSBA St. 1 at 13-14). As such, the OSBA submitted that if the Company wants to provide an incentive for employees to purchase stock, then the ESPP should be funded by shareholders. Therefore, the OSBA recommended a \$457,009 decrease to the FPFTY revenue requirement. OSBA M.B. at 12 (citing OSBA St. 1 at 14).

2. Recommended Decision

Consistent with their above recommendation that the Commission adopt the OCA's proposed adjustment to the Company's Payroll Costs – Vacancy Rate, the ALJs recommended that this adjustment be applied to the Company's 401K, DCP, and ESPP expense claim. R.D. at 101 (citing OCA M.B. at 36). The ALJs noted that because the Company adopted this adjustment to its initial claims in rebuttal, their recommended adjustment was reflected in the Company Adjustments column in Table I-Water, Table I-Wastewater SSS, and Table I-Wastewater CSS in the Appendix to the Recommended Decision. R.D. at 101.

The ALJs also recommended that the Commission reject the OSBA's proposed adjustments to ESPP expense. The ALJs found that PAWC provided sufficient evidence that Company employees who become Company shareholders have additional incentive to establish efficiencies that benefit customers. R.D. at 101 (citing PAWC St. 5-R at 5; PAWC St. 2-R at 6). The ALJs added that this finding is consistent with their recommendation that a financial metric component be included in the claim for APP expense. R.D. at 101.

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation that the OCA's proposed adjustment to the Company's Payroll Costs – Vacancy Rate be applied to the Company's 401K, DCP, and ESPP expense claim. We also agree with the ALJs' recommendation that the Commission reject the OSBA's proposed adjustments to ESPP expense.

E. Stock-Based Compensation Expense – American Water Executives

1. Positions of the Parties

As discussed below, the OCA recommended adjustments to disallow the Company's claimed expenses for: (1) stock-based compensation (SBC); and (2) dividend equivalents paid to AWK's top executives. OCA M.B. at 36-38.

According to PAWC, expenses that are part of the compensation provided to top executives ensure that total compensation is reasonable and market-based. PAWC M.B. at 24. PAWC asserted that no Party has presented evidence that top executives could be attracted or retained with a total compensation level that is substantially below the Company's claim. Further, PAWC averred that top executives, like all other

employees, are necessary to enable the Company to manage the provision of safe and reliable water and wastewater service. Moreover, PAWC submitted that both customers and utility investors benefit from awarding a portion of total compensation as SBC because it: (1) incentivizes utility employees to promote PAWC's efficiency and financial health; and (2) promotes a stable leadership team and mitigates employee turnover costs by vesting over a prospective three-year period. *Id.* at 24-25 (citing PAWC St. 2-R at 3-10). Furthermore, as discussed in Section VII.A, *supra*, PAWC noted that the Commission recently reviewed and approved the Company's total compensation package and, therefore, it is appropriate to do so again here. PAWC M.B. at 21-22, 25.

Additionally, PAWC argued that an objective review of the record in this case shows that the Company has provided substantial evidence related to the same customer benefits that were highlighted by the Commission when it approved performance-based compensation in its decision in *Aqua 2022*, including: (1) controlling costs; (2) improving efficiency; (3) promoting retention; and (4) promoting safe and reliable service. PAWC R.B. at 19 (citing PAWC St. 2-R at 2-10; PAWC St. 2 at 39-42).

The OCA recommended an adjustment to remove expenses related to the SBC associated with the LTPP for AWK top executive officers. Specifically, the OCA recommended reducing PAWC's operating expenses by \$1.722 million to remove the portion projected to be paid to top executives of AWK and charged to PAWC for the FPFTY. The OCA noted that the SBC for such top executives includes: (1) performance stock units (PSU); and (2) restricted stock units (RSU). OCA M.B. at 36-37 (citing OCA St. 2-SR at 2; OCA St. 2 at 66-67).

The OCA argued that this adjustment is necessary because ratepayers should not be required to pay for a portion of SBC paid to top executives, where such compensation: (1) is linked to the performance of AWK's stock price; and (2) is primarily to benefit AWK's stockholders and aligns the interests of participants with those of such stockholders. OCA M.B. at 37. Further, the OCA referred to *Aqua 2022*,

where the Commission found that SBC benefits ratepayers where the compensation is linked to performance objectives that benefit consumers, including controlling costs and compliance initiatives. *Id.* at 37 (citing *Aqua 2022* at 60-61). Here, the OCA continued that PAWC acknowledged that: (1) SBC expense consists of RSUs and PSUs; and (2) the compensation under the LTPP is linked to stock performance. OCA M.B. at 37 (citing PAWC St. 2-R at 9; OCA St. 2-SR at 45-47). Moreover, the OCA contended that recovering the portion of SBC expense that is linked to shareholder interests from the Company's customers is unreasonable and does not promote reasonable, adequate, or efficient utility service. OCA M.B. at 37 (citing OCA St. 2-SR at 67; OCA St. 2 at 67). Accordingly, the OCA recommended reducing pre-tax operating expenses by: (1) \$1.643 million for water; (2) \$51,658 for wastewater SSS; and (3) \$27,551 for CSS wastewater. OCA M.B. at 37 (citing OCA St. 2 at 69).

The OSBA noted that PAWC provides eligible employees: (1) SBC through the Company's LTPP; (2) RSU awards, which are based on a three-year vesting period if the participant remains employed with the Company; and (3) PSU awards, which are based on: (a) "performance vesting conditions;" and (b) a combination of compounded EPS growth and relative total shareholder return when compared to a peer group of stock over a three-year period. The OSBA further noted that the LTPP awards for the HTY ended June 30, 2023, were approximately 22% RSUs and 78% PSUs. OSBA M.B. at 12 (citing OSBA St. 1 at 12).

The OSBA recommended that the LTPP expense be removed from the revenue requirement because: (1) this is an award program that should be funded by shareholders; (2) most of the LTPP cost is the PSU component, which is directly based on the financial performance of AWK; and (3) the RSU component is based upon an employee continuing to work for the Company and not work-related goals. Thus, the OSBA submitted that any SBC expense is properly borne by the Company's shareholders. Therefore, the OSBA recommended an adjustment to decrease the FPFTY

revenue requirement by approximately \$5,230,156, which includes the estimated impact on payroll tax expense. OSBA M.B. at 12 (citing OSBA St. 1 at 13).

As previously noted, PAWLUG is not proposing comprehensive adjustments to PAWC's expenses or a specific recommendation for the revenue requirement. However, PAWLUG submitted that the Commission must modify the Company's proposed incentive compensation expense because, according to PAWLUG, the proposal to recover \$4.1 million for incentive compensation costs is inflated by \$2 million. PAWLUG M.B. at 6. PAWLUG averred that although PAWC reserves the managerial discretion to award incentive compensation as the Company deems appropriate, only incentive compensation associated with operational goals, such as customer satisfaction or safety, should be recoverable through base rates. *Id.* at 6 (citing PAWLUG St. 1 at 8). Accordingly, PAWLUG recommended that to eliminate the recovery of incentive compensation costs tied to financial targets, the Commission should reduce the Company's proposed total incentive compensation expense by \$2 million. PAWLUG M.B. at 6.

2. Recommended Decision

The ALJs recommended that given their recommendation regarding APP expense, and consistent with the Commission's decision in *Aqua 2022*, the Commission approve PAWC's claim for SBC Expense – American Water Executives. R.D. at 105 (citing *Aqua 2022* at 100-01). The ALJs found that the Company sufficiently demonstrated that its claimed SBC Expense, including its LTPP, benefits ratepayers. R.D. at 105 (citing PAWC St. 2-R at 2-10; PAWC St. 2 at 39-42). Further, the ALJs disagreed with the OCA that SBC Expense is significantly different from the similarly allowed expense in *Aqua 2022*. R.D. at 105 (citing OCA M.B. at 37). The ALJs noted that both expenses include SBC that can produce operational efficiencies to benefit ratepayers. Moreover, the ALJs referred to the testimony of PAWC's witness, Mr. James

Runzer, to note that the LTPP includes both RSUs and PSUs, and PSUs reflect the Company's financial performance. R.D. at 105-06 (citing PAWC St. 2 at 41). The ALJs continued that, consistent with their discussion regarding APP expense, improved financial performance can benefit customers by encouraging operational efficiency. Further, the ALJs noted that RSUs are not linked to financial goals or targets but vest in equal increments in the three years that follow the year in which the RSUs were granted. R.D. at 106 (citing PAWC St. 2-R at 7). Moreover, the ALJs found that contrary to the OSBA's assertion that RSUs reward employees for simply showing up for work, PAWC provided persuasive evidence to show that encouraging employee retention can benefit ratepayers by maintaining stable leadership experienced with PAWC's operations and avoiding costs for turnover. R.D. at 106 (citing PAWC St. 2-R at 8; OSBA M.B. at 12). Furthermore, the ALJs agreed with PAWC that approval of the claim for LTPP expense is consistent with the Commission's decision to approve a similar expense in the base rate case in *PAWC 2020*. R.D. at 106 (citing PAWC M.B. at 23; *PAWC 2020* at 53).

3. OCA Exception No. 6 and Replies

In its Exception No. 6, the OCA argues that the ALJs erred in concluding that executive compensation that is tied to stock price benefits consumers. The OCA contends that this expense is distinguishable from the allowed expense in *Aqua 2022*, where the Commission found that SBC benefits ratepayers where the compensation is linked to performance objectives that benefit consumers, including controlling costs and compliance initiatives. OCA Exc. at 8 (citing *Aqua 2022* at 60-61).

In this case, the OCA recommends removing that portion of the expense claim projected to be paid to the top executives of AWK and charged to PAWC for the FPFTY that are linked to shareholder interests rather than customer interests. The SBC for those executives consists of PSUs and RSUs. This removal would reduce PAWC's operating expenses by \$1.722 million. OCA Exc. at 8 (citing OCA St. 2 at 66-67). The

OCA contends that this adjustment is necessary because customers should not be required to pay for a portion of the expense for SBC paid to AWK's top executives where such compensation is linked to the performance of AWK's stock price and has the primary purpose of benefitting AWK's stockholders. OCA Exc. at 8-9. The OCA reasons that the record does not support the conclusion drawn by the ALJs and there is no substantial evidence that supports the finding that SBC associated with LTPP benefits customers. OCA Exc. at 9.

In its Replies, PAWC explains that it uses a mix of fixed and variable (*i.e.*, performance-based) compensation to provide reasonable and market-based compensation to attract and retain highly qualified employees. PAWC R. Exc. at 12 (citing PAWC St. 2 at 39-40). According to PAWC, the Commission approves stock-based compensation where the utility can demonstrate a benefit to customers – including the recent *Aqua 2022* and *PAWC 2020* proceedings. PAWC R. Exc. at 13 (citing R.D. at 105-06) (additional citations omitted). PAWC avers that it provided evidence that both customers and utility investors benefit from SBC because: (1) it incentivizes utility employees to improve PAWC's efficiency and financial health; and (2) it promotes a stable leadership team and mitigates employee turnover costs by vesting over a prospective three-year period. PAWC R. Exc. at 13 (citing PAWC St. 2-R at 8-10) (additional citations omitted). PAWC asserts that the ALJs properly found that the expenses were sufficiently similar to those approved in *Aqua 2022* and *PAWC 2020*. PAWC R. Exc. at 13 (citing R.D. at 106; PAWC St. 1-R at 32).

4. Disposition

We agree with the ALJs' recommendation and find merit in the ALJs' reasoning that their recommendation is consistent with the Commission's decisions in *Aqua 2022* and *PAWC 2020* for a similar expense. The ALJs noted that PSUs reflect the Company's financial performance, and improved financial performance can benefit

customers by encouraging operational efficiency. We agree. Additionally, RSUs vest over a three-year period, encouraging employee retention which can benefit ratepayers by maintaining experienced employees.

PAWC's witness, Mr. Runzer, testified that the Company targets its total direct compensation (base and variable compensation) for each role at the Company near the market median (50th percentile) for that role. Mr. Runzer explained that by using a combination of fixed and variable compensation, the Company satisfies a dual objective of ensuring competitive market-based total compensation for all employees, while continuing to motivate employees to achieve goals that will improve performance and efficiency for the benefit of its customers. PAWC St. 2 at 40. We note that PAWC averred that no other Party presented evidence that the Company could attract or retain top executives with a total compensation level that is substantially below the Company's claim. PAWC M.B. at 24. Therefore, we find the Company's claim reasonable. Accordingly, we shall deny the OCA's Exception No. 6 and adopt the recommendation of the ALJs on this issue.

F. Executive Perquisites (AWK Executives Dividend Equivalents)

1. Positions of the Parties

The OCA's proposed adjustments to PAWC's claimed O&M expenses to remove certain executive perquisites are addressed in Section VII.E of this Opinion and Order, *supra*.

The OCA recommended an adjustment to reduce PAWC's FPFTY operating expenses by \$31,371, to remove expenses related to the executive perquisites associated with Dividend Equivalents for top AWK executives. OCA M.B. at 38 (citing OCA St. 2 at 70). The OCA referred to AWK's Proxy Statement to aver that Dividend Equivalents

are another form of compensation to AWK executives linked to shareholder interests, not consumer interests. *Id.* As such, the OCA submitted that charging the Dividend Equivalents portion of all Other Compensation received by AWK's top executives to PAWC's ratepayers is unreasonable and does not promote reasonable, adequate, or efficient utility service. OCA M.B. at 38 (citing OCA St. 2-SR at 47-48). Accordingly, the OCA recommended reducing pre-tax operating expenses by: (1) \$29,928 for water; (2) \$941 for wastewater SSS; and (3) \$502 for CSS wastewater. OCA M.B. at 38.

2. Recommended Decision

The ALJs recommended that the Commission approve PAWC's claim for Executive Perquisites for the same reasons they recommended that the Commission approve the Company's claimed SBC expense, *supra*. R.D. at 107 (citing R.D. at 105). The ALJs noted that the Executive Perquisites associated with dividend equivalents are paid in cash. R.D. at 107 (citing OCA M.B. at 38).

3. OCA Exception No. 7 and Replies

In its Exception No. 7, the OCA contends that, like the LTPP, this additional Executive Perquisite relates to SBC and is linked to the Company's financial performance and not to activity that necessarily benefits customers. The OCA maintains that it is not appropriate to charge such parent company perquisites to PAWC customers because the Dividend Equivalents expense yields little to no benefit to customers. OCA Exc. at 10.

As PAWC stated in its Replies to the OCA's Exception No. 6, *supra*, PAWC avers that both customers and utility investors benefit from SBC because: (1) it incentivizes utility employees to promote PAWC's efficiency and financial health; and (2) it promotes a stable leadership team and mitigates employee turnover costs by vesting

over a prospective three-year period. PAWC R. Exc. at 13 (citing PAWC St. 2-R at 8-10) (additional citations omitted).

4. Disposition

We find the ALJs' recommendation regarding Executive Perquisites to be reasonable for the same reasons as the related SBC expense, *supra*: PSUs reflect the Company's financial performance and improved financial performance can benefit customers by encouraging operational efficiency. RSUs vest over a three-year period, encouraging employee retention which can benefit ratepayers by maintaining experienced employees. PAWC's executive compensation has not been shown to be excessive or unreasonable. Accordingly, we shall deny the OCA's Exception No. 7 and adopt the recommendation of the ALJs on this issue.

G. Payroll Taxes

1. Positions of the Parties

PAWC submitted that the OSBA's recommended adjustment to payroll taxes should be rejected because this adjustment is concomitant to the OSBA's proposed adjustments to performance pay and the ESPP. PAWC M.B. at 25 (citing OSBA St. 1 at 11-13). PAWC noted that the OCA's proposed adjustments to payroll tax expense are concomitant to the OCA's recommended vacancy, which is addressed in the Payroll Costs – Vacancy Rate Section, *i.e.*, Section VII.A, *supra*. PAWC further noted that the OSBA's proposed performance pay adjustment includes the estimated impact on payroll tax expense and is addressed in the APP Section, *i.e.*, Section VII.B, *supra*. PAWC M.B. at 25; PAWC R.B. at 34.

I&E withdrew its performance pay adjustment and, as a result, withdrew its payroll tax expense adjustment as well. I&E M.B. at 26 (citing I&E St. 1-SR at 17).

The OCA noted that the OCA's proposed adjustments to payroll have related payroll tax adjustments. OCA M.B. at 38.

The OSBA noted that payroll tax adjustments are appropriate if the Commission approves adjustments to compensation-related expenses that impact payroll taxes. Accordingly, the OSBA recommended an adjustment to APP and LTPP expenses, which include the estimated impact on payroll taxes. OSBA M.B. at 13.

2. Recommended Decision

Consistent with their recommendation that PAWC's Payroll Costs - Vacancy Rate be adjusted to reflect the OCA's proposed adjustment, the ALJs recommended that PAWC's Payroll Costs, including Payroll Taxes, also be adjusted to reflect the OCA's proposed adjustment (*i.e.*, a 1.76% vacancy rate). The ALJs noted that because PAWC adopted this adjustment to its initial claims in rebuttal, their recommended adjustment was reflected in the Company Adjustments column in Table I-Water, Table I-Wastewater SSS, and Table I-Wastewater CSS in Appendix A of their Recommended Decision. R.D. at 109.

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation that payroll taxes be adjusted to reflect the 1.76% vacancy rate for payroll costs.

H. Insurance Other than Group

1. Positions of the Parties

PAWC submitted that the OCA's proposal, *infra*, to use a single data point – the HTY to FTY increase – in lieu of the five-year average the Company-employed, to determine its FPFTY insurance other than group expense claim should be rejected. However, PAWC noted that in its last base rate case, the Company used a five-year average to smooth year-to-year variations, which was not opposed by the OCA. PAWC averred that using a five-year average continues to be the appropriate approach to smooth year-over-year variations and, therefore, the Commission should reject the OCA's proposed adjustment. PAWC M.B. at 25 (citing PAWC St. 5-R at 8).

The OCA recommended an adjustment to Insurance Other Than Group (IOTG) Expense to use the actual percentage change from the HTY ended June 30, 2023, rather than the PAWC-proposed five-year average percentage change, which was calculated based on the twelve-month periods from June 30, 2019, through June 30, 2023. OCA M.B. at 38. The OCA's witness, Mr. Smith, agreed that generally, averages can be used to normalize costs, and trends and current information should be considered. However, the OCA noted that annual percentage change for the twelve-month ending periods of June 30, 2019, June 30, 2021, and June 30, 2022, were abnormally high or low when compared to the twelve-month ending periods June 30, 2020, and the HTY ended June 30, 2023. Thus, the OCA recommended that to ensure reasonableness, the HTY percentage change of 4.53% be used to calculate IOTG for the FPFTY. Accordingly, the OCA recommended reducing pre-tax operating income by: (1) \$247,905 for water; (2) \$34,694 for wastewater SSS; and (3) \$23,713 for CSS wastewater. OCA M.B. at 38-39 (citing OCA St. 2 at 63-64; OCA St. 2-SR at 36-37).

2. Recommended Decision

The ALJs recommended that the Commission adopt the Company's position and use a five-year average to calculate PAWC's FPFTY claim for its IOTG expense. The ALJs agreed with the Company that this methodology is appropriate to smooth year-over-year variations. R.D. at 110 (citing PAWC M.B. at 25). The ALJs found that although the OCA asserted that the HTY percentage change should be used because the annual percentage change for the twelve-month ending periods of June 30, 2019, June 30, 2021, and June 30, 2022, were abnormally high or low, it is because of these variations that it is appropriate to use an averaging methodology. The ALJs added that other than the OCA's characterization of three years of data as abnormal, there is no basis to find that use of the HTY percentage change would be more accurate than a result based on averaging. R.D. at 110 (citing OCA M.B. at 38-39).

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation that the Commission adopt PAWC's proposed five-year average methodology to calculate PAWC's FPFTY claim for its IOTG expense.

I. Uncollectible Expense (Rate of New Write-Offs)

1. Positions of the Parties

PAWC provided that outstanding arrearages for the Company's customers stabilized from the increases during the peak of the COVID-19 Pandemic, and the Company's net write-offs have been trending toward pre-pandemic levels since mid-2021. As a result, PAWC continued, the Company calculated its claim for bad debt (uncollectible) expense using a two-year historic average (July 1, 2021 to June 30, 2023)

ratio of net write-offs as a percentage of sales revenues (1.176%), to normalize the rate of uncollectible accounts to pre-pandemic levels and account for the application of Low-Income Household Water Assistance Program (LIHWAP) funds, which reduce unpaid balances. PAWC M.B. at 26 (citing PAWC St. 8 at 3-6).

PAWC submitted that using a two-year percentage of net write offs, ended June 30, 2023, eliminates all impacts of the COVID-19 Pandemic on customer collections activities and Company revenues, which occurred beginning with the moratorium on disconnects starting in March 2020, and continued through March 2021. PAWC further submitted that if the Commission wants to maintain the historic practice and utilize a three-year average rate to determine the level of uncollectible expense reflected in new base rates, then the 12-months ended June 30, 2019, should be used because all periods impacted by the COVID-19 Pandemic will be excluded and an uncollectible rate of 1.196% will be produced, which is 0.02% higher than the Company's proposal. PAWC M.B. at 26 (citing PAWC St. 8-R at 3-4).

PAWC also noted that although the OCA agreed that the COVID-19 Pandemic impacts should be eliminated from the historic average ratio of write-offs used to determine the Company's rate allowance for uncollectible expense, the OCA's proposed uncollectible rate of 1.164% is based on a three-year historic average which includes the March to June 2020 period. PAWC R.B. at 21 (citing OCA M.B. at 39). PAWC countered that the Company has several measures in place to help customers deal with the financial impact of the COVID-19 Pandemic, including ceasing service terminations for non-payment. As such, PAWC submitted that the OCA's proposed adjustment, *infra*, should be rejected. PAWC R.B. at 21.

The OCA recommended using a three-year historic average ratio of net write-offs to calculate the going level Uncollectibles Expense based on the twelve months ended June 30, 2020; June 30, 2022; and June 30, 2023. According to the OCA, this will

produce an uncollectibles write-off percentage of 1.164%. OCA M.B. at 39 (citing OCA St. 2-SR at 32-34; OCA St. 2 at 54-56). The OCA averred that the period July 1, 2020, through June 30, 2021, should not be used in the calculation of going level Uncollectibles Expense because it is reasonable and prudent to eliminate the impacts of the COVID-19 Pandemic on customer collections. OCA M.B. at 39 (citing OCA St. 2-SR at 33; OCA St. 2 at 55).

The OCA provided that for the 12-months ended June 30, 2021, the uncollectibles annual write-off percentage calculates to 0.548%. The OCA continued that for the 12-month period ended June 30, 2020, the annual write-off percentage was 1.135%, which is consistent with the write-off percentages shown for the 12-months ended June 30, 2022, and June 30, 2023. As such, the OCA asserted that averaging the annual write-off information using the 12 months ended June 30, 2020, 2022, and 2023, appears to be reasonable in the context of the instant rate case. OCA M.B. at 39-40 (citing OCA St. 2-SR at 33-34; OCA St. 2 at 55-56). Accordingly, the OCA submitted that its proposed adjustment reduces claimed Uncollectibles Expense by: (1) \$100,054 for water; (2) \$11,591 for wastewater SSS; (3) \$9,547 for CSS wastewater; and (4) \$1,438 for BASA wastewater. OCA M.B. at 40 (citing OCA St. 2 at 54-55).

2. Recommended Decision

The ALJs recommended that the Commission adopt the Company's position and calculate its claim for bad debt (uncollectible) expense using a two-year historic average, *i.e.*, July 1, 2021 to June 30, 2023, ratio of net write-offs as a percentage of sales revenues. R.D. at 113 (citing PAWC M.B. at 26). The ALJs noted PAWC's averment that the Company's net write-offs have been trending back toward pre-pandemic levels since mid-2021. R.D. at 113 (citing PAWC St. 8 at 3-6). The ALJs, therefore, agreed with the Company that its use of a two-year percentage of net write offs "better eliminates" the impacts of the COVID-19 Pandemic on customer collections

activities and Company revenues. R.D. at 113 (citing PAWC M.B. at 26). Further, the ALJs agreed with PAWC that the 12 months ending June 30, 2020, should be excluded because it contains data from March to June 2020, which would reflect impacts from the COVID-19 Pandemic. R.D. at 113 (citing PAWC R.B. at 21; OCA M.B. at 39-40).

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation to calculate PAWC's claim for bad debt or uncollectible expense using a two-year historic average ratio of net write-offs as a percentage of sales revenues.

J. Arrearage Management Plan (AMP) Credits – Uncollectible Expense

1. Positions of the Parties

PAWC noted that its Miscellaneous Expense Adjustment included costs related to the Arrearage Management Plan (AMP) that was pending before the Commission at the time of the initial base rate filing and later approved in the *Petition of Pennsylvania American Water Company for Approval of an Arrearage Management Plan (On Remand)*, at Docket No. P-2021-3028195 (Order entered December 7, 2023) (*PAWC 2023 Order*). The total cost of arrearage forgiveness is based on the average number of Bill Discount Program (BDP) customers in the HTY, with arrears multiplied by the annual AMP credits, assuming a 100% participation rate. PAWC M.B. at 27 (citing PAWC St. 5-R at 8; PAWC St. 5 at 26).

PAWC addressed the OCA's recommended reduction in AMP credit cost recovery to reflect how many BDP customers make full and timely payments. PAWC M.B. at 27 (citing OCA St. 5-R at 25-27; OCA St. 5 at 124-26). PAWC averred that contrary to the OCA's concern regarding timely payment behavior, the requirement for

arrearage forgiveness is that the customer make an in-full payment of current charges plus a copay of \$5.00. PAWC M.B. at 27 (citing Tr. at 1977). Further, PAWC noted that if AMP expense is lower than the Company's projection, then the difference will be recorded as a regulatory liability and returned to customers in a future base rate case. PAWC M.B. at 27 (citing PAWC St. 5-R at 8-9). As such, PAWC submitted that the Commission should reject the OCA's proposed reduction, discussed below. PAWC R.B. at 22.

The OCA submitted that the Company's addition of dollars to uncollectibles to reflect AMP credits should be reduced by the percentage of BDP dollars already historically included in uncollectibles. OCA M.B. at 40 (citing OCA St. 2-SR at 48). The OCA averred that in account 670.7, related to the Company's proposed AMP, this adjustment reduces overall FPFTY uncollectibles expense by \$2.162 million, and, therefore, account 670.7 should reflect the amount of \$214,728 for the AMP-related uncollectibles expense, rather than the Company's proposed \$2,377,200. OCA M.B. at 40 (citing OCA St. 2 at 73-74). Accordingly, the OCA recommended reducing pre-tax operating expenses by: (1) \$1.848 million for water; (2) \$150,724 for wastewater SSS; (3) \$113,746 for CSS wastewater; and (4) \$39,573 for BASA wastewater. The OCA noted that this adjustment is necessary to eliminate the Company's double-recovery of dollars added to uncollectibles to reflect AMP credits where those dollars are already historically included in uncollectibles for the BDP. OCA M.B. at 40 (citing OCA St. 5 at 7, 127; OCA St. 5-SR at 27).

The OCA averred that its position is consistent with the *PAWC 2023 Order*, which provided that the cost recovery issues were to be addressed in a future rate case. OCA M.B. at 40. The OCA noted that the Settlement in that proceeding provided that the Company could "propose a dollar amount" which could be disputed by the OCA and which, accordingly, would be "subject to review and approval by the Commission." OCA M.B. at 40 (citing OCA St. 5-SR at 26-27).

2. Recommended Decision

The ALJs recommended that the Commission adopt the OCA's position and reduce the Company's claimed expense for AMP credits. R.D. at 116 (citing OCA St. 5 at 123). The ALJs acknowledged the Company's assertion that timely payments are not required for a customer to be eligible for credits under the AMP. R.D. at 116 (citing PAWC M.B. at 27). However, the ALJs agreed with the OCA that to assume that 100% of possible AMP credits will be earned each year is unreasonable. The ALJs were persuaded by the testimony of the OCA's witness, Mr. Roger Colton, that it is more likely that the Company will experience an 11% participation rate based on historic BDP data. Similarly, the ALJs agreed with the OCA that the Company's addition of dollars to uncollectibles to reflect AMP credits should be reduced by the percentage of BDP dollars historically included in uncollectibles. R.D. at 116 (citing OCA St. 5 at 123-25). The ALJs noted Mr. Colton's testimony that AMP arrears that are already included in rates to again be collected as AMP credits would allow the Company to collect those costs as both past uncollectibles and AMP credits. R.D. at 116 (citing OCA St. 5-SR at 27). The ALJs further noted that PAWC's witness, Ms. Lori O'Malley, stated that AMP credits expense will be recorded as a regulatory liability and amounts either under- or over-collected through rates in this case will be recovered or refunded in the next base rate case. R.D. at 116 (citing PAWC St. 5-R at 8-9).

The ALJs found that because the OCA determined its adjustments and allowable AMP expense by utilizing the same allocation factors that PAWC used to allocate the Company's AMP expense claim, PAWC's AMP expense for water, wastewater SSS, and wastewater CSS shall be reduced in a manner that is consistent with the OCA's calculations. As such, the ALJs noted that the proposed adjustments in Expenses for AMP were identified in the Recommended Decision in the Appendix at Table II-Water, Table II-Wastewater SSS, and Table II-Wastewater CSS. R.D. at 117 (citing PAWC St. 1, Exh. 3-B at 336; OCA St. 2, OCA Exh. LA-2, Sch. C-22).

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation to adopt the OCA's position and reduce PAWC's claimed expense for AMP credits in a manner that is consistent with the OCA's calculations. This will result in a reduction to the Company's AMP Credits-Uncollectible Expense, which is broken down, as follows: (1) a reduction of \$1,847,832 for the Company's water operations, or from \$2,031,317 to \$183,485; (2) a reduction of \$150,724 to the Company's wastewater SSS operations, or from \$165,691 to \$14,967; and (3) a reduction of \$113,746 to the Company's CSS wastewater operations, or from \$125,041 to \$11,295.⁵³ These adjustments are reflected in Table II-Water, Table II-Wastewater SSS, and Table II-Wastewater CSS in the rate tables that outline the Commission Tables Calculating Allowed Revenue Increase, which are attached to this Opinion and Order.

K. Acquisition-Related Expenses

1. Positions of the Parties

PAWC made adjustments to annualize the O&M expenses not fully recognized in the HTY for the Company's pending acquisitions. The Company's allocation of O&M expenses were, as follows:

⁵³ This results in a combined allowance of \$209,746 representing a reduction of \$2,112,303 from the Company's combined claim of \$2,322,049. [\$ 2,322,049 - \$ 2,112,303 = \$209,746]. We note that the OCA's calculated amounts set forth in OCA Exh LA-2, Sch C-22, which we adopt in reducing the Company's claimed amounts, also included calculations related to the Company's BASA and Brentwood acquisitions. For the reasons previously stated in this Opinion and Order, all claimed BASA and Brentwood amounts are excluded from this proceeding.

1. Water Operations: \$152,385 for Farmington (water) and \$1,585,572⁵⁴ for Audubon.
2. Wastewater SSS General Operations: \$264,176 for Farmington (wastewater) and \$249,288⁵⁵ for STMA.
3. \$7,077,728 for BASA Wastewater Operations.
4. \$762,049 for Brentwood Wastewater Operations.⁵⁶

PAWC St. 5 at 27; PAWC Exh. 3-B at 303-08.

PAWC averred that I&E's adjustments and the OCA's adjustments regarding the Farmington (water), Audubon, Farmington (wastewater), STMA, and BASA acquisitions should be rejected for the reasons discussed in its Main Brief and Reply Brief under the Utility Plant-in-Service Section, *i.e.*, Section V.A, *supra*. PAWC R.B. at 22 (citing I&E M.B. at 26-28; OCA M.B. at 42).

I&E argued that it is not appropriate for the Company to claim and recover expenses for utilities that it does not own. As such, I&E recommended disallowance of the entire above claims given the uncertainty surrounding each of these acquisitions. I&E noted that such systems should only be included, if at all, in the next base rate case filed by the Company in which PAWC actually owns those systems. I&E M.B. at 27-29 (citing PAWC St. 6-R at 14-15; I&E St. 1 at 27).

The OCA recommended that because claims associated with the not-yet-acquired property should be excluded from rate base, the Commission should, by

⁵⁴ Included in this amount was \$27,709 in Taxes-Other for property tax.

⁵⁵ Included in this amount was \$3,547 in Taxes-Other for property tax.

⁵⁶ As previously noted, the Company withdrew its claims related to Brentwood.

extension, exclude all projected expenses related to the not-yet-acquired property, including acquisition expense, O&M expenses, and depreciation expense. OCA M.B. at 41 (citing *UGI Electric 2018* at 27-31, 79). Additionally, the OCA recommended removing the payroll expense for forty-three additional positions that the Company is proposing to add related to these acquisitions for a total reduction to payroll expense of \$2.984 million. OCA M.B. at 42 (citing OCA St. 2 at 56-57, Exh. LA-1, Schs. A, C-1, C-2, C-3).

2. Recommended Decision

The ALJs recommended that, consistent with their recommendation to exclude the identified acquisitions from rate base, they also recommended that the Commission exclude acquisition-related expenses from the Company's claim. R.D. at 118 (citing I&E M.B. at 27-28). The ALJs noted that their recommendation resulted in proposed adjustments in expenses for Farmington (water) O&M; Audubon O&M & Taxes-Other; Farmington (wastewater) O&M; and STMA O&M & Taxes-Other. R.D. at 118; *see*, R.D. at Appendix, Tables II, V, and VI for Water and Wastewater SSS.

3. PAWC Exception No. 3 and Replies

As discussed in Section V.A, *supra*, PAWC excepts to the ALJs' recommendation to deny the two-step rate increase proposal and exclude the BASA acquisition from rates. In short, PAWC contends that the BASA acquisition should be reflected in base rates established in this case given, *inter alia*, the current status of the *BASA* proceedings and the reasonable certainty that the BASA acquisition will close prior to the end of the FPFTY. PAWC Exc. at 14 (citing 66 Pa.C.S. § 315(e)). Therefore, PAWC requests that the Commission modify the Recommended Decision to approve the Company's stepped rate increase. PAWC Exc. at 12-16.

As previously discussed, in its Replies, I&E contends that, essentially, PAWC's assumption that the Commonwealth Court will find in the Company's favor, and the acceptance of such an assumption, is not in the public interest. Accordingly, I&E submits that given this uncertainty, the BASA system must be excluded from the filing. I&E R. Exc. at 6-7.

As previously discussed, in its Replies, the OCA agrees with the ALJs reasoning in recommending that the BASA system, and the other systems not yet acquired, be excluded from rate base. OCA R. Exc. at 1-2. The OCA contends that PAWC's argument that the BASA property be included in the Company's FPFTY ratemaking claims is meritless. OCA R. Exc. at 4-5. In short, the OCA submits that a utility cannot add plant to a system that it does not own. Therefore, the OCA argues that the Commission should exclude the Company's claim in rate base additions for improvements to the BASA system. OCA R. Exc. at 5-6.

As previously discussed, in its Replies, the OSBA agrees with the ALJs' recommendation that the revenue requirement related to PAWC's proposed acquisition of the BASA system be rejected. As such, the OSBA submits that the Commission should reject the Company's position and instead adopt the OSBA's recommended treatment of the BASA-related revenue requirement. OSBA R. Exc. at 2-3.

4. Disposition

As discussed in the Utility Plant-in-Service Section under Section V.A of this Opinion and Order, *supra*, we agree with the ALJs' conclusion that the BASA acquisition should not be included in PAWC's FPFTY rate base at this time. Similarly, we agree with the ALJs' recommendation that PAWC's proposed two-step rate increase, conditioned upon the closing date of the BASA transaction, not be approved.

Further, we concur with the position of I&E and the OCA that the Company's claims to its other not-yet-acquired property, including acquisition expense, should be removed. As previously stated, PAWC's contentions regarding the current status of the BASA proceedings, the pending Commonwealth Court case, and predictions about any occurrence or timing of closing are speculative and not certain. PAWC does not own the BASA system at this time; therefore, the Company cannot add plant for improvements to the BASA system and any such claims in rate base addition must be excluded. In addition to all claims related to the Company's BASA acquisition, we shall remove the following acquisition-related expenses for the other not-yet acquired property proposed by the Company: (1) \$152,385 for Farmington (water) O&M; (2) \$1,585,572 for Audubon (AWC) O&M & Taxes-Other;⁵⁷ (3) \$264,176 for Farmington (wastewater) O&M; and (4) \$264,176 for STMA O&M & Taxes-Other.⁵⁸ These adjustments are reflected in Table II-Water, Table V-Water, Table VI-Water; and Table II-Wastewater SSS, Table V-Wastewater SSS, and Table VI-Wastewater SSS, all of which are included in the rate tables that outline the Commission Tables Calculating Allowed Revenue Increase, which are attached to this Opinion and Order. Accordingly, PAWC's Exception No. 3 shall be denied.

L. Interest Synchronization

1. Positions of the Parties

PAWC provided that its claim for income tax expense is set forth in PAWC Exhibit 3A-Revised, and is based, in part, on an interest expense deduction calculated

⁵⁷ As shown in Table II-Water, this includes a reduction of \$1,557,863 to AWC O&M Expenses and a reduction of \$27,709 to AWC Taxes-Other.
[(- \$1,557,863 - \$27,709) = -\$1,585,572]

⁵⁸ As shown in Table II-Wastewater SSS, this includes a reduction of \$245,741 to STMA O&M Expenses and a reduction of \$3,547 to STMA Taxes-Other.
[(- \$245,741 - \$3,547) = -\$249,288]

using PAWC's proposed rate base and weighted cost of debt. PAWC M.B. at 28 (citing PAWC Exh. 3-A Revised at 72R-75R). PAWC submitted that the OCA's proposed interest expense adjustment, which is concomitant to the OCA's proposed adjustments to rate base and the weighted average cost of debt, should be rejected for the reasons set forth in the Rate Base and Rate of Return Sections of the Company's Main Brief. PAWC M.B. at 28 (citing OCA St. 2-SR at 34-36; OCA St. 2 at 61-62).

The OCA provided that its witness, Mr. Smith, multiplied the OCA's adjusted rate base by the weighted cost of debt included in the OCA recommended capital structure.⁵⁹ OCA M.B. at 42 (OCA St. 2-SR at 34-36; OCA St. 2 at 61). The OCA asserted that the use of a different rate base or weighted cost of debt impacts the interest synchronization, and the resulting amount of interest is reflected for ratemaking purposes as the "synchronized" interest deduction used to compute income tax expense. OCA M.B. at 42 (citing OCA St. 2-SR at 35). The OCA continued that the interest synchronization adjustment is necessary to ensure that the amount of income taxes claimed by the Company is properly matched to the Company's rate base and weighted cost of debt. The OCA further averred that the interest synchronization method is a standard ratemaking approach that has been well-established as appropriate and fair to all Parties. OCA M.B. at 42 (citing OCA St. 2-SR at 34-36; OCA St. 2 at 61, Exhs. LA-2, C-14). Mr. Smith recommended an interest synchronization adjustment in the amount of \$2,999,784. OCA M.B. at 42 (citing OCA St. 5-SR at 27; OCA St. 5 at 7, 127).

2. Recommended Decision

The ALJs noted that interest synchronization is used in ratemaking to determine the amount of interest expense to be used in the calculation of income tax, and the adjustment ensures that the tax-deductible interest expense for ratemaking is properly

⁵⁹ The Parties' positions on the appropriate capital structure are discussed in Section IX.B of this Opinion and Order, *infra*.

matched with the rate base and weighted cost of debt. R.D. at 119 (citing OCA M.B. at 42). The ALJs also referred to PAWC's acknowledgement that the OCA's proposed interest expense adjustment is concomitant to the OCA's proposed adjustments to rate base and the weighted average cost of debt. R.D. at 119 (citing PAWC M.B. at 28).

The ALJs agreed that the tax-deductible interest expense for ratemaking is properly matched with the rate base and weighted cost of debt. As such, the ALJs noted that their recommendation contains a concomitant interest synchronization adjustment as it relates to their recommended rate base adjustments, as detailed in Table II-Water, Table II-Wastewater SSS, and Table II-Wastewater CSS in the Appendix of the Recommended Decision. R.D. at 119.

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation that the tax-deductible interest expense for ratemaking is properly matched with the rate base and weighted cost of debt. Therefore, based upon the adjustments to rate base that we adopt in this Opinion and Order, along with the weighted cost of debt we adopt thereto, there will be a concomitant interest synchronization adjustment. This is detailed in Table II-Water, Table II-Wastewater SSS, and Table II-Wastewater CSS in the rate tables that outline the Commission Tables Calculating Allowed Revenue Increase, which are attached to this Opinion and Order.

M. Amortization Expense

1. Positions of the Parties

PAWC submitted that I&E and the OCA's proposed amortization expense adjustments, which are related to the Audubon, BASA, Farmington (water), Farmington

(wastewater) and STMA acquisitions, should be rejected for the reasons set forth in the Rate Base – Utility Plan-In-Service Section of the Company’s Main Brief and Reply Brief. PAWC R.B. at 22-23 (citing I&E M.B. at 29; OCA M.B. at 43).

I&E noted that annual amortization expense is an operating expense that represents the recovery or refund of regulatory assets and liabilities over an agreed upon period of time. I&E continued that regulatory assets and liabilities may or may not be included in a company’s rate base. I&E M.B. at 29 (citing I&E St. 3 at 81).

I&E explained that if the Commission agrees with the recommendation to exclude the STMA and Farmington (wastewater) systems, then there should be a corresponding reduction to amortization expense of \$9,147 claimed for the STMA system, and \$5,699 claimed for the Farmington (wastewater) system. I&E M.B. at 29 (citing I&E St. 3 at 82; PAWC Vol. 3, SSS Operations at 130). I&E continued that because these systems are not yet owned by the Company, it is premature to allow the Company to recover the corresponding expenses. Further, I&E noted that PAWC also claimed a negative plant acquisition adjustment in the total amortization expense related to the STMA system, and the Company is projecting that the purchase price for the STMA system will be \$945,612 less than the net book value of the STMA plant. I&E M.B. at 29-30 (citing PAWC Vol. 4, Exh. 3-B at 344). Moreover, I&E averred that PAWC is required to amortize the adjustment as a credit back to customers over 10 years because it is a negative acquisition adjustment and, while there is no rate base adjustment, PAWC is claiming a negative \$94,561 ($\$945,612 / 10$) acquisition adjustment expense be credited back to customers over 10 years. I&E M.B. at 30 (citing PAWC Vol. 3, Exh. 3-A at 130).

I&E submitted that if the Commission agrees with I&E’s recommendation to remove the plant, revenue, expenses, taxes, and amortizations related to the STMA system, then the Commission should also remove the negative \$94,561 annual

amortization expense credit related to the STMA system because the system has not yet been acquired and therefore, PAWC should not be required to credit \$94,561 in Annual Amortization expense back to customers. I&E M.B. at 30 (citing PAWC Vol. 3, Exh. 3-A at 130).

The OCA referred to its position regarding expenses related to the six proposed acquisitions, *supra*. See, OCA M.B. at 41-42, 43.

2. Recommended Decision

The ALJs referred to the Company's acknowledgement that I&E and the OCA's proposed adjustments to amortization expense are concomitant to their proposed exclusion of the acquisitions. R.D. at 120 (citing PAWC R.B. at 22). Further, the ALJs recommended that similar to their recommendation to exclude the identified acquisitions, they also recommended that the Commission adopt I&E's and the OCA's proposed adjustments to Amortization Expense. As such, the ALJs noted that the proposed adjustments in depreciation for "AWC [Audubon] Acq. Amort.;" "Farmington Acq. Amort.;" and "STMA Acq. Amort.," are detailed in the Appendix to the Recommended Decision at Table II-Water and Table II-Wastewater SSS. R.D. at 120.

3. Disposition

As discussed in the Utility Plant-in-Service Section under Section V.A, *supra*, we agree with the ALJs' conclusion that the BASA acquisition should not be included in PAWC's FPFTY rate base at this time.

Additionally, none of the Parties filed Exceptions to the ALJs' recommendation that the Commission remove PAWC's claimed Amortization Expenses associated with its acquisitions of Audubon, Farmington (water), Farmington

(wastewater), and STMA. As these systems are not yet owned by the Company, we concur with the ALJs' recommendation and shall adopt it. As set forth in Table II-Water and Table II-Wastewater SSS in the rate tables that outline the Commission Tables Calculating Allowed Revenue Increase, which are attached to this Opinion and Order, we shall make the following adjustments to remove the Company's claimed amortization expenses under the depreciation for "Audubon Acq. Amort.,"⁶⁰ "Farmington Acq. Amort.," and "STMA Acq. Amort."

- (1) A reduction of \$775,772 to remove PAWC's claims related to Audubon. This includes an acquisition adjustment amortization expense of \$763,977 and associated transaction costs of \$11,795.
[\$763,977 + \$11,795=\$775,772]
- (2) A reduction of \$27,032 to remove PAWC's claims related to Farmington (water). This includes an acquisition adjustment amortization expense of \$21,549 and associated transaction costs of \$5,483.
[\$21,549 + \$5,483]
- (3) An addition of \$85,414 to remove PAWC's claimed negative acquisition amortization expense related to STMA. This includes a negative acquisition amortization of \$94,561 and associated transaction costs of \$9,147. [(\$94,561) + \$9,147=(\$85,414)]
- (4) A reduction of \$5,699 to remove the transaction costs associated with Farmington (wastewater).

See, PAWC Exh 3-A at 67, 130. Additionally, we note that the Table II-Water attached to the Recommended Decision did not include the removal of the transaction costs associated with the amortization expense for Audubon or Farmington (water). Therefore,

⁶⁰ As noted above, Table II-Water in the Recommended Decision referred to this as the "AWC Acq. Amort."

through the adjustments outlined above, we shall modify the ALJs' recommendation by removing these transaction costs.

N. Call Center Expense

1. Positions of the Parties

The OCA proposed an adjustment to eliminate \$3.1 million from PAWC's O&M expense claim related to third-party call handling agencies. PAWC submitted that call handling operations are necessary to provide service to PAWC's customers and, if the Company did not utilize third-party call handling agencies, then PAWC would incur additional expense for staffing increases to handle the call volumes previously answered by third-party contractors. PAWC M.B. at 28 (citing PAWC St. 1-R at 22). PAWC further submitted that the OCA has not offered any valid reason why the call center expense that the Company necessarily incurs to serve its customers should be disallowed. PAWC R.B. at 23.

The OCA recommended that expenses for the third-party call centers that have routinely failed to meet reasonable call performance standards be eliminated by disallowing the following FPFTY expenses proposed by the Company for account 634.8: (1) \$2,475,869 for Transworld; and (2) \$606,386 for InteLogix. OCA M.B. at 43 (citing OCA St. 2-SR at 48; OCA St. 2 at 73). The OCA asserted that the evidence demonstrates the Company's failure to ensure adequate performance by third-party call centers that have routinely failed to meet call performance standards. Further, the OCA averred that the actual performance of the third-party call centers in answering calls is below the performance of the corporate call centers operated by Service Company employees. Moreover, the OCA contended that the Company ignored the evidence of the poor performance of its third-party call centers compared to Service Company call operations and refuses, in this proceeding, to make any changes in its current call center contracts.

OCA M.B. at 43 (citing OCA St. 6-SR at 9-10; OCA St. 6 at 20; PAWC St. 9-R at 15-16). As such, the OCA submitted that such expenses should be disallowed because they are imprudent and unreasonable. OCA M.B. at 43 (citing OCA St. 6-SR at 10; *Popowsky v. Pa. PUC*, 674 A.2d 1149, 1154 (Pa. Cmwlth. 1996) at 1154; 66 Pa.C.S. § 523).

2. Recommended Decision

The ALJs recommended that the Commission reject the OCA's proposed adjustment to Call Center Expense based on the OCA's assertion that third-party call centers were performing below that of the call centers operated by the Company's affiliated Service Company. R.D. at 121-22 (citing OCA⁶¹ St. 6-SR at 9-10; OCA St. 6 at 20). The ALJs were not persuaded that an adjustment to Call Center Expense is merited because, although the OCA's proposed adjustment is only for third-party call centers, the concerns outlined by the OCA also extend to the Company's own call centers, which are operated by the Service Company. R.D. at 122 (citing OCA St. 6 at 19-26). As such, the ALJs were not persuaded that the evidence cited by the OCA that the performance of the third-party call centers is so egregious when compared to the performance by the Service Company that it merits disallowance of the associated expense claim. Further, the ALJs noted the Company's explanation that third-party call center agents are trained with the same materials as internal call center employees. R.D. at 122 (citing PAWC St. 9-R at 6). Moreover, the ALJs found that given that the Company's own call centers are managed similarly, it is unclear how eliminating the Company's claim related to third-party call centers will provide the improved service

⁶¹ On page 122 of the R.D., the ALJs, in making these citations, erroneously cited to PAWC's Statement Nos. 6 and 6-SR on this issue. The correct citations have been used here. Therefore, Footnote Nos. 256 and 257 of the R.D. should refer to OCA St. 6 and St. 6-SR, not PAWC. On this same page, the ALJs also incorrectly stated "As PAWC witness Alexander explains." However, Ms. Barbara Alexander was a witness for the OCA. Therefore, this sentence should read "As PAWC witness Degillio explains." See, OCA Exc. at 11, n6.

sought by the OCA. Therefore, the ALJs were not persuaded that eliminating the expense related to third-party call centers will improve the Company's call center activities. R.D. at 122.

The ALJs noted that there were several customers who offered testimony during the Public Input Hearings regarding issues they experienced when contacting the Company to report various issues. Nonetheless, the ALJs reasoned that it was insufficient to warrant directing PAWC to implement changes to its call handling procedures. The ALJs found that PAWC has adequate procedures in place to track and respond to customer complaints and PAWC's daily monitoring of the Customer Service Organization (CSO) and third-party call handling agencies constitutes sufficient oversight. R.D. at 364.

3. OCA Exception No. 8 and Replies

In its Exception No. 8, the OCA avers that the ALJs did not accurately assess or account for the evidence the OCA placed on the record. The OCA maintains that the call center performance for Transworld Systems and InteLogix has been noticeably worse than the call center performance indicated with the Customer Care Table of Exhibit BA-3, which is a combined total for American Water agents as well as third-party contractors. OCA Exc. at 11 (citing OCA Exh. BA-3). The OCA provides that despite this documented discrepancy in poor performance, the Service Company has failed to utilize any of its contractual remedies for this continual failure of the third parties to meet performance standards. OCA Exc. at 11-12 (citing OCA St. 6 at 20). The OCA argues that PAWC failed in its management responsibilities to enforce contractual standards for the third-party contractors and thus the expense should be disallowed as the expense is neither justified nor prudently incurred. OCA Exc. at 12.

In reply, PAWC disagrees with the OCA's recommendation to disallow costs related to third-party contractors for responding to customer calls. PAWC sets forth that if PAWC did not utilize third-party call handling agencies, the Company would incur an additional expense for staffing increases to handle the call volumes previously answered by the contractors. PAWC R. Exc. at 13 (citing PAWC St. 1-R at 22). PAWC explains that the criticisms by the OCA's witness, Ms. Alexander, of PAWC's customer CSO performance ignore key indicators of customer satisfaction and differences between the "service level" data reported by the CSO and Pennsylvania energy utilities. PAWC notes that there were no significant complaints from customers about PAWC's customer service after hearing from 217 witnesses. PAWC R. Exc. at 14 (citing R.D. at 364).

4. Disposition

We find the ALJs' recommendation regarding the third-party contracts to be reasonable. Disallowing the expense will not improve the call center performance. The Company would need to replace the third-party contractors at an additional cost. We agree with the ALJs that PAWC has adequate procedures in place to track and respond to customer complaints. We note that PAWC conducts daily monitoring of the CSO and third-party call handling agencies. *See*, PAWC 9-R at 6-8. Accordingly, we shall adopt the ALJs' recommendation on this issue and deny the OCA's Exception No. 8.

O. Depreciation Expense

1. Positions of the Parties

PAWC submitted that other than depreciation expense adjustments associated with acquisitions, the OCA is the only Party that recommended an adjustment to depreciation expense. PAWC explained that its witness, Mr. Spanos, President of Gannett Fleming Valuation and Rate Consultants, LLC (Gannett Fleming), utilized

Commission-approved methods and the Company's most-recent service life studies when determining the annual depreciation accruals. Accordingly, PAWC averred that the Company properly determined service lives and depreciation expense for all accounts by utilizing the most current and complete information available. PAWC R.B. at 23-24 (PAWC M.B. at 17-19; PAWC St. 11-R at 5-10).

I&E noted that its only adjustment to depreciation expense is discussed in the "Annual Depreciation Expense" portion of its Main Brief which pertains to depreciation expense adjustments for two acquisitions not yet owned by PAWC. I&E M.B. at 19-20, 30.

The OCA noted, as a general matter, that the shorter the useful life, the higher the depreciation expense and, therefore, the higher the revenue requirement. OCA M.B. at 43 (citing OCA St. 2-SR at 43). The OCA averred that the Company, in its initial filing, proposed shorter useful lives for certain water plant when compared to PAWC's last base rate case, at Docket No. R-2022-3031673. The OCA noted that PAWC did not justify the shortening in its initial filing. OCA M.B. at 43 (citing OCA St. 2 at 64-66, OCA Exh. LA-2, Sch. C-17). The OCA provided that, in rebuttal, PAWC's witness, Mr. Spanos, explained that the shorter useful lives are supported by PAWC's 2021 Service Life Study rather than the 2016 Service Life Study. OCA M.B. at 44 (citing OCA St. 2-SR at 37; PAWC St. 11-R at 1-2).

The OCA continued that the Company has not demonstrated the need or reasonableness to use shorter useful lives that increase PAWC's depreciation expense. Further, the OCA noted that the water utility acquisitions that occurred since the 2016 Service Life Study, which supported the prior-approved useful lives, included two Section 1329 acquisitions: Steelton Borough Authority and Valley Township Water. Moreover, the OCA noted that the Company's appraiser in the Valley Township Section 1329 case, at Docket No. A-2020-3019859, used the useful lives that are

recommended by the OCA in this case. OCA M.B. at 44 (citing OCA St. 2-SR at 37-43; PAWC St. 11-R at 1-2, 5).

2. Recommended Decision

The ALJs recommended that, consistent with their recommendation to adopt the Company's position on Depreciation Reserve for Rate Base, and I&E's and the OCA's positions for Annual Depreciation Expense for Rate Base, the Commission reduce the Company's claim for depreciation expense, to remove annual depreciation expense for the AWC, STMA, and Farmington systems. As such, the ALJs noted that the proposed adjustments in depreciation are detailed in the Recommended Decision at Table II-Water and Table II-Wastewater SSS, for "AWC Depreciation;" "Farmington Depreciation;" and "Sadsbury Depreciation." R.D. at 124.

3. OCA Exception Nos. 3 and 9 and Replies

The OCA proposed, in its Exception Nos. 3 and 9, that the service lives from the 2022 rate case be used for the current case and allow the service lives from the 2021 Service Life Study, or its replacement study, to be deferred to and examined in PAWC's next base rate case. The OCA explains that given that expense items are a direct input into the revenue requirement amount, this adjustment would reduce the ALJs' recommended increase to \$88.6 million (\$104.1 – \$15.5 million). OCA Exc. at 12 (citing OCA St. 2 at 64-66).

In its Replies, PAWC disagrees with the OCA's recommendation that it should use the results of its 2016 Water Service Life Study rather than its 2021 Water Service Life Study for three of approximately fifty water accounts. PAWC R. Exc. at 11 (citing OCA Exc. at 5-6, 12). PAWC contends that it provided detailed survivor curve information for the three water accounts at issue and showed that, for each account, the

updated information from the 2021 Water Service Life Study was a better statistical fit with the most current historical data than the 2016 Water Service Life Study. PAWC R. Exc. at 11-12 (citing PAWC St. 11-R at 5-10). PAWC avers that the service lives and depreciation expense for all accounts were properly determined utilizing the most current and complete information available. PAWC R. Exc. at 12 (citing PAWC M.B. at 17-19; PAWC St. 11-R at 5-10).

PAWC provides that the OCA recommended in its Exceptions, that the results of the 2021 Water Service Life Study be “deferred” and examined in the Company’s next base rate. PAWC R. Exc. at 11, fn. 54 (citing OCA Exc. at 12). PAWC argues that presenting a new recommendation at this stage in the proceeding is improper, and, in any event, PAWC has provided substantial evidence supporting the use of the 2021 Water Service Life Study in this proceeding. PAWC R. Exc. at 11 (citing PAWC M.B. at 17-19).

4. Disposition

We find the ALJs’ recommendation to adopt PAWC’s claim for accrued depreciation related to its plant-in-service to be reasonable. We do not agree with the OCA’s recommendation to use the Company’s 2016 Service Life Study and to defer the use of the 2021 Service Life Study until the Company’s next base rate case. PAWC has stated that the service life studies were most recently performed in 2022 for its water assets (based on plant data through 2021) and in 2020 for its wastewater assets (based on plant data through 2019). PAWC St. 11 at 7. There are three accounts at issue: 304.15 (Other Water Source Structures); 331.00 (Mains and Accessories); and 335.00 (Fire Hydrants). The OCA’s witness, Mr. Smith, argued that the 2021 Water Service Life Study uses shorter life data for these accounts than the 2016 Water Service Life Study. PAWC M.B. at 17-19. PAWC’s witness, Mr. Spanos, has provided that it is standard practice to conduct a service life study every five years for each regulated utility. PAWC

St. 11-R at 2. Mr. Spanos stated that the plant data used in the service life study came from Company records, including retirements. PAWC St. 11 at 8. Mr. Spanos explained that PAWC has made significant changes to the plant investment since the 2016 Service Life Study. Further, Mr. Spanos determined that for each account, the 2021 Service Life Study was a better statistical fit than the 2016 Service Life Study. PAWC M.B. at 19 (citing PAWC St. 11-R at 5-10). The OCA has not provided evidence to show that the 2016 Service Life Study is a more appropriate fit than the 2021 Service Life Study. As such, we find that the OCA's recommendation to defer the use of the 2021 Service Life Study until the Company's next base rate case is unreasonable. Furthermore, the 2021 Service Life study has been developed to reflect recent replacement activity and investment activities and it is proper to use the more recent data. *See*, PAWC St. 11 at 5, 8, 9. Therefore, the OCA's Exception Nos. 3 and 9 are denied.⁶²

P. Pension and Other Post Employment Benefits (OPEB) Expense (And Request for Deferred Regulatory Accounting Treatment)

1. Positions of the Parties

PAWC claimed \$971,071 for pension expense and a negative allowance of (\$6,496,737) for OPEB income. PAWC M.B. at 29.

⁶² As noted in our disposition to Section V.E of this Opinion and Order, *supra*, as set forth in Table II-Water and Table II-Wastewater SSS, in the rate tables that outline the Commission Tables Calculating Allowed Revenue Increase, which are attached to this Opinion and Order, we shall remove the following claimed annual depreciation amounts: (1) \$269,599 of annual depreciation expense associated with the Audubon system; (2) \$101,751 of annual depreciation expense associated with the Farmington (water) system; (3) \$51,847 of annual depreciation expense associated with the STMA system; and (4) \$137,987 associated with the Farmington (wastewater) system.

PAWC provided that the Company's pension and OPEB costs are calculated by WTW (formerly known as Willis Towers Watson), a national actuarial firm that uses actuarial methods.⁶³ PAWC asserted that the pension and OPEB costs that WTW calculates are subject to material change based on a variety of economic and demographic variables that are outside the Company's control. Further, PAWC averred that actuaries like WTW must make reasonable assumptions to supply the values for those variables, and the assumptions and variables of the calculation are impacted by demographic assumptions related to the composition of the population that will receive retirement benefits, the behavior of members of that population (*i.e.*, decisions about when to retire), and the life expectancy of the recipients of retirement benefits. Consequently, PAWC continued, actual expenses can be lower or higher than the amounts embedded in the Company's base rates from year-to-year. PAWC M.B. at 29-30 (citing PAWC St. 8 at 10-14). Moreover, PAWC asserted that the Commission regularly authorizes utilities to defer costs for accounting purposes arising from events that are unanticipated and outside the utility's control to provide the utility an opportunity to claim such costs for recovery in a future rate proceeding. PAWC M.B. at 30. Therefore, PAWC submitted that the pension and OPEB costs calculated by the Company's actuary are within the scope of the Commission's exception to the prohibition against retroactive ratemaking. As such, PAWC requested that the Company be permitted to defer and record any amounts above or below the projected level of pension and OPEB expenses into regulatory asset or liability accounts until its next base rate proceeding. PAWC M.B. at 30-31 (citing PAWC St. 8 at 10-15).

First, I&E submitted that the Company's proposed pension and OPEB tracker should be denied. I&E M.B. at 31 (citing I&E St. 1 at 20). I&E noted that the

⁶³ PAWC's original claims consisted of pension expense of \$22,214 and a negative allowance for OPEB income of (\$5,817,327). Based on the actuarial report furnished by WTW for 2024 after the Company's initial filing, PAWC revised its pension claim and OPEB claim to the final amounts outlined above. PAWC M.B. at 29.

Commission has permitted extraordinary, unanticipated, non-recurring, and substantial expenses to be deferred for accounting purposes, including: (1) repair costs to avoid and imminent threat to public health and safety; (2) hurricane damage; and (3) accounting changes that would financially impact a utility. I&E M.B. at 31 (citing *Petition of Pennsylvania Util. Co., Inc.*, 2012 Pa. P.U.C. LEXIS 1124, at 2-3; *see also*, *Petition of Pike County Light and Power Company*, 2012 Pa. P.U.C. LEXIS 939 at 5-6; *Petition of Columbia Gas of Pa. Inc.*, 2012 Pa. P.U.C. LEXIS 836). However, I&E asserted that based on the standard which a utility must meet when seeking Commission authorization for deferral accounting, such treatment may be granted if the expense is:

(1) extraordinary; (2) unanticipated; (3) non-recurring; and (4) substantial. I&E M.B. at 31-32 (citing *Petition of Columbia Gas of Pa., Inc. for Authority to Defer for Accounting and Financial Purposes Certain Start Up Expenses Assoc. with the Redesign of Upgrade of Financial Processes and Info. Systems*, Docket No. P-2012-2319920 (Order entered December 5, 2012) (*Columbia Gas Petition for Deferral*)).

I&E averred that here, the costs are not extraordinary because pension and OPEB costs: (1) are routine, yearly expenses incurred by the Company, not one-time expenses; (2) are part of contractual agreements with past employees; and (3) can be forecasted on an annual basis and, therefore, cannot be categorized as non-recurring. I&E M.B. at 32 (citing *Popowsky v. Pa. PUC*, 642 A.2d 648, 652 (Pa. Cmwlth 1994) (*Popowsky*)). As such, I&E submitted that it is not appropriate for the Commission to grant approval for the Company to defer these costs because pensions and OPEB costs do not meet the requirements for deferral treatment. I&E M.B. at 32.

Second, I&E recommended a negative allowance of (\$3,800,736) for pension expense, or a reduction of \$4,771,807 to the Company's FPFTY final claim for water operations, based on a three-year average of historic actuals for pension expense.⁶⁴

⁶⁴ [971,071 - (\$3,800,736) = \$4,771,807].

I&E M.B. at 24 (citing I&E St. 1-R at 10). I&E noted that this approach, if the Company continues it in future base rate proceedings, will allow pension expense to normalize over time and address the Company's concern about over-recovery of pension expense without the need for a tracker. I&E noted that the Commission recently adopted a three-year normalization of rate case expense in *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-2023-3037933, (Opinion and Order entered November 9, 2023) (*PGW 2023*). Accordingly, I&E continues to recommend using a three-year average of historic actual expenses for pension based on the evidence presented and relevant case law. I&E M.B. at 33-34 (citing *PGW 2023*).

Third, I&E recommended the use of a historic three-year average for OPEB expense, resulting in a reduction of \$1,664,016 to the Company's FPFTY claim.⁶⁵ I&E M.B. at 35 (citing I&E St. 1-SR at 26). I&E noted that using the three-year historic average will allow OPEB expense to normalize over time and address any concerns about over-recovery without the need for a tracker. I&E M.B. at 35. Further, I&E noted that its recommended approach is consistent with prior Commission determinations. I&E M.B. at 36-37 (citing *PGW 2023* at 86; *Pa. PUC v. PECO Energy Company – Gas Division*, Docket No. R-2020-3018929 (Order entered June 22, 2021) (*PECO 2021*) at 90).

The OCA referred to the Production Expense Section of its Main Brief to argue that PAWC has not met its burden to demonstrate that the accounting mechanisms for pension and OPEB expenses are necessary or just and reasonable.⁶⁶ OCA M.B. at 44-45.

PAWLUG noted that although the Commission is authorized to consider alternative ratemaking mechanisms filed pursuant to Act 58 of 2018, the general rule

⁶⁵ [(\$6,496,737) - (\$8,160,753) = (\$1,664,016)].

⁶⁶ Accordingly, the OCA's position on this issue is discussed, in detail, in Section VII.Q of this Opinion and Order, *infra*.

remains that single-issue ratemaking is disfavored and Commission precedent prohibits single-issue ratemaking if it impacts something that is normally considered in a base rate case. Further, PAWLUG averred that the Company's proposed OPEB, pension, and production deferral mechanisms are examples of single-issue ratemaking which ignores the impact of any offsetting over recovery for other costs and, thereby, negates the need for the deferral mechanism. PAWLUG M.B. at 7-8 (citing *Pa. PUC v. Philadelphia Gas Works*, Docket No. P-00042090 (Order entered July 9, 2004) at 7; *Pa. Indus. Energy Coalition v. Pa. PUC*, 653 A.2d 1336, 1350 (Pa. Cmwlth. 1995)). As such, PAWLUG submitted that the Company's proposed deferral mechanisms should be denied or, if the Commission approves any of the proposed deferral mechanisms, then the impact on PAWC's operational risk should be considered in review of the Company's proposed ROE. PAWLUG M.B. at 8.

2. Recommended Decision

The ALJs recommended that the Commission reject the Company's proposal to defer and record any amounts above or below the projected level of pension and OPEB expenses into regulatory asset or liability accounts until its next base rate proceeding. The ALJs agreed with I&E that pension and OPEB costs are not extraordinary, unanticipated, or non-recurring, and, therefore, should not qualify for regulatory asset treatment. R.D. at 131 (citing I&E M.B. at 31-32). Similarly, the ALJs agreed with the OCA and PAWLUG that allowing deferred recovery of routine costs would raise concerns of single-issue ratemaking, which is not permissible. R.D. at 131 (citing OCA M.B. at 44-45; PAWLUG M.B. at 7-8).

The ALJs also recommended that the Commission accept I&E's proposed adjustments to pension and OPEB expenses based on a three-year historic average. The ALJs agreed with I&E that the Commission has recently favored adopting three-year averaging in calculating Pension and OPEB expenses. R.D. at 131 (citing I&E M.B.

at 33-36; *PGW 2023* at 86; *PECO 2021* at 90). Further, in disagreement of the Company's contention that its claim is based on actuarial projections, the ALJs found that "prior expenses and the variability of the year-to-year expense balances should be taken into consideration." R.D. at 131 (citing PAWC M.B. at 31-32; *PGW 2023* at 86). Moreover, the ALJs found that I&E adequately demonstrated the variability of PAWC's historic pension and OPEB costs and that the claims for such costs in this rate case should be based on averaging. R.D. at 131 (citing I&E St. 1-SR at 20-26; I&E St. 1 at 21-25). As such, the ALJs noted that the proposed adjustments in Pension Expense and OPEB Expense were detailed in the Recommended Decision in the Appendix at Table II-Water. R.D. at 131.

3. PAWC Exception Nos. 4 and 5 and Replies

In its Exception No. 4, PAWC argues that the ALJs improperly recommended that the Commission adjust the Company's claimed pension and OPEB expenses using a three-year average. PAWC Exc. at 16 (citing R.D. at 131). PAWC avers that while most Pennsylvania utilities base their claims for pension and OPEB costs on cash contributions to their pension and OPEB plans, the Commission approved the Company's request to cease using cash contributions and, instead, follow Financial Accounting Standards Board (FASB) Accounting Standard Codification Topic 715 (ASC 715). PAWC explains that under ASC 715, net changes in the actuarial determination of pension and OPEB obligations and associated plan funding levels impact the amount reflected on the income statement for the applicable accounting period. PAWC continues that historic actuarial determinations under ASC 715 do not inform how future pension and OPEB plan costs will be recorded because the economic and demographic variables used in actuarial forecasts change frequently. PAWC Exc. at 16-17 (citing PAWC R.B. at 24-25; PAWC M.B. at 31-32).

PAWC also posits that based on undisputed actuarial forecasts, the use of a three-year historic average understates the level of expense, or overstates the level of income, that the Company will record in 2024. PAWC Exc. at 17 (citing PAWC St. 5-R at 5; PAWC St. 8-R at 6-8; PAWC Exh. 3-A Revised at 51R-52R; Tr. 2004-06). PAWC also contends that because past performance has no bearing on future performance, the misalignment between the Company's rate allowance and actuarial determination will not be resolved through the use of a three-year historic average, which is why the Company is requesting that the Commission approve a deferral and record any amounts above or below the actuarial forecasted level of pension and OPEB expenses into regulatory asset or liability accounts until the Company's next base rate proceeding. Further, PAWC avers that if a three-year historic average is used to determine the rate allowance, then deferred accounting is necessary to address these fluctuations, for both customers and the Company. Moreover, PAWC argues that a rate allowance calculated using a three-year historic average, as the ALJs recommended, would result in larger variances between the annual amount of pension and OPEB expenses reflected in base rates and the actual level of expense or income the Company records on its books. PAWC Exc. at 17.

In short, PAWC argues that the 2024 actuarial reports and the Company's comparative analysis of its authorized and actual levels of pension and OPEB costs refute the rationale underlying the ALJs' recommendation that the use of a three-year historic average will normalize the Company's pension and OPEB expenses between rate cases. Therefore, PAWC argues that the Commission should approve the Company's claims of pension expense of \$971,071 and OPEB income of \$6,496,737. PAWC Exc. at 17.

In its Replies, I&E counters that the ALJs properly recommended that the Commission adjust the Company's pension and OPEB expense using a three-year average. I&E R. Exc. at 7 (citing R.D. at 131). I&E maintains that its recommended approach, and specifically the approach recommended by its witness, Ms. Vanessa Okum, is consistent with prior Commission determinations. I&E R. Exc. at 36-37 (citing

PGW 2023 at 86; *PECO 2021* at 90). Further, I&E argues that the evidence presented by I&E and the relevant case law demonstrate that a three-year average for pension and OPEB expense is the appropriate measure. Moreover, I&E contends that while the Company states that its pension and OPEB expense are “authorized levels,” forecasted amounts are not an “authorized expense.” Furthermore, I&E adds that the Company’s recent rate cases have all resulted in settlement with no specific monetary value assigned to pension and OPEB expense. Therefore, I&E argues that PAWC’s Exception No. 4 should be denied. I&E R. Exc. at 8 (citing *Pa. PUC v. Pennsylvania American Water Company*, Docket No. R-2017-2595853 (Order entered December 7, 2017) (*PAWC 2017*); *PAWC 2020*; and *PAWC 2022*).

In its Exception No. 5, PAWC disagrees with the ALJs characterization of pension and OPEB plan costs as “routine,” arguing that the Commission regularly authorizes utilities to defer costs for accounting purposes arising from events that are unanticipated and outside of the utility’s control, thereby providing the utility an opportunity to claim those costs for recovery in a future rate proceeding. PAWC Exc. at 18 (citing *Petition of Pennsylvania-American Water Company for Authorization to Defer, and Record as Regulatory Assets for Future Recovery: (1) Incremental Expenses Incurred Because of the Effects of the COVID-19 Emergency; (2) Revenue Reductions Attributable to the Effects of the COVID-19 Emergency; and (3) Carrying Charges on the Amounts Deferred*, Docket No. P-2020-3022426 (Opinion and Order entered September 15, 2021) at 12-13, 30-32, 42, 49-50; *Petition of Pennsylvania American Water Company for Authorization to Defer Expenses Incurred to Pay New Regulatory Fees Imposed by the Pa. Department of Environmental Protection*, Docket No. P-2019-3008253 (Opinion and Order entered May 9, 2019) at 3-4; *Petition of Pa.-Am. Water Co. for Auth. to Defer for Accounting and Fin. Reporting Purposes Expenses Relating to a Water Customer Class Demand Study*, Docket No. P-2012-2308982 (Opinion and Order entered August 20, 2012); *Petition of Columbia Gas of Pa., Inc. for Auth. to Defer, for Accounting Purposes, Certain Costs Associated with a Regulatory*

Asset Related to Other Post-Retirement Benefits Provided by NiSource Corporate Serv. Co., Docket No. P-2011-2275383 (Opinion and Order entered May 24, 2012); *Petition of the Newtown Artesian Water Co. for Permission to Defer and Record Unrecovered Purchased Water Costs*, Docket No. P-2010-221420 (Order entered June 1, 2011); *Petition of Citizens Utils. Water Co. of Pa.*, Docket No. P-00930746 (Order entered February 25, 1994); *Pa. P.U.C. v. Consumers Pa. Water Co. – Roaring Creek Div.*, Docket No. R-932655 (Order entered February 3, 1994)).

PAWC also argues that the Company presented unrefuted evidence that pension and OPEB costs determined on an accrual basis in accordance with ASC 715 can materially fluctuate higher or lower than forecasted from year-to-year, which occurs because actuarial forecasts reflect numerous economic and demographic assumptions that are outside of the Company's control, including expected behavior (*i.e.*, decisions about when to retire) and the life expectancy of the participant group. PAWC Exc. at 18-19 (citing PAWC St. at 10-14). Further, PAWC contends that deferred accounting authorization ensures that both customers and the Company only bear actual costs incurred for pension and OPEB expenses. Moreover, PAWC avers that the ALJs failed to consider the record evidence demonstrating that customers would have realized a net benefit of approximately \$104 million if pension and OPEB deferral mechanisms had been in place from 2012 through 2022. PAWC Exc. at 19 (citing PAWC M.B. at 31; PAWC Exh. JCS-1R).

PAWC also contends that the ALJs' recommendation is contrary to the record evidence demonstrating that the Company's production expenses can materially increase or decrease based on volatility in the prices charged by suppliers due to market conditions that are outside of the control of the Company and its suppliers. PAWC Exc. at 19 (citing PAWC M.B. at 32-33; PAWC St. 8 at 17-21). PAWC illustrates that its witness, Mr. J. Cas Swiz, testified that when compared to historic levels, the chemical market was extremely volatile in 2022 and 2023, based on impacts from the COVID-19

Pandemic, the conflict in Ukraine, and inflationary growth in commodity prices. Similarly, PAWC asserts that energy market prices are higher than they have been in several years, resulting in the Company's electric generation suppliers increasing contract rates for power supply and being less willing to lock in prices for 12-month terms. PAWC Exc. at 19 (citing PAWC St. 8 at 18-19). PAWC argues that its proposed accounting deferral for production expenses would protect both the Company and customers against this volatility. Further, PAWC contends that the ALJs and the opposing Parties ignored the ways in which the Company's production costs closely resemble the types of costs that the Commission has authorized other utilities to recover under Section 1307 of the Code, 66 Pa.C.S. § 1307, which are also driven by changes in supplier prices beyond the utility's control. Accordingly, PAWC argues that the Commission should approve the Company's proposed deferral mechanisms for its pension, OPEB, and production expenses. PAWC Exc. at 19-20.

In its Replies, I&E counters that the ALJs properly denied PAWC's request for deferred accounting for pension expenses, OPEB expenses, and production expenses. I&E R. Exc. at 8 (citing R.D. at 131). I&E repeats that the Commission has permitted deferred accounting for extraordinary, unanticipated, non-recurring, and substantial expenses, including costs for repairs to avoid and imminent threat to public health and safety, hurricane damage, and across the board accounting changes that would have a significant financial impact on a utility. I&E R. Exc. at 8-9 (citing *Petition of Pennsylvania Util. Co., Inc.*, 2012 Pa. PUC LEXIS 1124, at 2-3; *see also* *Petition of Pike County Light and Power Company*, 2012 Pa. PUC LEXIS 939 at 5-6; *Petition of Columbia Gas of Pa. Inc.*, 2012 Pa. PUC LEXIS 836). Further, I&E reiterates that based on the standard which a utility must meet when seeking Commission authorization for deferral accounting, such treatment may be granted if the expense is: (1) extraordinary; (2) unanticipated; (3) non-recurring; and (4) substantial. I&E R. Exc. at 9 (citing *Columbia Gas Petition for Deferral*). Moreover, I&E maintains that here, the costs are not extraordinary because pension and OPEB costs: (1) are routine, yearly expenses

incurred by the Company, not one-time expenses; (2) are part of contractual agreements with past employees and, therefore, not unanticipated; and (3) can be forecasted on an annual basis and, therefore, cannot be categorized as non-recurring. I&E R. Exc. at 9 (citing *Popowsky*). Accordingly, I&E maintains that it is not appropriate for the Commission to grant approval for PAWC to defer these costs because pensions and OPEB costs do not meet the requirements for deferral treatment. I&E R. Exc. at 9-10.

In its Replies, the OCA counters that the ALJs properly recommended that the Commission deny PAWC's request for deferred accounting for pension, OPEB expenses, and production expenses. OCA R. Exc. at 6 (citing R.D. at 131, 135).

The OCA asserts that single-issue ratemaking is the deferral of a single cost or cost category in isolation from all other costs. OCA R. Exc. at 6 (citing OCA R.B. at 28). Further, the OCA avers that several costs fluctuate, and examining a single cost without considering others would deny consumers the benefit of offsetting costs and reductions. Moreover, the OCA contends that the Company's requested deferral: (1) would shift the risk of fluctuation away from investors, who are compensated for that risk, to captive ratepayers who would be forced to bear the risk for no compensation; and (2) contradicts the fundamental ratemaking principle of allowing the utility the opportunity to recover its costs, especially in the presence of an FPFTY. OCA R. Exc. at 6 (citing OCA R.B. at 28; OCA M.B. at 45).

According to the OCA, the Company is attempting to "bootstrap" electric utility default service cost recovery and natural gas utility purchased gas cost mechanisms into its argument for a deferred accounting of production costs. OCA R. Exc. at 7 (citing PAWC Exc. at 19-20). The OCA submits that this argument is without merit and should be rejected. Further, the OCA argues that it fully rebutted the Company's argument regarding an alleged net benefit if pension and OPEB deferral mechanisms would have been in place. OCA R. Exc. at 7 (citing PAWC Exc. at 19; OCA R.B. at 27-29).

Accordingly, the OCA submits that the Commission should deny PAWC's Exception No. 5 and instead adopt the ALJs' recommendation. OCA R. Exc. at 7.

In its Replies, PAWLUG counters that the ALJs correctly determined that pension, OPEB expenses, and production expenses are not extraordinary, unanticipated, or nonrecurring. PAWLUG argues that the Company's recitation of prior Commission decisions approving deferral mechanisms for extraordinary or nonrecurring expenses is not persuasive. Accordingly, PAWLUG submits that PAWC's Exception No. 5 should be denied. PAWLUG R. Exc. at 3-4 (citing R.D. at 131; PAWC Exc. at 18, 20; PAWLUG M.B. at 7).

4. Disposition

We agree with the ALJs and I&E that pension and OPEB costs are not extraordinary, unanticipated, or non-recurring. R.D. at 131 (citing I&E M.B. at 31-32). As discussed by I&E, pension and OPEB costs are routine expenses that can be forecasted on an annual basis and are part of contractual agreements with past employees. *See*, I&E M.B. at 32. Therefore, costs for pension and OPEB expense do not qualify for deferred accounting treatment. Indeed, as noted by the ALJs, the OCA, and PAWLUG, to allow deferred recovery for such routine costs would raise concerns of single-issue ratemaking. *See*, R.D. at 131 (citing OCA M.B. at 44-45; PAWLUG M.B. at 7-8).

To the extent that PAWC argues that the ALJs' adjustment of PAWC's pension and OPEB expense claim using a three-year average is improper, we disagree. As noted by I&E, adopting three-year averaging in calculating pension and OPEB expenses is consistent with recent Commission determinations. *See*, I&E M.B. at 36 (citing *PGW 2023* at 86; *PECO 2021* at 90). Furthermore, we agree with the ALJs that I&E adequately demonstrated that PAWC's claims for pension and OPEB costs should be based on averaging. R.D. at 131 (citing I&E St. 1-SR at 20-26; I&E St. 1 at 21-25).

Accordingly, we shall deny the Company's Exception Nos. 4 and 5 and adopt the ALJs' recommendation on this issue. As noted in Table II-Water in the rate tables that outline the Commission Tables Calculating Allowed Revenue Increase, which are attached to this Opinion and Order, this results in: (1) a reduction of \$4,771,807 to the Company's claim for pension expense, or from \$971,071 to a negative allowance of \$3,800,736; and (2) a reduction of \$1,664,016 to the Company's claim for OPEB income, or from (\$6,496,737) to (\$8,160,753).

Q. Production Expense (And Request for Deferred Regulatory Accounting Treatment)

1. Positions of the Parties

PAWC claimed \$59,989,147 in total Production Expense, broken out as \$3,098,544 for Purchased Water and Wastewater Treatment, \$21,276,332 for Fuel and Power, \$27,485,022 for Chemicals, and \$8,129,249 for Waste Disposal. PAWC St. 8 at 17; PAWC Exh. 3-A, at 54-57, 118-20, 238-40. None of the Parties disagreed with PAWC's claimed amount. However, I&E, the OCA, the OSBA and PAWLUG each took issue with the Company's proposed deferral mechanism for production expenses, as discussed below. PAWC M.B. at 32.

PAWC averred that the Company's production expenses can materially increase or decrease based on volatility in the prices charged by suppliers due to market conditions that are outside the control of the Company and its suppliers. PAWC continued that energy prices are higher than they have been in several years and, as a result, the Company's electric generation suppliers have increased contract rates for power supply and are less-willing to lock in prices for 12-month terms. PAWC M.B. at 32-33 (PAWC St. 8 at 17-21). As such, PAWC asserted that the Company's proposed accounting deferral for production expenses would protect both the Company and its

customers against this volatility. Moreover, PAWC averred that pursuant to Section 1307 of the Code, 66 Pa.C.S. § 1307, energy utilities in Pennsylvania are authorized to adjust rates for variations in gas commodity or electric fuel and transmission costs between rate cases and, although no specific statute applies to the Company's production cost recovery, the same ratemaking principles that justify such Section 1307 mechanisms apply to the Company's recovery of production costs. PAWC M.B. at 33 (citing PAWC St. 8-R at 5-6; PAWC St. 8 at 18-19). Therefore, PAWC submitted that the Commission should afford the Company deferred accounting treatment for production expenses. PAWC M.B. at 33.

I&E submitted that the Company's proposed Production Expense tracker should be denied for the same reasons that the Pension and OPEB Tracker, *supra*, should be denied. I&E M.B. at 37. I&E argued that PAWC's Production Expenses are not extraordinary, unanticipated, or non-recurring. I&E M.B. at 38 (citing OSBA St. 1 at 47-48). I&E added that although production expenses may be substantial in some instances, they do not meet the requirements to be deferred for accounting purposes. I&E did not make an adjustment to production expense. I&E M.B. at 38 (citing I&E St. 1 at 33).

The OCA averred that PAWC has not met its burden to demonstrate that the Company's deferred regulatory accounting mechanisms are just and reasonable for: (1) Pension and OPEB Expenses; and (2) Production Expenses. OCA M.B. at 44-45. The OCA further stressed its position that the requested treatments of isolated expenses for deferred recovery in future base rate cases are impermissible single-issue ratemaking, which is similar to retroactive ratemaking and, generally, is prohibited if it impacts on a matter that is normally considered in a base rate case. OCA M.B. at 45 (citing *Nat'l Fuel Gas Dist. Corp. v. Pa. PUC*, 464 A.2d 546, 567 (Pa. Cmwlth. 1983); *Phila. Elec. Co. v. Pa. PUC*, 502 A.2d 722, 727-28 (Pa. Cmwlth. 1985); *Pa. Indus. Energy Coalition v. Pa. PUC*, 653 A.2d 1336, 1350 (Pa. Cmwlth. 1995), *aff'd*, 670 A.2d 1152 (Pa. 1996)

(*PIEC*)). The OCA continued that unlike the proceeding in *PIEC*, which affirmed the Commission's authority to allow a Section 1307 surcharge, this case is a base rate case and PAWC is asking for specific deferred accounting treatment and future recovery of line-item expenses that are addressed in base rate cases. OCA M.B. at 45 (citing *PIEC*).

The OCA asserted that although a utility's cost-of-service is made up of individual cost components which vary from expected values, single-issue ratemaking: (1) ignores that as a single cost component changes in one direction, other components may change in the opposite direction; and (2) denies customers the benefit of these offsetting cost reductions because it shifts the risk of fluctuations in two specific expense items away from investors and onto the customers. OCA M.B. at 45 (citing OCA St. 2-SR at 50-51; OCA St. 2 at 75-79). Further, the OCA noted that isolating and tracking the Pension and OPEB expenses as well as production costs for eventual recovery runs counter to a fundamental principle of ratemaking that a utility should be afforded the *opportunity* to recover its costs of providing service-but that it is *not guaranteed* such recovery. OCA M.B. at 45-46. Moreover, the OCA argued that the Company is utilizing FPFTY costs of providing service, which includes pension and OPEB expenses as well as production expenses. OCA M.B. at 46. Furthermore, the OCA averred that if the Commission were to allow this, then the Company will lose the incentive to manage or reduce these expenses where it is certain the Company will recover the expenses without any review of prudence or reasonableness of these expenses within the base rate case. OCA M.B. at 46 (citing OCA St. 2-SR at 50-51, 53; OCA St. 2 at 75-79). As such, the OCA submitted that the Commission should disallow the Company's ancillary requests for Commission approval of deferred regulatory accounting treatment for: (1) Pension and OPEB Expenses; and (2) Production Expenses. OCA M.B. at 46.

The OSBA submitted that the Company's request for deferred accounting treatment for its production expenses should be denied because utility management

should be expected to handle normal business risks and the operation of economic forces without resorting to single-issue ratemaking, such as the requested deferred accounting treatment, except in circumstances of compelling public interest. OSBA M.B. at 13 (citing OSBA St. 1 at 47-48).

PAWLUG referenced its argument regarding Pension and OPEB expense, *supra*. PAWLUG M.B. at 7-8.

2. Recommended Decision

The ALJs recommended that the Commission reject the Company's proposal to afford deferred accounting treatment for production expenses. The ALJs agreed with I&E that production costs are not extraordinary, unanticipated, or non-recurring, and therefore should not qualify for regulatory asset treatment. R.D. at 135 (citing I&E M.B. at 37-38). Similarly, the ALJs agreed with the OCA and PAWLUG that allowing deferred recovery of routine costs would raise concerns of impermissible single-issue ratemaking. R.D. at 135 (citing OCA M.B. at 44-45; PAWLUG M.B. at 7-8).

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation to reject PAWC's proposal to afford deferred accounting treatment for production expenses, as recommended by I&E, the OCA, the OSBA, and PAWLUG.

R. Miscellaneous Expense Adjustment – Credit Card and E-Check Fees

1. Positions of the Parties

I&E’s witness, Ms. Okum, found a discrepancy in PAWC’s claim for credit card and e-check fees. I&E M.B. at 38-39 (citing I&E St. 1-R at 4). The Company provided that PAWC Exhibit 3-B includes the correct amounts, and PAWC’s witness, Ms. O’Malley, stated that the adjustment reduces PAWC’s original claim for miscellaneous expense by \$182,738. I&E M.B. at 39 (citing PAWC St. 5 at 7). Ms. O’Malley noted that the change is reflected in the revised filing at PAWC Exhibit 3-A Revised at 64R, with supporting calculations at PAWC Exhibit LNO-4R. Table 8 shows that the reduction in the Company’s original claim was calculated, as follows:

Table 8: PAWC’s Claim for Credit Card and E-Check Fees

	BYR Allocation Factor 1: Customers	Future Allocation Factor 2: Customers	Base Yr	12 Mos Jun 2024	12 Mos Jun 2025	Adjustment 2023	Adjustment 2024	Adjustment 2025
Water Operations	95.39%	85.45%	\$1,665,018	\$1,540,602	\$1,545,547		(\$124,416)	\$4,945
Wastewater SSS General Operations	2.98%	6.97%	52,049	125,664	126,067		73,615	403
Brentwood WW		0.49%	0	8,834	8,863		8,834	28
BASA WW		1.83%	0	32,994	33,099		32,994	106
Wastewater CSS Operations	1.63%	5.26%	28,381	94,834	95,138		66,453	304
Total	100.00%	100.00%	\$1,745,448	\$1,802,928	\$1,808,715	\$0	\$57,480	\$5,787

Amount included in Company's claim	\$57,480	\$5,787
Correct amount	(\$124,416)	\$4,945
Variance	(\$181,896)	(\$842)
Total Variance		(\$182,738)

See, PAWC Exh. LNO-4R.

Accordingly, I&E submitted that this should be reflected in the ALJs’ Recommended Decision and the Commission’s Final Order in this proceeding. I&E M.B. at 39.

2. Recommended Decision

The ALJs concurred with I&E’s proposed adjustment to Miscellaneous Expense Adjustment – Credit Card and E-check Fees and, as such, recommended that the

Company's Miscellaneous Expense for Credit Card and E-check Fees be adjusted to reflect I&E's proposed adjustment, thereby reducing the claimed expense by \$182,738. R.D. at 136 (citing PAWC St. 5-R at 7). The ALJs noted that because the Company adopted this adjustment to its initial claims in rebuttal, this adjustment is reflected in the Company Adjustments column in Table I-Water, Table I-Wastewater SSS, and Table I-Wastewater CSS in the Appendix to the Recommended Decision. R.D. at 136.

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation that PAWC's claim for Miscellaneous Expense for Credit Card and E-check Fees be adjusted to reduce the claimed expense by \$182,738, as proposed by I&E.

S. Service Company Executive Retirement Plan Expense

1. Positions of the Parties

The OSBA recommended an adjustment to remove the Service Company Executive Retirement Plan (SCERP) expense, thereby decreasing the FPFTY revenue requirement by \$35,106. OSBA St. 1 at 15. The OSBA noted that PAWC removed the SCERP expense from the revenue requirement in rebuttal testimony. OSBA St. 1-S at 6.

2. Recommended Decision

The ALJs recommended that the Commission remove the Company's claim for Supplemental Retirement Plan costs. The ALJs pointed out that PAWC accepted the OSBA's recommendation to remove this expense. R.D. at 136-37 (citing OSBA St. 1 at 15; PAWC St. 5-R at 6). The ALJs noted that because the Company adopted this

adjustment to its initial claims in rebuttal, this adjustment was reflected in the Company Adjustments column in Table I-Water, Table I-Wastewater SSS, and Table I-Wastewater CSS in the Appendix attached to the Recommended Decision. R.D. at 136-37.

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation to remove PAWC's claim for Supplemental Retirement Plan costs, as recommended by the OSBA and accepted by the Company.

T. External Board Expense

1. Positions of the Parties

The OSBA recommended an adjustment to remove the External Board expense based on the Company's stated intention to eliminate its External Board. The OSBA noted that this adjustment decreases the FPFTY revenue requirement by approximately \$126,792. OSBA St. 1 at 16. The OSBA noted that PAWC agreed to remove its claim for External Board expense. OSBA St. 1-S at 6.

2. Recommended Decision

The ALJs recommended that the Commission remove the Company's claim for External Board costs. The ALJs pointed out that the Company accepted the OSBA's recommendation to remove this expense. R.D. at 137 (citing OSBA St. 1 at 16; PAWC St. 5-R at 7). The ALJs noted that because the Company adopted this adjustment to its initial claims in rebuttal, this adjustment is reflected in the Company Adjustments column in Table I-Water, Table I-Wastewater SSS, and Table I-Wastewater CSS in the Appendix attached to the Recommended Decision. R.D. at 137.

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation to remove PAWC's claim for External Board costs, as recommended by the OSBA.

U. Cash Working Capital

CWC represents the funds needed to pay O&M expenses and taxes that, on average, are incurred in advance of the utility's receipt of revenues. As previously noted, PAWC calculated its cash working capital requirement using the lead-lag method. R.D. at 7, 80 (citing PAWC St. 4 at 13-15). No Party disputed the methodology that the Company employed or challenged its proposed revenue lag, expense lag, or net lag (revenue lag minus expense lag). However, because O&M expenses are an input to the calculation of CWC, adjustments to working capital will be made in accordance with total O&M operating adjustments adopted in this proceeding. *See*, R.D. at 80.

1. Positions of the Parties

I&E recommended an allowance of \$26,149,755, representing a reduction of \$1,119,556 (\$27,269,311 - \$1,119,556) to the Company's final CWC claim. However, I&E noted that its recommendation is not a final recommendation. In this regard, I&E explained that all adjustments to the Company's claims must be continually brought together in the ALJs' Recommended Decision and again in the Commission's Final Order. I&E continued that this process, known as "iteration," effectively prevents the determination of a precise calculation until all adjustments have been made to the Company's claims. I&E M.B. at 17.

The OCA provided that given that the Commission should remove the revenue requirements for BASA and Brentwood, the Commission should exclude the Company's claims for the BASA and Brentwood cash working capital. OCA St. 2 at 47, n.8. Accordingly, the OCA's witness, Mr. Smith, made resulting adjustments to the Company's cash working capital claim based on his adjustments to PAWC's O&M expenses and interest and dividend expenses, as well as the different capital structure proposed by the OCA's witness, Mr. Garrett. OCA St. 2 at 46-47; PAWC Exh. 3-A. Specifically, Mr. Smith recommended the following cash working capital adjustments: (1) a negative adjustment to water for \$1.761 million; (2) a negative adjustment to wastewater SSS for \$150,794; and (3) a negative adjustment to CSS wastewater for \$98,811. OCA St. 2 at 47-48, Exh. LA-2, Schs. B-5.B, B-5.C, B-5.D. The OCA submitted that if the Commission adopts the OCA's recommended adjustments to expenses, then the Commission should adopt the OCA's resulting adjustments to cash working capital for the Company's existing systems. OCA M.B. at 33.

2. Recommended Decision

The ALJs, noting none of the Parties challenged the Company's methodology for cash working capital, based their adjustment to PAWC's claim for cash working capital on recommendations elsewhere in the Recommended Decision. Specifically, the ALJs recommended that PAWC's claim for cash working capital be adjusted for the following: (1) Interest and Dividends; (2) Taxes; and (3) O&M Expenses. The ALJs noted that their recommended cash working capital adjustments were detailed in Tables II, IV, V, and VI for Water, Wastewater SSS, and Wastewater CSS in the Appendix to the Recommended Decision. R.D. at 82.

3. OCA Exception No. 4 and Replies

In its Exception No. 4, the OCA avers that if the OCA's adjustment to capital structure proposed in the OCA Exception No. 10, and addressed in Section IX.B, *infra*, is accepted by the Commission, then an additional adjustment to the cash working capital will be necessary, as the ALJs' recommended cash working capital adjustment must be updated. OCA Exc. at 7.

In its replies, PAWC contends that the OCA's assertion that the ALJs' cash working capital adjustment should be denied because the Commission should also reject the OCA's proposed "hypothetical capital structure." PAWC R. Exc. at 12.

4. Disposition

As discussed in Section IX.B of this Opinion and Order, we shall reject the OCA's proposal to employ a hypothetical capital structure in this proceeding. For this reason, we shall also deny the OCA's Exception No. 4. As a result, we shall, likewise, decline to make the OCA's related requested adjustments to CWC, as outlined in its Exception Nos. 4 and 10.

Based on the above discussion of the adjustments to PAWC's individual expense claims, we have approved a total downward adjustment to the Company's water O&M expenses of \$9,993,903.⁶⁷ The cash working capital components related to interest

⁶⁷ As set forth in Table II-Water in the Commission Tables Calculating Allowed Revenue Increase, attached to this Opinion and Order, our total reduction to the Company's water expenses claim is \$10,032,096. This figure includes a total reduction of \$9,993,903 related to our downward adjustments to the Company's water expense claims for Acquisition Related O&M Expenses, Pension Expense, OPEB Expense, and AMP Credits-Uncollectible Expense, as discussed in this Expenses section. This is combined with a total decrease to expenses of \$38,192 related to the Company's claimed revenues associated with its pending acquisitions of AWC and Farmington (water) and

and dividends, taxes, and O&M expense result in a net overall reduction of \$990,882 to PAWC's water cash working capital.⁶⁸

Additionally, we have approved a total downward adjustment to the Company's wastewater O&M expenses of \$774,387.⁶⁹ The cash working capital components related to interest and dividends, taxes, and O&M expense result in a net overall increase of \$17,151 to the Company's wastewater CWC. This is broken down as follows: (1) a net decrease to the CWC component for Wastewater SSS of \$462, which

concomitant adjustments for bad debt & general assessment expenses, as discussed in Section VI of this Opinion and Order, *supra*.

[-\$9,993,903 plus - \$38,193= -\$10,032,096]. It is our \$9,993,903 reduction to the Company's expenses that flows to our downward adjustment to Cash Working Capital – O&M Expense that is described in the next footnote.

⁶⁸ As set forth in Table II-Water, the \$990,882 reduction is the net of: (1) an increase of \$19,785 to Cash Working Capital – Interest and Dividends; (2) an increase of \$146,442 to Cash Working Capital – Taxes; and (3) a decrease of \$1,157,109 to Cash Working Capital – O&M Expense. [(\$19,785 + \$1,446,442 - \$1,157,109) = - \$990,882].

⁶⁹ As set forth in Table II-Wastewater SSS in the Commission Tables Calculating Allowed Revenue Increase, attached to this Opinion and Order, our total reduction to the Company's Wastewater SSS expense claim is \$670,027. This figure includes a total reduction of \$660,641 related to our downward adjustments to the Company's Wastewater SSS expense claims for Acquisition Related O&M Expenses, and AMP Credits-Uncollectible Expense, as discussed in this Expenses section. This is combined with a total decrease to expenses of \$9,386 related to the Company's claimed revenues associated with its pending acquisitions of the STMA and Farmington (wastewater) and concomitant adjustments for bad debt & general assessment expenses, as discussed in Section VI of this Opinion and Order, *supra*. [-\$660,641 plus - \$9,386= -\$670,027]. It is our \$660,641 reduction to the Company's wastewater expenses that flows to our downward adjustment to Cash Working – O&M Expense that is described in our footnote regarding the CWC Component for Wastewater SSS, below. Additionally, as set forth in Table II-Wastewater CSS in the Commission Tables Calculating Allowed Revenue Increase, our total reduction to the Company's CSS Wastewater expense claim is \$113,746. This figure is related entirely to our downward adjustment to the Company's CSS Wastewater expense claim for AMP Credits-Uncollectible Expense. Therefore, our total adjustment to Wastewater O&M Expense is \$774,387. [-\$660,641 plus - \$113,746 = -\$774,387].

reflects, in part, our downward adjustment to O&M expenses of \$660,641;⁷⁰ and (2) a net increase to the CWC component for CSS Wastewater of \$17,613, which reflects, in part, our downward adjustment to O&M expenses of \$113,746.⁷¹
[- \$462 + \$17,613 = \$17,151].

VIII. Taxes

A. Positions of the Parties

PAWC described its claims for federal and state income taxes in PAWC St. 7. The Company stated no Party disputed how it calculated its federal and state income taxes. PAWC M.B. at 33.

I&E stated it made no specific recommendations related to adjustments to PAWC's taxes. According to I&E:

[a]ll adjustments to the Company's claims for revenues, expenses, taxes, and rate base must be continually brought together in the Administrative Law Judge's Recommended Decision and again in the Commission's Final Order.
I&E M.B. at 39.

⁷⁰ As set forth in Table II-Wastewater SSS, the \$462 reduction is the net of: (1) an increase of \$8,962 to Cash Working Capital – Interest and Dividends; (2) an increase of \$21,955 to Cash Working Capital – Taxes; and (3) a decrease of \$31,379 to Cash Working Capital – O&M Expense. [(\$8,962 + \$21,955 - \$31,379) = - \$462].

⁷¹ As set forth in Table II-Wastewater CSS, the \$17,613 addition is the net of: (1) a decrease of \$31 to Cash Working Capital – Interest and Dividends; (2) an increase of \$17,644 to Cash Working Capital – Taxes; and (3) neither an increase nor a decrease to Cash Working Capital – O&M Expense. [(-\$31 + \$17,644 + \$0) = \$17,613].

Therefore, I&E asserted any tax adjustments would be the result of the flow-through of other I&E adjustments and not a specific tax adjustment. I&E M.B. at 39.

B. Recommended Decision

The ALJs noted no Party disputed how PAWC calculated its federal and state income taxes. Accordingly, the ALJs recommended that PAWC's taxes be adjusted as detailed in Tables II and III of the Appendix to the Recommended Decision. R.D. at 138.

C. Disposition

None of the Parties filed Exceptions objecting to the ALJs' recommendation on this issue. We find that the manner in which PAWC calculated its federal and state income taxes is supported by ample record evidence and is just and reasonable. Noting any tax adjustments are the result of the flow-through of other adjustments and not a specific tax adjustment, we shall adopt PAWC's calculation method. PAWC's tax adjustments are outlined in Table II-Water, Table III-Water, Table II-Wastewater SSS, Table III-Wastewater SSS, Table II-Wastewater CSS, and Table III-Wastewater CSS in the rate tables that outline the Commission Tables Calculating Allowed Revenue Increase, which are attached to this Opinion and Order.

IX. Fair Rate of Return

A. Proxy Groups

A proxy group is a group of companies that have similar traits as compared to the subject utility, in this case PAWC. This group of companies acts as a benchmark

for determining the subject utility's rate of return in a base rate case. A proxy group is also typically used because using data exclusively from one company may be less reliable than using a group of companies because the data for one company may be subject to short-term anomalies that distort its ROE. Use of a proxy group smooths these potential anomalies. In addition, the use of a proxy group satisfies the long-established principle of utility regulation that seeks to provide the utility with the opportunity to earn a return equal to that of enterprises of similar risk. I&E M.B. at 42; I&E St. 2 at 7-8.

1. Positions of the Parties

PAWC employed a proxy group (Proxy Group)⁷² of eleven companies using the following specific criteria:

1. The companies pay consistent quarterly cash dividends. PAWC submitted that companies that do not do so cannot be analyzed using the Constant Growth Discounted Cash Flow (DCF) model;
2. Each company has investment grade long-term issuer ratings from Standard & Poor's (S&P) and/or Moody's;
3. Each company is covered by at least two utility industry analysts;
4. The companies have positive long-term earnings growth forecasts from at least two utility industry equity analysts;
5. Each company derives more than 70.00% of its total operating income from regulated operations; and

⁷² In this Opinion and Order, when the term "Proxy Group" is capitalized, it shall refer to the proxy group proposed by PAWC. In all other instances, the term will not be capitalized.

6. None of the companies were parties to a merger or transformative transaction during the analytical periods relied on.

PAWC St. 13 at 25, 26. PAWC explained that because of on-going consolidation in the water utility industry, the *Value Line Investment Research (Value Line)* research service commonly relied upon by investors identifies only seven companies in the United States as water utilities. Additionally, the Company's above screening criteria further reduced that group of water utilities to only four. PAWC stated that because a small proxy group can lead to one company having an outsized effect on any proxy group calculation, the Company included several electric and gas utilities with water operations in its proxy group. According to the Company, the similar nature of electric and natural gas utilities is well understood by other public utility commissions, as well as industry leaders. PAWC stresses that it applied screening criteria to select electric and gas utilities with comparable risks to PAWC. PAWC M.B. at 38-39.

I&E proposed to use a proxy group of five water companies. In selecting a proxy group that resembles the water utility industry, I&E applied the following criteria:

1. Fifty percent or more of the company's revenues must be generated from the regulated water utility industry;
2. The company's stock must be publicly traded;
3. Investment information for the company must be available from more than one source, which includes *Value Line*;
4. The company must not have been currently involved in an announced merger or material acquisition at the time of I&E's analysis;
5. The company must have four consecutive years of historical earnings data.

I&E observed that the Company's Proxy Group included four of the five companies utilized by I&E. However, I&E included PAWC's parent company, AWK, and excluded all electric and natural gas companies that were included by PAWC, including Essential Utilities, Inc. (Essential Utilities), which has water, wastewater, and natural gas segments. I&E submitted that: (1) it does not appear that there is a good reason to exclude AWK from the proxy group; and (2) companies that are in the water industry are the most representative of the financial and operational risks faced by PAWC. Thus, I&E reasoned that using gas and electric utilities in the proxy group can distort the information that the proxy group provides. Additionally, I&E submitted that Essential Utilities should be excluded from the proxy group because it fails to meet I&E's first proxy group criterion, *supra*, that 50% or more of the company's revenues must be generated from regulated water utility operations. According to I&E, Commission precedent favors relying on a company's percentage of regulated revenue for determining whether a company should be included in a proxy group. I&E M.B. at 42-47.

The OCA utilized the same proxy group as the Company. Although the OCA opined that it is reasonable for the Commission to focus only on water utilities within the proxy group, the results of the OCA's analyses were not materially different with the inclusion of electric and gas utilities. Therefore, as a practical matter, the OCA focused on the results of the Company's Proxy Group. OCA M.B. at 48; OCA R.B. at 29.

In response to I&E's criticism of its Proxy Group, PAWC argued that I&E's decision to include AWK but exclude Essential Utilities in its own proxy group compounds the flaws of an already-diminished proxy group. First, PAWC opined that including AWK would create a circular effect. In this regard, PAWC highlighted that it is responsible for approximately 23.4% of AWK's revenue, such that I&E has effectively used the Company to determine its own ROE. Second, PAWC argued that I&E focused solely on the fact Essential Utilities' revenue from water operations in 2022 was only

47.33% while it ignored the facts that 2022 was an anomalous year due to high gas prices, and that Essential Utilities' operating revenue from its water operations has historically been above 50%. PAWC M.B. at 39-40.

Table 9, below, provides a summary of the companies each Party proposed to be used in their respective water proxy groups:

Table 9: Summary of the Proposed Water Proxy Groups in this Proceeding

PAWC	OCA	I&E
American States Water Company	American States Water Company	American Water Works
Atmos Energy Corporation	Atmos Energy Corporation	American States Water Company
California Water Service Group	California Water Service Group	California Water Service Group
Essential Utilities, Inc.	Essential Utilities, Inc.	Middlesex Water Company
Eversource Energy	Eversource Energy	SJW Water Group
Middlesex Water Company	Middlesex Water Company	
NiSource Inc.	NiSource Inc.	
Northwest Natural Gas Company	Northwest Natural Gas Company	
ONE Gas, Inc.	ONE Gas, Inc.	
SJW Water Group	SJW Water Group	
Spire, Inc.	Spire, Inc.	

PAWC St. 13 at 26; I&E M.B. at 43; OCA Exh. DGJ-2.

2. Recommended Decision

The ALJs recommended that the Commission adopt I&E's proxy group. According to the ALJs, although I&E's proxy group included four water utilities also used in the proxy groups of PAWC and the OCA, I&E properly included AWK in its proxy group. In this regard, the ALJs found that it is not uncommon for the Commission to include a parent company in a proxy group. R.D. at 144-45. The ALJs also ruled that I&E properly excluded Essential Utilities from its proxy group because less than 50% of Essential Utilities' operating revenues come from regulated water service. *Id.* at 145 (citing PAWC St. 13-R at 22). Additionally, the ALJs concluded that neither electric nor

natural gas utilities are properly included in the proxy group for use in this proceeding. The ALJs were persuaded by I&E's position that companies that are in the water industry are the most representative of the financial and operational risks faced by PAWC, while electric and natural gas utilities are too dissimilar. R.D. at 145.

3. PAWC Exception Nos. 1.1, 1.2, and 1.3 and Replies

In its Exception No. 1.1, PAWC maintains that contrary to the ALJs' recommendation, Essential Utilities should be included in the Proxy Group used to calculate the Company's ROE. PAWC restates its argument that the sole reason why the percentage of Essential Utilities' revenue from its regulated water operations in 2022 was below 50% was the higher cost of natural gas, which affected the percentage of water versus natural gas operations on a revenue basis but did not affect operating income since natural gas costs are recovered as a pass through directly to customers. Therefore, PAWC reasons that although the 2022 data on a revenue basis might suggest that Essential Utilities should be excluded from the proxy group, Essential Utilities clearly meets I&E's screening criteria on an operating income basis and should be included. PAWC asserts that operating income, and not operating revenue, more appropriately reflects the risk profile of the utility's operations. However, PAWC further reasons that when the revenues are adjusted to remove the effect of these higher incremental natural gas costs, revenues from Essential Utilities' regulated water operations in 2022 were also above 50%. PAWC Exc. at 5 (citing PAWC St. 13-R at 21-22).

In its Exception No. 1.2, PAWC notes that each Party who set forth a proposed proxy group in this proceeding included Middlesex Water in its proxy group. However, PAWC submits that if the Commission chooses to rely on the proxy group proffered by I&E, then it must exclude Middlesex Water from the proxy group. In this regard, PAWC submits that when Middlesex Water's DCF result was calculated, the result was a "remarkably low 5.77%." Therefore, PAWC argues that given the small size

of I&E's proxy group, Middlesex Water was effectively given a 20% weight in I&E's DCF calculation of 8.45%. PAWC reasons that this caused the ALJs' recommended ROE to be artificially low, given the ALJs' finding that PAWC's allowed ROE should be calculated by averaging this DCF result with I&E's capital asset pricing model (CAPM) calculation.⁷³ PAWC Exc. at 5-6.

In its Exception No. 1.3, PAWC argues that given the ongoing consolidation in the water utility industry, and the resulting small number of water utilities, the Commission should rely on a larger proxy group of distribution utilities. The Company explains that, to that end, and consistent with the actions of other public utility commissions, it proposed the Proxy Group of eleven-companies consisting of four water companies and seven natural gas and electric utilities with water operations. According to PAWC, the ALJs erred in finding that the Commission should focus on a water-only proxy group. Rather, PAWC remains of the opinion that it is most appropriate to utilize a broader proxy group for purposes of establishing the ROE in this proceeding. Accordingly, PAWC insists that the Commission should modify the Recommended Decision and adopt the Company's Proxy Group for use in setting the appropriate ROE and overall rate of return. PAWC Exc. at 8-10.

In its Replies to Exceptions, I&E submits that the ALJs correctly recommended that the Company's Proxy Group be rejected in favor of the one set forth by I&E. I&E submits that in continuing to argue for the inclusion of Essential Utilities in its Proxy Group, PAWC is effectively claiming that this company should be included based on its net operating income from water. However, I&E notes that a company's net income depends on various factors, including management efficiency, operational and financial efficiency, O&M cost containment, and capital expenditures. Therefore, I&E restates its position that a utility's revenue composition is the appropriate measure to

⁷³ The DCF, CAPM, and ROE are discussed, in detail, in Section IX.D, *infra*.

gauge when developing a proxy group because a proxy group should establish a set of companies that are of a similar risk profile to the subject utility. I&E insists that because less than 50% of Essential Utilities' revenues came from the regulated water sector in the subject year it considered in its analysis, the ALJs correctly recommended that it be excluded. I&E R. Exc. at 1, 2-3.

On the other hand, I&E claims that despite PAWC's arguments to the contrary, Middlesex Water should be included in I&E's proxy group, which the ALJs correctly recommended be adopted. I&E reinforces that if this company was removed, it would undermine the purpose of the proxy group in this proceeding, which is to employ a group of similarly situated water utilities to smooth out any anomalous data points in a ROE analysis. I&E also counters PAWC's argument that including Middlesex Water causes the ROE to be artificially low, and submits that removing low-end results, while simultaneously retaining the high-end results only serves to inflate the results and skew the ROE in PAWC's favor. I&E R. Exc. at 4.

Finally, I&E claims that PAWC's contention that I&E's proxy group is "too small" is undermined by the testimony of PAWC's own witness. More specifically, I&E argues that at the hearing, the Company's witness, Ms. Ann Bulkley, testified that the appropriate size for a proxy group is five utilities of comparable risk, as established by the Federal Energy Regulatory Commission (FERC). I&E R. Exc. at 2 (citing Tr. at 2100). Thus, I&E asserts that its proxy group is sufficiently large, and the ALJs were correct in relying on it in their recommendation. I&E stresses its position that its own proxy group is the appropriate proxy group to use in this proceeding because companies that are in the water industry best represent the financial and operational risks faced by PAWC. I&E R. Exc. at 2, 4.

4. Disposition

On review, we find that I&E's proxy group, comprised solely of water utilities, is the proxy group proffered in this proceeding that most closely resembles PAWC. Therefore, we shall deny PAWC's Exceptions on this issue, consistent with the following discussion.

As previously discussed, I&E, in setting forth its proxy group of five water companies, included four of the five water companies in PAWC's Proxy Group. Namely, both PAWC and I&E included American States Water Company, California Water Service Group, Middlesex Water Company, and SJW Water Group in their respective proxy groups. However, I&E also included PAWC's parent company, AWK, while excluding Essential Utilities. I&E M.B. at 44-45. We note that PAWC did not specifically except to the ALJs' finding regarding the inclusion of AWK. Nonetheless, we shall reinforce that this company is properly included in the proxy group. Like I&E and the ALJs, we find no valid reason or basis to exclude this company. Although PAWC expressed concern that including its parent company in the proxy group would create a circular effect, we find that AWK's vast operations across many states and numerous divisions and its required compliance to an equal number of state regulatory bodies eliminates the potential for any circular effect, as opposed to if only PAWC itself was included in the proxy group. See, I&E St. 2-SR at 13. In addition, we note the ALJs' observation that it is not uncommon for this Commission to include a utility's parent company in the proxy group it utilizes to set that utility's rate of return. R.D. at 144-45. For example, in *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2020-3018835 (Order entered February 19, 2021) (*Columbia Gas 2021*), we adopted I&E's proposed proxy group, which included the Columbia parent company, NiSource, in setting the appropriate rate of return in that proceeding. *Columbia Gas 2021* at 107, 110.

Conversely, in its Exception No. 1.1, PAWC argues that the ALJs erred by recommending that Essential Utilities should be excluded in the proxy group used to set the Company's rate of return in this proceeding. PAWC remains of the opinion that a company's operating revenue is not an appropriate screening criterion for determining if the company belongs in a proxy group. Rather, PAWC asserts that a company's operating income more appropriately reflects the risk profile of the company's operations. PAWC Exc. at 5; PAWC St. 13-R at 20. However, we find that PAWC's position runs contrary to the precedent that has been set by this Commission. We recently affirmed this precedent in *Pa. PUC v Columbia Water Company*, Docket No. R-2023-3040258, (Opinion and Order entered January 18, 2024) (*Columbia Water 2024*) wherein we stated, as follows:

Columbia contends that because the financial community is more likely to rely on measures of income than measures of revenue when making credit assessments and investment decisions, the Commission should examine the water utility's income and earnings when deciding whether it should be included in the proxy group. In our view, however, while the financial community relies more on measures of income, it is more appropriate to examine the use of percentage of revenues in a base rate proceeding, because this measure represents the percentage of cash flow a company receives from each business segment. As noted by I&E, revenue is the total income a business, or a business segment, produces. On the other hand, net operating income is an indicator of financial performance and strength and is a direct result of a company's business decisions and operations.

Columbia Water 2024 at 76 (citations omitted). *See also, Columbia Gas 2021* at 110; *PECO 2021* at 137-38. In our view, this same standard should be applied in this instant proceeding. As I&E notes in its Replies to Exceptions, when considering that a company's net income depends on various factors, including management efficiency, operational and financial efficiency, O&M cost containment, and capital expenditures, it becomes evident that revenue composition is the more appropriate measure because a

proxy group should establish a set of companies that are of a similar risk profile to the subject utility. I&E R. Exc. at 2.

The record indicates that in 2022, Essential Utilities' revenue from its regulated water operations was 47.33% of its total revenues. Thus, this data indicates that this company is not comparable to the subject utility, PAWC, as it does not provide a similar level of regulated water business. I&E St. 2-SR at 14-15. Further, we acknowledge the Company's contention that Essential Utilities' percentage of revenues derived from its regulated water operations has historically been above 50%. Nonetheless, I&E's analysis, which we are adopting, was based on S&P Global's Fiscal Year (FY) 2022 business segment analysis of Essential Utilities, which was the most recent information available at the time of I&E's analysis. *Id.* at 14. As Essential Utilities' percentage of operating revenues derived from its regulated water operations was below the 50% threshold in the subject year, we find no error in the ALJs' recommendation that Essential Utilities should be excluded from the proxy group.

Next, we disagree with PAWC's argument in its Exception No. 1.2 that if we adopt the ALJs' recommendation to use the proxy group proffered by I&E, then we should exclude Middlesex Water. PAWC contends that when Middlesex Water's DCF result was calculated, the result was a "remarkably low 5.77%." Thus, PAWC claims that given the small size of I&E's proxy group, *i.e., five companies*, Middlesex Water was effectively given a 20% weight, which, when combined with Middlesex Water's DCF result, produces an "artificially low" ROE. PAWC Exc. at 6-7. However, we find I&E's argument persuasive that the key purpose of assembling a proxy group is to avoid relying on data for a single company in order to smooth out any abnormalities. Accordingly, any attempt to disregard "low end" results, or to disregard one side of a range of results is inconsistent with the purpose of a proxy group. In turn, this will subjectively influence the results of an otherwise unbiased analysis. Thus, contrary to the position of PAWC, we find that removing Middlesex Water from the proxy group would

yield an *artificially high* ROE and would defeat the very purpose of using a proxy group. I&E St. 2-SR at 17, 24.

We likewise disagree with the Company's argument, in its Exception No. 1.3, that given the small amount of water utilities, we should rely on a larger proxy group of distribution utilities. PAWC Exc. at 8-10. Initially, we note the veracity of PAWC's position that, in general, it is preferable to have a larger number of companies in a proxy group. Nonetheless, the Company has proposed to use electric and natural gas companies in its Proxy Group. *Id.* Thus, the Company's proposal would result in using companies that are too dissimilar to the subject company, PAWC. I&E St. at 13.

In this regard, water companies face different degrees of operational, safety, and weather-related risks and uncertainties, in addition to substantially different environmental regulations, than do electric and natural gas distribution companies. Additionally, water utilities have a more captive customer base, as customers cannot eliminate the need for water. In contrast, other fuel sources can be substituted for natural gas. Further, while customers of electric and natural gas distribution companies can shop competitively for the generation of electricity and natural gas, there is no such opportunity for customers of water companies, as these utilities remain vertically integrated. These differences, among others, make electric and natural gas utilities dissimilar enough from water companies to properly be excluded from a water proxy group. Thus, in this instance, we find that it is more appropriate to include fewer companies that are more similar to the subject company, PAWC, in the proxy group because it will produce a more valid result. I&E St. 2 at 16-17. For this reason, and the others discussed above, we shall utilize I&E's proxy group, consisting only of water utilities.

Based upon the record before us, we shall adopt the ALJs' recommendation to utilize I&E's proposed proxy group in setting the Company's authorized rate of return. Accordingly, we shall deny PAWC's Exception Nos. 1.1, 1.2, and 1.3.

B. Capital Structure

A capital structure represents how a utility has financed its rate base with different sources of funds. Determining the appropriate capital structure is crucial in developing the weighted average cost of capital (WACC), which, in turn, determines the overall authorized rate of return in the revenue requirement equation, *supra*. The primary funding sources for the utility are long-term debt and common equity. Additionally, a capital structure may include preferred stock and/or short-term debt. However, PAWC is financed only with long-term debt and common equity. I&E M.B. at 47; I&E St. 2 at 14-15.

1. Positions of the Parties

PAWC proposed to utilize an actual capital structure, as set forth in Table 10, as follows:

Table 10: PAWC's Proposed Actual Capital Structures

Total Company	
Common Equity	55.30%
Preferred Stock	0.00%
Long-Term Debt	44.70%
Water Services	
Common Equity	55.99%
Preferred Stock	0.00%
Long-Term Debt	44.01%
Wastewater Services	
Common Equity	52.87%
Preferred Stock	0.00%
Long-Term Debt	42.73%
WW Specific Debt	4.40%

PAWC M.B. at 41. PAWC explained that because there is specific debt that has been identified for its wastewater services, the capital structures for its water and wastewater services were calculated separately. PAWC calculated the capital structure for the total company first, including all debt issuances and all sources of capital. Next, PAWC calculated the capital structure for its water operations by removing the wastewater specific debt instruments from the total long-term debt of the Company and recalculating the ratios of the remaining capital stock. PAWC then calculated its wastewater specific capital structure by applying the total company debt ratio to the wastewater rate base, excluding the specific wastewater debt issuances. PAWC St. 13 at 59-60.

According to the Company, it is well settled that the use of an actual capital structure represents the utility's decision, in which it has full discretion, on how to capitalize its rate base. Thus, PAWC reasons, a utility's actual capital structure is to be used in rate of return analysis unless that capital structure is atypical or too heavily weighted on either the debt or equity side. PAWC represents that its proposed capital structure recognizes the composition of the financing that the Company is currently using to fund its investments and obligations, and that this capital structure is well within the

range of equity ratios of its Proxy Group of utilities. *Id.* at 41-42; PAWC R.B. at 31 (citing *PPL 2012*, *Aqua 2022*, and *Columbia Water 2024*).

I&E argued that the Company's claimed capital structures for both water and wastewater should be utilized because these capital structures fall within the range of I&E's proxy group. I&E M.B. at 47-48.

In contrast, the OCA posited that the Commission should impute a hypothetical capital structure for PAWC that is equal to that of the Company's Proxy Group average (inclusive of the non-water utilities), which consists of 51% equity and 49% debt.⁷⁴ According to the OCA, PAWC's proposed actual capital structure is too heavily weighted toward the equity side and represents an additional cost to consumers of \$30.7 million per year when compared to the OCA's proposed hypothetical capital structure. In addition, the OCA claimed that PAWC's proposed debt ratio is "clearly too low" when compared to the Company's proxy group (49%), its parent Company, AWK (55%), and comparable industries (60% to 68%). OCA M.B. at 48-50. In the OCA's view, the use of the hypothetical capital structure is appropriate in cases like this present proceeding to reduce costs to ratepayers, as opposed to increasing costs, where the utility's management proposes an actual capital structure that imposes an unfair cost burden on ratepayers. *Id.* at 50 (citing *T.W. Phillips Gas and Oil Co. v. Pa. PUC*, 474 A.2d 355, 362 (Pa. Cmwlth. 1984); *Carnegie Natural Gas Co. v. Pa. PUC*, 433 A.2d 938 (Pa. Cmwlth. 1981); *Pa. PUC v. Carnegie Natural Gas Co.*, 54 Pa. PUC 381, 393 (1980), *aff'd* by *Carnegie*; and *Big Run Tel. Co. v. Pa. PUC*, 449 A.2d 86, 89 (Pa. Cmwlth. 1982) (*Big Run*)). Moreover, the OCA claimed that a

⁷⁴ In discussing its position that PAWC should utilize a hypothetical capital structure, the OCA explicitly stated its proposed hypothetical capital structure for PAWC's water operations. As noted in Section IX.E, *infra*, the OCA's proposed hypothetical capital structure for PAWC's wastewater operations consisted of 48.76% common equity, 46.84% long-term debt, and 4.40% wastewater-specific long-term debt. See, OCA St. 2, Exh. LA-6 at 8.

hypothetical capital structure will ensure that wealth is not unfairly transferred from ratepayers to shareholders. OCA R.B. at 30-31.

2. Recommended Decision

The ALJs recommended that the Commission adopt PAWC's proposal to use an actual capital structure. The ALJs found that PAWC's proposed capital structure recognizes the composition of the financing that the Company is currently using, and that it falls within the range of equity ratios of PAWC's Proxy Group. In contrast, the ALJs concluded that the cases cited to by the OCA are inapplicable to the instant proceeding because such cases represent rate proceedings where a company's actual capital structure was inconsistent with a comparable group of utilities. R.D. at 150-51.

3. OCA Exception No. 10 and Replies

In its Exception No. 10, the OCA objects to the ALJs' recommendation to adopt the Company's proposed actual capital structure. The OCA claims that contrary to the ALJs' conclusion, the cases cited by the OCA are not factually different from the proposed capital structure at issue in this proceeding. The OCA restates its position that the Company's proposed capital structure would cost ratepayers an additional \$30.7 million per year. The OCA argues that although this amount would be reduced if the Commission adopts the ALJs' recommended reductions to rate base, along with those contained in the OCA's Exceptions, the Company's proposed capital structure still represents an excessive return granted to the Company that results in an overall unreasonable revenue requirement that benefits the Company's shareholders at the expense of its ratepayers. OCA Exc. at 13-15.

The OCA remains of the opinion that its own proposed hypothetical capital structure of 51% equity and 49% debt would more closely match the capital structure to

that of PAWC's proposed Proxy Group, and to PAWC's parent company, AWK. Thus, the OCA insists that the cases it cited in its Main Brief are applicable to this proceeding. The OCA restates its position that the Commission can and should exercise its discretion to impute a capital structure for ratemaking purposes because the use of a hypothetical capital structure is appropriate to reduce costs to ratepayers who would otherwise face an unfair cost burden if an actual capital structure was employed. OCA Exc. at 13, 15.

In reply, PAWC notes that the Commission has rejected the OCA's proposal to utilize a hypothetical capital structure in several recent base rate cases on the same grounds for which it should do so in this instant proceeding. PAWC insists that the OCA's proposed hypothetical capital structure is neither reasonable nor supported by the record evidence. PAWC R. Exc. at 1-3. The Company restates that, as the Commission decided, most recently in *Columbia Water 2024*, an actual capital structure represents [the utility's] decision, over which it has full discretion, on how to capitalize its rate base. *Id.* at 2 (citing *Columbia Water 2024* at 83). PAWC also rebuts the OCA's contention that a hypothetical capital structure of 51% equity and 49% debt would "more closely match" the capital structure of the OCA's proxy group and the capital structure of PAWC's parent company, AWK. Namely, PAWC submits that the OCA's comparison is inapposite because the OCA was relying upon the capital structure of utility holding companies, with corporate level debt from unregulated operations, and not utility operating subsidiaries. Accordingly, the Company submits that the Commission should adopt the ALJs' recommendation to employ an actual capital structure in this proceeding. PAWC R. Exc. at 2-3.

4. Disposition

In setting the appropriate overall rate of return in this proceeding, we shall adopt PAWC's proposal, and the associated recommendation of the ALJs, to use the Company's actual capital structure for both its water and wastewater operations.

Initially, we find it prudent to emphasize, as we have in several recent base rate proceedings before this Commission, that the use of an actual capital structure represents the Company's decision, in which it has full discretion, on how to capitalize its rate base. This actual capitalization forms the basis upon which the Company attracts capital. *See, PPL 2012* at 68; *Columbia Gas 2021* at 116; *PECO 2021* at 144; and *Columbia Water 2024* at 83. *See also*, PAWC M.B. at 31. For example, as discussed below, in Section IX.C, PAWC has proposed the following long-term debt cost rates: (1) a cost of long-term debt of 4.71% on a total company basis; (2) a 4.76% cost of long-term debt for water operations; and (3) a 4.76% cost of long-term debt for wastewater operations, in addition to a 2.67% cost rate of long-term debt for wastewater-specific debt issuances. None of the Parties to this proceeding have objected to this proposal. This represents the level of long-term debt funding that the Company has deemed appropriate in capitalizing its rate base.

Next, we note that in *Columbia 2024*, we reaffirmed the legal standard that has been established in Pennsylvania for deciding whether to use a party's proposed hypothetical capital structure in setting rates. We restate this standard, in pertinent part, as follows:

Absent a finding by the Commission that a utility's actual capital structure is atypical or too heavily weighted on either the debt or equity side, we would not normally exercise our discretion with regard to implementing a hypothetical capital structure.

Columbia Water 2024 at 84; *see also, PPL 2012* at 68; *Columbia Gas 2021* at 116-17; *PECO 2021* at 144-45; and *Aqua 2022* at 139.

Applying the above to this instant proceeding, we are not persuaded by the arguments of the OCA that we should preempt the Company's use of its proposed actual capital structure and employ a hypothetical capital structure. As discussed in Section

IX.A, *supra*, we have found that I&E's proxy group should be utilized in this proceeding. As I&E pointed out, the Company's proposed actual capital structure falls within the range of this proxy group's most recently available capital structures, as set forth in Table 11, below.

Table 11: Capital Structures of I&E's Proxy Group Companies

Proxy Group Capital Structure											
	2022		2021		2020		2019		2018		Average
American Water Works Company, Inc.											
Long-term Debt	\$ 10,999,000	58.84%	\$ 10,424,000	58.82%	\$ 9,414,000	59.33%	\$ 8,733,000	58.79%	\$ 7,576,000	56.37%	58.43%
Preferred Stock	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%	0.00%
Common Equity	\$ 7,693,000	41.16%	\$ 7,298,000	41.18%	\$ 6,454,000	40.67%	\$ 6,121,000	41.21%	\$ 5,864,000	43.63%	41.57%
	\$ 18,692,000	100.00%	\$ 17,722,000	100.00%	\$ 15,868,000	100.00%	\$ 14,854,000	100.00%	\$ 13,440,000	100.00%	100.00%
American States Water Company											
Long-term Debt	476,637	40.18%	595,596	46.47%	584,184	47.66%	492,735	45.03%	376,587	40.28%	43.93%
Preferred Stock	-	0.00%	-	0.00%	-	0.00%	-	0.00%	-	0.00%	0.00%
Common Equity	709,549	59.82%	685,947	53.53%	641,673	52.34%	601,530	54.97%	558,223	59.72%	56.07%
	1,186,186	100.00%	1,281,543	100.00%	1,225,857	100.00%	1,094,265	100.00%	934,810	100.00%	100.00%
California Water Service Group											
Long-term Debt	1,066,325	44.73%	1,069,395	47.59%	794,968	46.32%	799,682	50.63%	710,027	49.30%	47.71%
Preferred Stock	-	0.00%	-	0.00%	-	0.00%	-	0.00%	-	0.00%	0.00%
Common Equity	1,317,590	55.27%	1,177,594	52.41%	921,344	53.68%	779,906	49.37%	730,157	50.70%	52.29%
	2,383,915	100.00%	2,246,989	100.00%	1,716,312	100.00%	1,579,588	100.00%	1,440,184	100.00%	100.00%
Middlesex Water Company											
Long-term Debt	293,986	42.22%	310,887	45.67%	278,286	44.41%	236,509	42.05%	152,851	37.83%	42.44%
Preferred Stock	2,084	0.30%	2,084	0.31%	2,084	0.33%	2,084	0.37%	2,433	0.60%	0.38%
Common Equity	400,328	57.49%	367,726	54.02%	346,208	55.25%	323,792	57.57%	248,787	61.57%	57.18%
	696,398	100.00%	680,697	100.00%	626,578	100.00%	562,385	100.00%	404,071	100.00%	100.00%
S&W Group											
Long-term Debt	1,491,965	57.32%	1,492,935	59.07%	1,287,580	58.40%	1,283,597	59.05%	431,424	32.67%	53.30%
Preferred Stock	-	0.00%	-	0.00%	-	0.00%	-	0.00%	-	0.00%	0.00%
Common Equity	1,110,868	42.68%	1,034,519	40.93%	917,160	41.60%	889,984	40.95%	889,312	67.33%	46.70%
	2,602,833	100.00%	2,527,454	100.00%	2,204,740	100.00%	2,173,581	100.00%	1,320,736	100.00%	100.00%
Five-Year Average Capital Structure											
Long-term Debt	49.16%		Maximum	58.43%	Minimum	42.44%					
Preferred Stock	0.08%										
Common Equity	50.76%		Minimum	41.57%	Maximum	57.18%					
	100.00%										

I&E Exh. 2, Sch 2. As Table 11 indicates, the most recent five-year average range of the individual company capital structure ratios in the proxy group that we shall employ in this proceeding are from 42.44% to 58.43% long-term debt and 41.57% to 57.18% common equity. Therefore, PAWC's proposed actual capital structure of: (1) 44.01% long-term debt and 55.99% common equity for its water operations; (2) 42.73% long-term debt, 4.40% wastewater specific debt (*i.e.*, total long-term debt of 47.30%), and 52.87% common equity for its wastewater operations; and (3) 44.70% long-term debt and 55.30% common equity on a total Company basis are all well within this range. For this reason, we find that PAWC's proposed actual capital structure is neither atypical nor too heavily weighted on either the debt or equity side.

We also disagree with the assertion of the OCA that the cases it cited in support of its use of a hypothetical structure are not factually different from the proposed

capital structure at issue in this proceeding. As the ALJs noted, each of the cases cited by the OCA represent cases where the utility's actual capital structure was *inconsistent* with a comparable group of utilities. For example, in *Big Run*, the Commonwealth Court noted that Big Run proposed a capital structure entirely devoid of debt, which was inconsistent with the average capital structures of the forty-two (42) smallest independent Pennsylvania telephone companies besides Big Run of 53% debt and 42% equity. Therefore, the Commonwealth Court upheld the Commission's decision to employ a hypothetical capital structure. *Big Run* at 296, 302. In contrast, we have established that PAWC's proposed actual capital structure is consistent with a comparable group of utilities, *i.e.*, the companies in the proxy group we have elected to employ in setting the Company's authorized rate of return in this proceeding. In our view, the Company's proposed use of an actual capital structure for both its water operations and its wastewater operations will not impose an unfair burden on its ratepayers.

For each of the above reasons, we shall deny the OCA's Exception No. 10 and adopt the recommendation of the ALJs on this issue.

C. Cost of Debt

1. Positions of the Parties

PAWC proposed the following actual costs of long-term debt: (1) a cost of long-term debt of 4.71% on a total company basis; (2) a 4.76% cost of long-term debt for water operations; and (3) a 4.76% cost of long-term debt for wastewater operations, in addition to a 2.67% cost rate of long-term debt for wastewater-specific debt issuances. PAWC Exh. 13-A at Schs. 11 and 12; Exh. 13-R at Sch 14.

I&E accepted PAWC's claimed cost rate of long-term debt of 4.76% for water and wastewater, as well as its claimed 2.67% cost rate of long-term debt for

wastewater specific issuances. I&E submitted that the Company's claimed cost rates are reasonable and representative of the industry. In this regard, I&E noted that the Company's claimed cost rates on a total company basis, and for its water operations, fall within I&E's proxy group's implied long-term cost of debt range of 3.19% to 5.67%. In addition, I&E reasoned that while the Company's claimed 2.67% cost rate for wastewater specific debt is slightly below this range, it is sufficiently close to the low end of the range, and, therefore, is appropriate to use for this proceeding. I&E M.B. at 48.

The OCA did not oppose the Company's proposed debt cost rates. OCA M.B. at 51; OCA R.B. at 32.

2. Recommended Decision

The ALJs observed that none of the Parties disagreed with PAWC's proposal to use its actual cost of long-term debt, including the specific actual cost of long-term debt that it identified for wastewater services. Therefore, the ALJs recommended that the Company's proposal be adopted. R.D. at 152.

3. Disposition

None of the Parties filed Exceptions on this issue with regard to the ALJs' recommendation. Finding the ALJs' recommendation to be reasonable, and supported by substantial evidence in the record, we shall adopt it without further comment. Accordingly, we shall approve the following long-term debt cost rates for PAWC in this proceeding: (1) a cost of long-term debt of 4.71% on a total company basis; (2) a 4.76% cost of long-term debt for water operations; and (3) a 4.76% cost of long-term debt for wastewater operations, in addition to a 2.67% cost rate of long-term debt for wastewater-specific debt issuances.

D. Cost of Common Equity

1. Methods for Determining the Cost of Equity

a. Discounted Cash Flow Method (DCF)

The DCF method applied to a proxy group of similar utilities has historically been the primary determinant utilized by the Commission in determining the cost of common equity. *Pa. PUC v. City of Lancaster – Bureau of Water*, Docket No. R-2010-2179103 (Order entered July 14, 2011) at 56; *Pa. PUC v. PPL Electric Utilities Corp.*, Docket No. R-00049255 (Order entered December 22, 2004) (*PPL 2004*) at 59. The DCF model assumes that the market price of a stock is the present value of the future benefits of holding that stock. These benefits are the future cash flows of holding the stock, *i.e.*, the dividends paid and the proceeds from the ultimate sale of the stock. Because dollars received in the future are worth less than dollars received today, the cash flow must be “discounted” back to the present value at the investor’s rate of return.

(1) Positions of the Parties

PAWC used the following single-stage constant growth DCF model, $K_e = (D_0 (1+g))/P + g$, where K_e is the cost of common equity, D_0 is the annualized dividend, P is the current stock price, and g is the growth rate. The Company’s dividend yield calculation used the unadjusted dividend yields of the Proxy Group’s dividends divided by the average of the closing market prices for the 30-, 90-, and 180-trading days ending October 31, 2023. PAWC then adjusted the dividend yields upward to reflect one-half the average projected growth rate since the companies in the Proxy Group increase their quarterly dividend at various times during the year. PAWC St. 13 at 33-34.

PAWC used long-term forecasts of earnings per share growth from three separate sources: (1) Zacks Investment Research; (2) Thomson as reported by Yahoo! Finance; and (3) *Value Line*. The Company calculated a low end DCF result using the minimum growth rate for each of its Proxy Group companies. Similarly, PAWC calculated a high-end result using the maximum growth rate for each of the Proxy Group companies. Lastly, the Company calculated a mean result using the average growth rate for each Proxy Group company. Based on these calculations, PAWC's DCF-indicated common equity cost rate range is 8.69% to 10.96%, with a mean of 9.60%. PAWC St. 13 at 35-36.

As will be discussed in more detail below, in Section X.D.2, PAWC also made a business risk adjustment and financial risk adjustment to its DCF cost rate. The Company explained that an adjustment is necessary to reflect the increased business risk due to the small size of the Company relative to the Proxy Group. PAWC St. 4 at 47, Sch. DWD-8. Therefore, PAWC added 1.00% to the indicated range of common equity cost rates to reflect the increased business risk. PAWC St. 4 at 50-51. The Company also made a downward adjustment of 0.11% to the indicated range of common equity cost rate to reflect the financial risk of its capital structure compared to that of the Proxy Group. PAWC St. 4 at 51-54, Sch. DWD-9. After applying the 1.00% size adjustment and the negative 0.11% financial risk adjustment to the indicated range of ROEs between 10.09% and 11.09%, PAWC proposed a range of common equity cost rates between 10.98% and 11.98%. PAWC St. 4 at 55.

At the outset, I&E noted its recommendation to use the DCF method is consistent with the methodology historically used by the Commission in base rate proceedings, most recently acknowledged in *UGI Electric 2018* at 104-06, 121. Through the methodologies outlined in its testimony, I&E calculated that the DCF methodology produces a cost of common equity of 8.45%. I&E M.B. at 48-49.

I&E employed the standard DCF model, $K = D_1/P_0 + g$, where K is the cost of common equity, D_1 is the dividend expected during the year, P_0 is the current price of the stock, and g is the expected growth rate of dividends. I&E argued that a representative dividend yield must be calculated over a time frame that avoids problems of both short-term anomalies and stale data. I&E's dividend yield calculation placed equal emphasis on the most recent spot and the 52-week average dividend yields, resulting in an average dividend yield of 2.15%. I&E M.B. at 49-50.

I&E used earnings growth forecasts to calculate its expected growth rate. I&E's earnings forecasts are developed from projected growth rates using 5-year estimates from established forecasting entities for its proxy group of companies, yielding an average 5-year growth forecast of 6.30%. I&E M.B. at 50.

I&E criticized PAWC's DCF analysis for its elimination of low-end results while considering mean and high-end results. The Company did this to support its claim that higher interest rates and yields on government bonds caused utility stocks to underperform. However, I&E avers this adjustment to PAWC's DCF undermines the purpose of utilizing a proxy group of similar water utilities to smooth out anomalous data in the DCF analysis. Additionally, I&E argues that removing low-end results and retaining high-end results inflates the Company's DCF results and skews the ROE higher in PAWC's favor. I&E M.B. at 52-53.

The OCA calculated a 9.40% DCF cost of equity, based on the following DCF model: $k = D_0 (1 + g) / P_0 + g$. However, the OCA made two separate DCF calculations with one using a sustainable growth rate and one using analysts' growth rates. OCA St. 3 at 27-28. To obtain the stock price (P_0), the OCA selected a 30-day average for each company in the proxy group. OCA St. 3 at 20-22. The dividend terms used by the OCA are forward-looking annualized dividends published by Yahoo! Finance (D_0). OCA St. 3 at 22. In the sustainable growth rate DCF model, the OCA used the

projected long-term U.S. growth domestic product (GDP) growth rate (g) of 3.8%. For its analysts' growth rate DCF model, the OCA used projected short-term dividend growth rate estimates published by Value Line. OCA Exh. DJG-6.

The OCA submitted that PAWC's DCF analysis is overstated because it used unsustainable growth rates that are unreasonably high. Specifically, the OCA points out the Company's use of long-term growth projections that exceed long-term growth projections of U.S. gross domestic product (GDP). OCA M.B. at 52.

b. Capital Asset Pricing Model (CAPM)

The CAPM uses the yield on a risk-free interest-bearing obligation (such as those issued by the U.S. Treasury) plus a rate of return premium that is proportional to the systematic risk of an investment. To compute the cost of equity with the CAPM, three components are necessary: (1) a risk-free rate of return (R_f); (2) the beta measure of systematic risk (β); and (3) the market risk premium ($R_m - R_f$) derived from the total return on the market of equities reduced by the risk-free rate of return. The CAPM specifically accounts for differences in systematic risk (*i.e.*, market risk as measured by the beta) between an individual firm or group of firms and the entire market of equities.

PAWC, I&E, and the OCA each used the following standard CAPM formula:

$$k = R_f + b(R_m - R_f)$$

Where: k = the cost of equity and the remaining terms are as defined above.

Additionally, the Company believes the Empirical Capital Asset Pricing Model (ECAPM) is an appropriate ROE model due to academic research indicating that

the risk-return relationship is different than estimated by the CAPM. Accordingly, the Company states the ECAPM addresses the tendency of the CAPM to underestimate the cost of equity for companies with low beta coefficients. PAWC St. 13 at 42-43.

(1) Positions of the Parties

PAWC calculated a traditional CAPM cost of equity based on three risk-free rates: (1) the current 30-day average yield on 30-year U.S. Treasury bonds, which is 4.84%; (2) the average projected 30-year U.S. Treasury bond yield for the first quarter of 2024 through the first quarter of 2025, which is 4.44%; and (3) the average projected 30-year U.S. Treasury bond yield for 2025 through 2029, which is 3.80%. PAWC utilized various data to calculate a market risk premium range of 7.64% to 8.69%. The Company used the average beta of its Proxy Group companies reported by Bloomberg and the average beta of its Proxy Group companies as reported by *Value Line*. PAWC's ECAPM model calculates the product of the adjusted beta coefficient and the market risk premium and applies a weight of 75% to that result. The model then applies a 25% weight to the market risk premium without any effect from the beta coefficient. PAWC's traditional CAPM produced a 10.15% to 11.17% cost of equity range, while its ECAPM produced a range from 10.73% to 11.50%. PAWC St. 4 at 36-44.

In calculating the CAPM cost of common equity, I&E determined the risk-free rate of return of 4.00% from the projected yield on 10-year Treasury bonds as the most stable risk-free measure. I&E explained that its decision to use 10-year Treasury bonds balanced out issues related to the use of 30-year long-term bonds and short-term T-Bills. I&E used the average of its proxy group betas from *Value Line* of 0.80. To arrive at a representative expected return on the overall stock market, I&E stated that it reviewed *Value Line*'s 1700 stocks and the S&P 500. I&E explained that the result of the overall stock market returns based on its CAPM analysis is 12.05%, which yields a cost of equity result of 10.44%. I&E St. 1 at 31-34.

I&E disagreed with PAWC's use of the CAPM as a means of calculating the Company's ROE. Citing various rate cases where the Commission affirmed the DCF and rejected other methods, including the CAPM, I&E claimed only the DCF should be used to calculate the Company's ROE. I&E also noted that the Commission only varies from the DCF methodology in very specific circumstances, where DCF only results may understate the ROE. In this case, I&E asserted no evidence was presented to indicate I&E's DCF only results understate PAWC's cost of equity. Additionally, I&E disapproved of the CAPM as it can be manipulated based on the inputs used. I&E stated, to calculate the CAPM risk free rate, the Company used 30-year Treasury Bonds which have a high maturity risk and subsequently higher yields. Further, I&E noted the Commission has recognized the 10-year Treasury Note as the appropriate measure of the risk-free rate. Finally, I&E disagreed with PAWC's use of the ECAPM as it has the same flaws as the CAPM but with greater input subjectivity. I&E M.B. at 53-57.

In its CAPM analyses, the OCA used a 30-day average of 30-year Treasury Bond yields to calculate a risk-free rate of 4.42%. OCA St. 3 at 35. The OCA used betas published by *Value Line* for each company in its proxy group. OCA St. 3 at 36. To find the equity risk premium, the OCA relied on expert surveys and an implied equity risk premium (ERP). For an expert survey, the OCA chose the IESE Business School survey. For 2023, this survey reported an average ERP of 5.7%. The OCA calculated the implied equity risk premium by subtracting the risk-free rate from an implied expected market return. Using this data, the OCA estimated the proper CAPM ROE is 8.7%. OCA St. 3 at 39-42.

The OCA disagreed with PAWC's market risk premium, stating the OCA's testimony is more credible than the Company's for two reasons. First, the OCA claims its ERP is more reasonable as it used three ERP sources plus its own ERP estimate. When compared to its ERPs, the OCA states PAWC's risk premium is not within the range of reasonableness established by the OCA's ERPs. Second, the OCA avers the

Company is suggesting its risk premium is more accurate than the OCA's ERPs, which are based on estimates published by independent sources. OCA M.B. at 53-55.

c. Recommended Decision

The ALJs recommended adopting a ROE based on both the DCF and CAPM models, consistent with the Commission's decisions in *Aqua 2022* and *Columbia Water 2024*.⁷⁵ At the outset, the ALJs noted that they agreed with PAWC's position that I&E's sole reliance on the DCF model is flawed. The ALJs observed that I&E cited previous Commission decisions that accepted only the DCF model. However, the ALJs stated that PAWC correctly asserted more recently the Commission adopted the use of both the DCF and CAPM models to determine the ROE in *Aqua 2022* and *Columbia Water 2024*. Moreover, the ALJs were convinced by PAWC's argument that economic factors that led to the Commission's decision in *Aqua 2022* and *Columbia Water 2024*, such as high inflation, high interest rates, and high capital costs, still existed during this proceeding and are likely to persist. The ALJs also stated I&E used a spot dividend yield and a 52-week dividend yield for its DCF model and 10-year Treasury notes for its CAPM, which is the same as I&E's models adopted by the Commission in *Aqua 2022* and *Columbia Water 2024*. Therefore, the ALJs recommended adopting a ROE based on both the DCF and CAPM models, consistent with the Commission's decisions in *Aqua 2022* and *Columbia Water 2024*. Lastly, the ALJs recommended the Commission reject PAWC's ECAPM analysis because it introduces subjectivity to the CAPM analysis by reducing reliance on the company-specific beta. Although the ALJs agreed with PAWC that both the DCF and CAPM models should be used, they recommended the use of I&E's DCF and CAPM models. The ALJs noted this is also consistent with the Commission's decision in *Aqua 2022* and *Columbia Water 2024*. R.D. at 167-69.

⁷⁵ As discussed below, in Section IX.D.3, the ALJs recommended that I&E's DCF and CAPM results be averaged in arriving at the appropriate ROE in this proceeding. See, R.D. at 167.

d. Exceptions and Replies**(1) PAWC Exception No. 1 and Replies**

In its Exception No. 1, PAWC contends that the ALJs erred by relying on I&E's DCF and CAPM results in calculating its recommended ROE. As discussed in section IX.A, the Company contends I&E's proxy group is flawed. Therefore, PAWC submits that by accepting I&E's proxy group, the ALJs also erred by subsequently utilizing I&E's DCF and CAPM calculations. PAWC submits that if the Commission instead utilizes the Company's Proxy Group, this will correct the ALJs' errors and will produce a more appropriate ROE. PAWC Exc. at 2-4.

In response, I&E notes PAWC's Exception No. 1 is based on the ALJs use of I&E's proxy group to determine the ROE, as discussed in Section IX.A, *supra*. Therefore, I&E disagrees with PAWC that its DCF and CAPM calculations are erroneous based on I&E's proxy group. I&E R. Exc. at 1, 4.

In its Reply to PAWC's Exception 1, the OCA claims the Commission should deny PAWC's arguments as no Party had an opportunity to respond on the record to the averaging of I&E's DCF and CAPM results, discussed, *infra*, while also utilizing the Company's Proxy Group. According to the OCA, rather than making a decision based on the record, granting PAWC Exception No. 1 would place the Commission in the role of creating a record to justify its decision. OCA R. Exc. at 9.

(2) I&E Exception No. 1 and Replies

In its Exception No. 1, I&E contends that the ALJs erred by recommending the use of I&E's DCF and CAPM results. I&E alleges the Recommended Decision is flawed due to the ALJs' reasoning that I&E did not use its CAPM as a comparison to its

DCF result. Responding to the ALJs reasoning, I&E claims it did use the CAPM as a comparison to its DCF results. However, I&E clarifies that the CAPM is a less reliable model because it measures the cost of equity indirectly and can be manipulated by the time period used. I&E insists that the DCF is more reliable as it measures the cost of equity directly by calculating the discounted present value of future cash flows. I&E Exc. at 3-5.

In its Reply to I&E's Exception No. 1, PAWC maintains the ALJs correctly used both the DCF and CAPM results. The Company states the ALJs properly noted that the Commission has recently adopted the use of both the DCF and CAPM methodologies to determine the ROE in *Aqua 2022* and *Columbia Water 2024*. PAWC notes the ALJs' explanation that the DCF is slow to respond to interest rate changes, as it does not directly account for interest rates. Furthermore, PAWC states the ALJs were convinced by the Company's argument that the conditions that led to the Commission's ROE determinations in *Aqua 2022* and *Columbia Water 2024* still exist during this proceeding. PAWC R. Exc. at 3-4.

In its Reply to I&E's Exception No. 1, the OCA agrees with I&E's Exception No. 1 that the ALJs erred by averaging I&E's DCF and CAPM ROE results. The OCA believes the Commission should select a ROE from the on-the-record testimony of one of the parties in this case based on a fully substantiated cost of equity analysis. The OCA claims it did not have an opportunity in rebuttal or surrebuttal testimony to address I&E's CAPM and averaging I&E's DCF and CAPM. Further, the OCA argues that since I&E did not give its CAPM any weight when recommending a ROE, the OCA did not respond to I&E's CAPM. Therefore, the OCA avers it was denied due process as it did not have an opportunity to be heard at a meaningful time and in a meaningful manner. OCA R. Exc. at 7-8, citing *Montefiore Hospital Ass'n of Western Pa. v. Pa. PUC*, 421 A.2d 481, 484 (Pa. Cmwlth. 1980) (*Montefiore*). OCA R. Exc. at 7-8.

(3) OCA Exception No. 11 and Replies

In its Exception No. 11, the OCA claims the ALJs erred by using the average of I&E's DCF and CAPM analysis. The OCA avers the ALJs modified I&E's recommendation by averaging I&E's DCF and CAPM results, although I&E did not recommend this method. By using both DCF and CAPM results, the OCA maintains it provided an accurate assessment of PAWC's ROE as it measures market risk and its impact on individual companies. OCA Exc. at 15-17.

In its Reply to the OCA's Exception No. 11, PAWC contends that the OCA's criticism of the long-term growth rate used in its DCF does not meet the OCA's own standard. Second, the Company notes that the OCA used an ERP based on surveys and its own calculations. PAWC argues that its ERP based on *Value Line* projected growth rates is more accurate, as it is consistent with historical equity returns. PAWC R. Exc. No. 11 at 6-7.

e. Disposition

Based on the record, we agree with the ALJs that it is appropriate to consider the CAPM results, in addition to the DCF results, to determine PAWC's ROE. We concur with the ALJs' determination that:

PAWC correctly noted that more recently the Commission adopted use of both the DCF and CAPM models to determine ROE in *Aqua 2022* and *Columbia Water 2024*. PAWC convincingly argued that the conditions that lead [sic] the Commission to its determinations in *Aqua 2022* and *Columbia Water 2024*, i.e., higher inflation and associated higher interest rates and capital costs, still exist and are likely to continue.

R.D. at 168.

In *Aqua 2022* and *Columbia Water 2024*, the Commission determined the ROE by using informed judgement based on I&E's DCF and CAPM methodologies. Based on our above determination to deny PAWC's Exception No. 1, we agree with the ALJs' recommendation to employ I&E's DCF and CAPM results based on its proxy group. We agree with the ALJs that I&E's DCF model correctly considers spot price, the 52-week high and 52-week low price in the calculation of the average spot dividend yield and average 52-week dividend yield. Although I&E did not recommend its CAPM as a method to determine PAWC's ROE, I&E did present its CAPM analysis in testimony and briefed the ALJs as to the veracity of its CAPM inputs. I&E M.B. at 48-51. Additionally, we agree with the ALJs that I&E's CAPM appropriately uses 10-year Treasury notes and eliminates the shortcomings of using short term Treasury bills or 30-year long-term Treasury bonds. R.D. at 168-69. Therefore, we will disregard the Company's and the OCA's DCF and CAPM results and base our recommended ROE on the results of I&E's DCF and CAPM analyses. Therefore, we shall deny PAWC's Exception No. 1, I&E's Exception No. 1, and the OCA's Exception No. 11 on this issue.

2. Business Risks and Management Performance

a. Positions of the Parties

PAWC sought an upward adjustment of twenty-five basis points to its ROE claim in recognition of the Company's business risks and management performance. Both I&E and the OCA opposed any such allowance.

PAWC identified several business risks that the Company faces, including: (1) risks associated with the Company's capital expenditure program to combat aging infrastructure; (2) risks associated with environmental and water quality regulations; and

(3) flotation costs.⁷⁶ PAWC submitted that these risks should be viewed in comparison to the companies in its Proxy Group. PAWC represented that its alternative ratemaking proposals, *infra*, will not reduce its risk in comparison to these companies. Next, PAWC claimed that it has exhibited excellent management performance in a variety of areas critically important to providing safe and reliable service, including the Company's: (1) industry-leading programs to assist low-income and payment-troubled customers; (2) environmental record and commitment to water quality; (3) strong safety performance; (4) commitment to operational and water efficiency for the benefit of its customers; (5) significant infrastructure investment; (6) community engagement and consumer education initiatives; (7) efforts to support the long standing policy of the Commission and the PADEP to eliminate the problems of small, troubled and nonviable water and wastewater systems by acquiring those systems and making the improvements needed to achieve and continue to provide safe and reliable service; and (8) efforts to extend service to meet the needs of customers without access to safe and reliable water service. PAWC M.B. at 52-53.

PAWC submitted that under Section 523 of the Code, 66 Pa.C.S. § 523, the Commission considers the management performance of a utility and, where appropriate, may include an upward adjustment to the utility's ROE for management effectiveness. Accordingly, PAWC insisted that its superior management performance should be appropriately recognized by granting the Company a ROE at the upper end of the range of 10.00% to 11.25% that it sought. Alternatively, PAWC submitted that if the Commission were to authorize a ROE less than 10.95%, then it should award the

⁷⁶ Flotation costs are associated with the sale of new issues of common stock. According to PAWC, to the extent that a utility is denied the opportunity to recover prudently incurred flotation costs, actual returns will fall short of expected (or required) returns, thereby diluting equity share value. Flotation costs are part of the invested costs of the utility and are not otherwise recovered. PAWC M.B. at 52.

Company an upward adjustment of no less than 25 basis points for business risks and management performance.⁷⁷ PAWC M.B. at 53; PAWC R.B. at 40-47.

I&E submitted that PAWC's claimed business risk is already accounted for in the proxy group proffered by I&E and does not need to be further accounted for when setting the Company's ROE. I&E argued, *inter alia*: (1) that infrastructure is a common problem for water and wastewater utilities in Pennsylvania that generally requires significant investment; (2) that flotation costs accounted for and recovered as an O&M expense or they are amortized over time on the books of the issuing company such that it would be inappropriate to account for the potential impact thereof through the awarding of an upward adjustment to ROE; and (3) the DSIC, which allows PAWC to recover the costs associated with replacing and repairing aging water and wastewater infrastructure already serves to lessen the Company's business risk. Thus, I&E took the position that nothing on the record demonstrates that PAWC faces any extraordinary risk in comparison to other water and wastewater utilities. I&E M.B. at 59-60.

As to the Company's claimed superior management performance, I&E countered that the true measure of strong management performance is earning a higher return through efficient use of resources and cost cutting measures, resulting in a higher level of net income available to be passed on to shareholders. In I&E's view, no utility should reap additional rewards for simply meeting its statutory obligation under Section 1501 of the Code, 66 Pa.C.S. § 1501, to provide safe and reliable service through the administration of programs funded by ratepayers. I&E submitted that if the Company is as effective at controlling operating and maintenance costs as it argues, those savings should flow through to its ratepayers and/or investors. At the same time, I&E contended that PAWC's claimed savings to its ratepayers would likely be offset by the addition of basis points for management performance, as ratepayers would have to fund the

⁷⁷ The specific proposed ROEs of PAWC, I&E, and the OCA are discussed in Section IX.D.3 of this Opinion and Order.

additional costs. I&E M.B. at 60-63. Moreover, I&E argued that a review of the recent Management and Operations Audit Report, prepared by the Commission's Bureau of Audits (Audits), illustrates that out of the twelve functional areas examined in the audit, PAWC did not meet expectations in any. *Id.* at 64 (citing Management and Operations Audit of Pennsylvania-American Water Company, Docket No. D-2022-3035217 (released October 2023) (*2023 Management Audit*)). As such, I&E submitted that the Commission should reject, in its entirety, the Company's request for an upward adjustment of twenty-five basis points to its ROE. I&E M.B. at 64-65.

The OCA, likewise, opposed any upward adjustment to PAWC's ROE for either its claimed business risk or its claimed superior management performance. According to the OCA, the Commission would be acting outside the zone of reasonableness to grant PAWC's request for an upward adjustment, which results in nothing more than unsubstantiated and excessive rates. In the OCA's view, although Section 523 of the Code authorizes the Commission to *consider* the efficiency, effectiveness, and adequacy of service when determining just and reasonable rates, under no circumstances is the Commission obliged to *grant* an upward adjustment for management performance. The OCA reasoned that it would be neither proper nor appropriate for the Commission to award shareholder interests based upon the utility's prudent managerial performance when shareholders themselves cannot expect to earn an additional ROE for a firm's prudent managerial performance when the shareholders invest in competitive firms in the marketplace. OCA M.B. at 55-57.

The OCA also claimed that the Company has failed to justify its requested upward adjustment. In this regard, the OCA submitted that while PAWC represented that it took "superior management performance" into consideration in making its proposed 10.95% ROE, the Company's witness, Ms. Bulkley, admitted at the hearing that neither the Company's DCF model, nor its CAPM analysis accounted for managerial performance. OCA M.B. at 57-58 (citing Tr. at 2113). Additionally, the OCA argued

that the Company's specific request for an upward adjustment of twenty-five basis points was arbitrary and unsupported by the record. For this reason, the OCA took the position that it would also be arbitrary for the Commission to award the Company an upward adjustment in this amount. Furthermore, the OCA claimed that the Company has not demonstrated that its managerial performance is exemplary in all areas of service to its customers. Rather, the OCA submitted that PAWC has, at best, demonstrated that it is meeting its obligations under Section 1501 of the Code, and in some instances has demonstrated less than exemplary management. Namely, the OCA asserted that PAWC has failed to respond, and is not responding, to the issues related to long-term arrears that have now been presented in two management audits; and that the Company has demonstrated poor performance in several other areas of customer service. The OCA further pointed to "the unprecedented volume of customer opposition" to this rate proceeding. OCA M.B. at 58-59; OCA R.B. at 36-39.

b. Recommended Decision

The ALJs recommended that the Commission award an upward adjustment of ten basis points to PAWC's cost of common equity in recognition of the Company's business risks and management performance. According to the ALJs, this adjustment is warranted because the Company has completed sixteen acquisitions of very small, less-viable water and wastewater systems over the last ten years. The ALJs stressed that the Company has completed the acquisitions of systems that were not, at the time of acquisition, providing adequate, efficient, safe, and reasonable service, and in some instances where the Company also acted as a receiver prior to acquisition. Specifically, the ALJs pointed to PAWC's acquisitions of Delaware Sewer Company (Delaware Sewer) and Winola Water Company (Winola Water). The ALJs noted that the Commission's Policy Statement regarding incentives for the acquisition of small nonviable water and wastewater systems, set forth in the Commission's Regulations at 52 Pa. Code § 69.711, explicitly contemplates the awarding of upward adjustments to a

utility's rate of return to encourage the acquisition of such systems. The ALJs further stated that PAWC's assertion that it provides service to customers in extraordinary circumstances further supports an upward adjustment. R.D. at 183. The ALJs noted that in *Aqua 2022*, the Commission awarded an upward adjustment to Aqua in recognition of similar efforts. *Id.* (citing *Aqua 2022* at 169).

The ALJs disagreed with the OCA's arguments that awarding an upward adjustment for management performance would cause the Commission to act outside the zone of reasonableness and that the adder will result in unsubstantiated and excessive rates. According to the ALJs, the Company's willingness to provide aid to other water and wastewater providers indicates that the Company is doing more than is required under Section 1501 of the Code. At the same time, however, the ALJs agreed with the OCA that the record does not support awarding the Company the full twenty-five basis points upward adjustment that it sought. In this regard, the ALJs concurred with the OCA that PAWC has not demonstrated that its service is exemplary in all areas. Rather, the ALJs found that the activities PAWC cited in favor of its requested upward adjustment of twenty-five basis points simply demonstrated that the Company is complying with its public service obligations under Section 1501 of the Code. The ALJs further pointed to the significant amount of criticism voiced by PAWC's customers, through the filing of complaints and/or participation at public input hearings, as justification for recommending that the Commission award an upward adjustment of ten basis points, in lieu of the full amount requested by the Company. R.D. at 183-84.

c. Exceptions and Replies

(1) PAWC Exception No. 2 and Replies

In its Exception No. 2, PAWC finds fault with the ALJs' recommendation that the Commission award an upward adjustment of ten basis points, rather than the full

upward adjustment of twenty-five basis points requested by the Company. PAWC notes that in recommending a reduced upward adjustment, the ALJs referenced the Commission's decision in *Aqua 2022*. However, PAWC submits that in *Aqua 2022*, the Commission awarded Aqua an upward adjustment of twenty-five basis points to its ROE. PAWC continues that the Commission awarded this adjustment based solely on Aqua's history of service to troubled communities. PAWC reasons that nowhere in its analysis did the Commission reference any finding of Aqua's extraordinary or exemplary performance "in all areas," nor is any such requirement imposed under Section 523 of the Code. PAWC Exc. at 10-11 (citing *Aqua 2022* at 168-73).

The Company highlights that similar to the Commission's decision in *Aqua 2022*, the ALJs recommended an upward adjustment to PAWC's ROE based entirely on PAWC's history of acquiring sixteen small, less viable water and wastewater systems in the last ten years, including systems that were not providing adequate, safe, and reasonable service; and PAWC's history of providing service to customers in extraordinary circumstances. However, PAWC claims that the ALJs erred in recommending that the Company's requested upward adjustment be reduced based upon a finding that PAWC did not show that its service was "exemplary in all areas." PAWC insists that the ALJs did nothing to demonstrate that the Commission's decision in *Aqua 2022* is distinguishable from the instant proceeding. Accordingly, PAWC argues that the Commission should modify the Recommended Decision and award the Company an upward adjustment of twenty-five basis points to its ROE. PAWC Exc. at 10-12.

In its reply to PAWC's Exception No. 2, I&E restates its position that no utility should be awarded additional rate of return basis points for doing what it is required to do to meet its obligation to provide adequate, efficient, safe, and reasonable service in accordance with Section 1501 of the Code, or for increasing profits, as it is incentivized to do by its board of directors and shareholders. Therefore, as it discussed in its own Exceptions, *infra*, I&E is of the opinion that while the Commission should deny

PAWC's Exception No. 2, it also should not award the Company *any* upward adjustment to its ROE for management performance. I&E R. Exc. at 5.

In its reply to the Company's Exception No. 2, the OCA stresses its position that there is neither a constitutional nor a statutory requirement that a public utility be awarded an upward adjustment to its ROE for management performance. Rather, the OCA submits that the Commission has discretion on whether to award such an adjustment, based upon the specific record evidence. Similar to I&E, *supra*, the OCA asserts that based upon the record in this proceeding, the Commission should deny PAWC's Exception No. 2, but should also deny the Company's request for an upward adjustment to its ROE in its entirety. The OCA asserts that even an upward adjustment of ten basis points would unnecessarily increase consumer rates by more than \$4.52 million per year. The OCA restates its position that there is no evidentiary basis for such an increase because PAWC has not demonstrated that its overall management performance is exemplary. Moreover, the OCA submits that PAWC has failed to demonstrate that its performance related to the sixteen acquisitions or its willingness to act as a receiver of certain systems is worthy of a management performance adjustment. OCA R. Exc. at 11-12.

(2) I&E Exception No. 2, OCA Exception Nos. 1 and 12, and Replies

In its Exception No. 2, I&E emphasizes its position that the ALJs erred by recommending that the Company be awarded *any* upward adjustment to its ROE for business risk or management performance. I&E restates its argument that awarding the Company an upward adjustment would erode any cost-saving measures that PAWC may be implementing. Additionally, I&E submits that while it is true that PAWC has acquired many small and potentially less viable water and wastewater systems, the Company passes on the capital expenditures related to these acquisitions to its ratepayers.

Therefore, I&E opines that without a sound reason beyond the Company's acquisition of systems, which ratepayers ultimately pay for, no upward adjustment for business risk or management performance is warranted. Moreover, I&E stresses that because this is PAWC's third requested rate increase in the last four years, an upward adjustment would only further burden the Company's ratepayers. I&E Exc. at 5-8.

In its Exception No. 1, the OCA opposes Finding of Fact No. 44, which states that "[i]n the last ten years the Company has completed sixteen acquisitions of very small, less-viable water and wastewater systems with less than 1,000 customers each." OCA Exc. at 4 (citing R.D. at 12; additional citations omitted). According to the OCA, the ALJs erred in making this finding of fact because they failed to specify or identify the sixteen acquisitions to which they referred. As a result, the OCA asserts that there is no evidentiary basis for the ALJs to have made their associated recommendation that these acquisitions warrant an upward adjustment to the Company's ROE. OCA Exc. at 4.

In its Exception No. 12, the OCA argues that the ALJs correctly concluded that PAWC's testimony of activities it referenced in support of its twenty-five basis points adjustment better reflects the Company's compliance with its public service obligations under the law, rather than any provision of extraordinary service. The OCA also agrees with the ALJs' finding that the significant amount of criticism voiced by PAWC customers through, *inter alia*, participation at public input hearings, merits against awarding the Company its requested adjustment. However, similar to I&E, *supra*, the OCA submits that the ALJs erred by recommending that the Commission award the Company *any* upward adjustment to its ROE. OCA Exc. at 18-23.

According to the OCA, the ALJs' citation to the Commission's "explicit endorsement" of rate return premiums in the Commission's Policy Statement at

52 Pa. Code § 69.711(b)(1)⁷⁸ was erroneous because the ALJs did not make any specific findings that the Company satisfied the requirements under 52 Pa. Code § 69.711(a),⁷⁹ that must first be met in order for the Commission to give consideration to a utility's proposed acquisition incentive. The OCA restates its position that the ALJs failed to specify or identify the sixteen acquisitions to which they referred. Additionally, the OCA contends that the Company failed to develop a record with substantial evidence to, at a minimum, identify the sixteen acquisitions and to demonstrate that each acquisition has met the criteria set forth in Section 69.711(a) of the Commission's Regulations. As to the Company's acquisitions of Delaware Sewer and Winola Water, the OCA argues that PAWC did not acquire these systems voluntarily. Instead, the OCA notes that the Commission directed the Company to acquire these systems pursuant to Section 529 of the Code. According to the OCA, Section 529 makes it the public service obligation of a "capable public utility," like PAWC, to acquire a "small water or sewer utility" pursuant to a Commission order, when certain conditions exist. Thus, the OCA submits that such

⁷⁸ This section states, as follows:

(b) Acquisition incentives. In its efforts to foster acquisition of suitable water and wastewater systems by viable utilities when the acquisitions are in the public interest, the Commission seeks to assist these acquisitions by permitting the use of a number of regulatory incentives. Accordingly, the Commission will consider the following acquisitions incentives:

(1) Rate of return premiums. Under 66 Pa.C.S. § 523 (relating to performance factor considerations), additional rate of return basis points may be awarded for certain acquisitions and for certain associated improvement costs, based on sufficient supporting data submitted by the acquiring utility within its rate case filing. The rate of return premium as an acquisition incentive may be the most straightforward and its use is encouraged.

52 Pa Code § 69.711(b)(1).

acquisitions do not demonstrate extraordinary management performance and do not merit the awarding of an upward adjustment to the Company's ROE. OCA Exc. at 18-20.

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This section states, in pertinent part, as follows:

The following parameters shall first be met in order for Commission consideration of a utility's proposed acquisition incentive. It should be demonstrated that:

- (1) The acquisition serves the general public interest.
- (2) The acquiring utility meets the criteria of viability that will not be impaired by the acquisition; that it maintains the managerial, technical and financial capabilities to safely and adequately operate the acquired system, in compliance with 66 Pa.C.S. (relating to the [Code]), the Pennsylvania Safe Drinking Water Act (35 P. S. § § 721.1—721.17) and other requisite regulatory requirements on a short and long-term basis.
- (3) The acquired system has less than 3,300 customer connections; the acquired system is not viable; it is in violation of statutory or regulatory standards concerning the safety, adequacy, efficiency or reasonableness of service and facilities; and that it has failed to comply, within a reasonable period of time, with any order of the [PADEP] or the Commission.
- (4) The acquired system's ratepayers should be provided with improved service in the future, with the necessary plant improvements being completed within a reasonable period of time.
- (5) The purchase price of the acquisition is fair and reasonable and the acquisition has been conducted through arm's length negotiations.
- (6) The concept of single tariff pricing should be applied to the rates of the acquired system, to the extent that it is reasonable. Under certain circumstances of extreme differences in rates, or of affordability concerns, consideration should be given to a phase-in of the rate difference over a reasonable period of time.

52 Pa. Code § 69.711(a).

The OCA stresses its position that the standards set forth in *Bluefield* and *Hope Natural Gas, supra*, do not establish the concept of a fair rate of return as a “quid-pro-quo” concept where non-market-based increments to cost of equity are awarded to a utility’s shareholders in return for a utility’s management operating the utility in a prudent manner as required by law. As such, the OCA maintains that the Commission is not obligated to award an upward adjustment for management performance. Rather, the OCA argues, the Company’s request is at the discretion of the Commission. The OCA submits that because the Company has failed to support its request, the Commission should reject its claim in its entirety and modify the Recommended Decision accordingly. According to the OCA, doing so will send a clear signal to water utilities that they must demonstrate exemplary service related to the acquisition of, and improvements to, small, non-viable systems. OCA Exc. at 21-23.

In its Replies to Exceptions, PAWC rebuts that the ALJs correctly concluded that an upward adjustment to the Company’s ROE is warranted. PAWC submits that no Party objected to the testimony of the Company’s witness, Ms. Ashley Everette, regarding the Company’s sixteen acquisitions of very small, less-viable water and wastewater systems over the last ten years. PAWC R. Exc. at 7-9. PAWC also insists that the OCA has mischaracterized the Company’s acquisitions of Delaware Sewer and Winola Water. Namely, PAWC avers that it: (1) voluntarily acquired Delaware Sewer after a settlement of a proceeding initiated by Delaware Sewer, and not the Commission; and (2) voluntarily acquired Winola Water after a settlement in that proceeding following the Company being appointed as a receiver. *Id.* at 9 (citing *Delaware Sewer 2020* and *Winola Water 2020*).

Further, PAWC argues that although it did not detail every investment it made in the sixteen systems it acquired, the Company’s witness, Mr. Bruce Aiton testified to PAWC’s extensive investments in troubled water systems. PAWC R. Exc. at 9 (citing PAWC St. 3-R at 10-11). Based on the above, PAWC submits that the

assertions of I&E and the OCA that any upward adjustment is improper because acquisitions of troubled systems are simply an obligation of a regulated water utility and may increase customers' rates plainly ignore: (1) Section 523 of the Code; (2) Commission precedent; and (3) the Commission's policies explicitly authorizing an upward adjustment to the ROE for water and wastewater utilities to foster the acquisition of small water and wastewater systems. Accordingly, PAWC claims that the Commission should deny the Exceptions of both I&E and the OCA on this issue and should grant PAWC's Exception No. 2, *supra*, by awarding an upward adjustment of twenty-five basis points in recognition of the Company's efforts. PAWC R. Exc. at 10.

d. Disposition

Pursuant to the Code, the Commission may reward utilities through rates for their performance. In pertinent part, Section 523 of the Code, 66 Pa.C.S. § 523 provides:

§ 523. Performance factor consideration.

(a) **Considerations.** – The Commission shall consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title. On the basis of the commission's consideration of such evidence, it shall give effect to this section by making such adjustments to specific components of the utility's claimed cost of service as it may determine to be proper and appropriate. Any adjustment made under this section shall be made on the basis of specific findings upon evidence of record, which findings shall be set forth explicitly, together with their underlying rationale, in the final order of the commission.

(b) **Fixed utilities.** – As part of its duties pursuant to subsection (a), the commission shall set forth criteria by which it will evaluate future fixed utility performance and in

assessing the performance of a fixed utility pursuant to subsection (a), the commission shall consider specifically the following:

(1) Management effectiveness and operating efficiency as measured by an audit pursuant to Section 516 (relating to audits of certain utilities) to the extent that the audit or portions of the audit have been properly introduced by a party into the record of the proceeding in accordance with applicable rules of evidence and procedure.

* * *

(4) Action or failure to act to encourage development of cost-effective energy supply alternatives such as conservation or load management, cogeneration or small power production for electric and gas utilities.

* * *

(7) Any other relevant and material evidence of efficiency, effectiveness and adequacy of service.

66 Pa.C.S. § 523.

Based on the record evidence and the arguments of the Parties, we concur with the positions of I&E and the OCA that PAWC's requested upward adjustment to its ROE for management performance should be denied in its entirety. Accordingly, we shall modify the recommendation of the ALJs consistent with the following discussion.

The Company claims it has presented evidence demonstrating that its performance in a variety of critical areas related to providing safe and reliable service, including, but not limited to, water quality, operational efficiency, and infrastructure investments warrants an upward adjustment to its ROE. We disagree. As discussed in Section III of this Opinion and Order, *supra*, there has been substantial negative input from the public regarding PAWC's quality-of-service, particularly in the northeastern

Pennsylvania region of the Company's service territory. As such, we find it inappropriate to award an upward adjustment to the Company's ROE in this proceeding. In our view, awarding PAWC's requested additional basis points to its ROE would conflict with precedent for granting such ROE adders. More specifically, such upward adjustments are awarded where the utility has clearly demonstrated extraordinary service worthy of recognition and reward. *See*, 66 Pa.C.S. § 523, *supra*; *Aqua 2022* at 380. While PAWC has exhibited evidence to substantiate a rate increase in this matter, the record evidence in this proceeding, along with the public input discussed in Section III of this Opinion and Order, do not exhibit service quality and effectiveness to a level warranting an upward adjustment to the Company's ROE.

In addition to the above, we find that both I&E and the OCA provided additional evidence to demonstrate that an upward adjustment to the Company's ROE for management performance is not warranted in this proceeding. For example, the OCA provided evidence to demonstrate that PAWC has not addressed issues related to arrears (*i.e.*, "bills behind").⁸⁰ Specifically, the OCA demonstrated that PAWC's collections performance was deficient when compared to the performance of Pennsylvania's other large water utility, Aqua PA. Using 2022 data, the OCA noted that, when compared to Aqua PA, PAWC had: (1) a higher percentage of its residential billings in debt (6.3% versus 4.03%); (2) a higher percentage of its residential customers in debt (17.4% vs. 13.8%); and (3) a disproportionate number of residential disconnections. Namely, PAWC disconnected its residential customers at a rate of 3.83%, which is a rate of more than three times higher than Aqua PA's rate of 1.35%. *See*, OCA R.B. at 36-37; OCA St. 5 at 113-14.

⁸⁰ Measuring "bills behind" allows a utility not only to compare its collection performance between time periods (which may have differing bill levels), but between utilities as well. OCA St. 5 at 114.

The OCA also provided additional evidence to show that the Company cannot be found to have demonstrated superior management in several areas of customer service. These areas are summarized, as follows:

1. Customer Complaints: in 2022, the most recent year for which complete data is available, the Commission's Bureau of Consumer Services (BCS) received 681 consumer complaints from PAWC's customers. Of those complaints, BCS found 25% of these complaints to be "justified."⁸¹ This rate of justified complaints was 25% higher than Aqua PA, which had a 2022 justified complaint rate of 20%, and nearly two times higher than the justified complaint rate of other Class A water utilities in Pennsylvania. In addition, the 686 PAWC complaints found to be justified in the first three quarters of 2023 represented a 29% increase from the 532 justified complaints in the first three quarters of 2022.
2. Payment Arrangements: In 2022, the last year for which complete data was available, the number of PAWC's justified payment arrangement requests to BCS was more than four times higher than the number of Aqua PA requests, despite PAWC having just over half (53%) of all residential water customers.
3. Verified infractions: Through the first three quarters of 2023, the Company had 191 "verified infractions," which was 50% more than Aqua PA. Of those, 185 (97%) involved infractions of the standards for billing practices for residential public utility service outlined in Chapter 56 of the Commission's Regulations at 52 Pa. Code § 56. Moreover, these verified infractions remained at a level nearly six times higher than prior to the COVID pandemic. More specifically, in the first three quarters of 2019, BCS reported that the Company had a total of 34 verified infractions.

⁸¹ A justified Payment Arrangement Request is one, where, prior to BCS intervention, the Company did not comply with Commission regulations, reports, Secretarial Letters, tariffs or guidelines. OCA St. 5 at 117.

4. Customer Surveys: PAWC has not compiled information that could have been used to assess how the Company might improve its customer satisfaction or its collections outcomes from customers. Additionally, the Company's quarterly surveys that it conducts are not targeted toward Confirmed Low-Income customers or toward Bill Discount Program participants.

OCA R.B. at 37; OCA St. 5 at 116-21.

Further, I&E highlighted the *2023 Management Audit*. More specifically, Audits found it was necessary for PAWC to make either a minor improvement or a moderate improvement in the following functional areas: (1) Executive Management and Organizational Structure; (2) Corporate Governance; (3) Cost Allocations and Affiliated Interests; (4) Financial Management; (5) Water Operations; (6) Wastewater Operations; (7) Emergency Preparedness; (8) Purchasing and Materials Management; (9) Customer Service; (10) Information Technology; (11) Fleet Management; and (12) Human Resources Diversity. See, I&E M.B. at 74-75 (citing *2023 Management Audit*). In summary, we find that each of the examples proffered by I&E and the OCA provide additional persuasive evidence for why it is not appropriate to award the Company an upward adjustment to its ROE in this proceeding.

Consistent with the above discussion, we shall deny PAWC's Exception No. 2. In addition, we shall grant I&E's Exception No. 2, and the OCA's Exception Nos. 1 and 12. Finally, we shall reverse the recommendation of the ALJs on this issue and reject PAWC's request for an upward adjustment to its ROE for management performance. Instead, as noted in Section X.D.3, *infra*, we shall authorize a total ROE for the Company of 9.45%.

3. Rate of Return on Common Equity

a. Positions of the Parties

PAWC notes in *Columbia Water 2024*, the Commission recognized the need to use both the DCF and CAPM in times of high inflation and high interest rates. Consistent with *Columbia Water 2024*, and based upon its DCF and CAPM results and consideration of the Company's business, financial and regulatory risks, and its management performance, PAWC sought a ROE of 10.95%. PAWC M.B. at 43-44.

I&E recommended a DCF-based 8.45% ROE for the Company. I&E stressed its position that the DCF measures the cost of equity directly, recognizes the time value of money, is forward-looking, and has wide-spread regulatory acceptance. I&E submitted that for a point of comparison, its 10.44% CAPM ROE confirms the reasonableness of its 8.45% DCF ROE calculation. As the CAPM measures the cost of equity indirectly and can be manipulated by the time period used, I&E gave no specific weight to its CAPM ROE. I&E stated that while the CAPM is also forward-looking and is based on the concept of risk and return, it has flaws that should discount its use to determine PAWC's ROE. I&E M.B. at 48-51.

The OCA recommended a 9.1% ROE. The OCA calculated this ROE by taking the average of its DCF ROE (9.4%) and its CAPM ROE (8.7%). The OCA noted that its recommended ROE of 9.1% falls within PAWC's DCF range. Therefore, the OCA claimed its recommended ROE balances the interests of investors and consumers. However, the OCA argued that if the Commission accepts PAWC's actual capital structure and/or adopts any of the Company's alternative ratemaking proposals, then it should grant the Company a ROE of no more than 8.7%. OCA M.B. at 51-52.

The OSBA supported either I&E's proposed ROE of 8.45%, or the OCA's proposed ROE of 9.1%, using the hypothetical capital structure proffered by the OCA. To calculate PAWC's revenue requirement, the OSBA utilized the water industry 9.65% ROE authorized for the DSIC in the most recent Report of TUS on the Quarterly Earnings of Jurisdictional Utilities. The OSBA claimed the DSIC ROE provided a more realistic calculation of revenue requirement impact of the OSBA's acquisition related adjustments. OSBA M.B. at 14.

PAWLUG averred that PAWC's proposed ROE was unreasonable based on the recommendations developed by I&E and the OCA. PAWLUG noted that the Company's proposed ROE of 10.95% exceeded I&E's 9.45% average ROE by 150 basis points. According to PAWLUG, the Company's suggested ROE was also unreasonable because it omitted adjustments for the various alternative rate and deferral mechanisms proposed by PAWC in this proceeding, which serve to further reduce the Company's operational risks. Although PAWLUG did not make a specific ROE recommendation, it requested that the Commission reject PAWC's proposed 10.95% ROE and consider the evidence presented by PAWLUG to determine a reasonable ROE based on range of reasonableness supported by I&E's and the OCA's ROE analysis. PAWLUG M.B. at 9-12.

b. Recommended Decision

Consistent with the Commission's decisions in *Aqua 2022* and *Columbia Water 2024*, the ALJs recommended a ROE based on both I&E's DCF and CAPM models. By taking the average of I&E's DCF (8.45%) and CAPM (10.44%) analysis, the ALJs recommended that the Commission adopt a ROE of 9.55%. This consisted of a base ROE 9.45% plus an upward adjustment of ten (10) basis points for management performance, discussed, *supra*. [9.45%+0.10%=9.55%]. R.D. at 167, 184.

c. Exceptions and Replies

(1) PAWC Exception No. 1 and Replies

In its Exception No. 1, PAWC contends that the ALJs erred by relying on I&E's DCF and CAPM results in calculating the recommended ROE. As discussed in Section IX.A, the Company contends I&E's proxy group is flawed. Therefore, by accepting I&E's proxy group, PAWC states the ALJs calculated a ROE that is below the ROE awarded in *Columbia Water 2024* of 9.75% and below the Commission authorized DSIC ROE of 9.65%.⁸² Based on four different modifications to I&E's proxy group, PAWC insists that the Commission should award the Company one of the following ROE's: 9.76%, 9.88%, 10.05%, or 10.46%. PAWC Exc. at 2-9.

In its Reply to the Company's Exception No. 1, I&E agrees with PAWC that the ALJs erred by recommending a 9.45% ROE with an additional ten (10) basis point management performance adder. However, it is I&E's position that the ROE proposed by the ALJs is too *high* while the Company in this Exception argues that the ROE was too low. I&E notes PAWC's Exception No. 1 is based on the ALJs' use of I&E's proxy group to determine the ROE, as discussed in section IX.A, *supra*. I&E R. Exc. at 1,4.

In its Reply to PAWC's Exception No. 1, the OCA restates its argument that the Commission should deny PAWC's Exception No. 1 because no Party had an opportunity to respond on the record to the Company's recommendation to calculate its ROE by taking the average of I&E's DCF and CAPM model results utilizing multiple proxy groups picked by PAWC. The OCA states the Company presented these calculations for the first time in its Exceptions, with PAWC arguing the ROE should be

⁸² *Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended December 31, 2023*, Docket No. M-2024-3048688 (May 9, 2024).

one of the following: 9.76%, 9.88%, 10.05%, or 10.46%. Since this is the first time that PAWC has presented these calculations, the OCA claims it is extra record evidence and deprives the Parties of their due process rights. OCA R. Exc. at 9 (citing *Montefiore* at 484). Furthermore, the OCA claims that replacing the proxy group inputs in I&E's DCF and CAPM analyses and then averaging the results will change I&E's DCF and CAPM analyses that is on the record. The OCA stresses its position that rather than making a decision based on the record, granting PAWC's Exception No. 1 will place the Commission in the role of creating a record to justify its decision. OCA R. Exc. at 9.

(2) I&E Exception No. 1 and Replies

In its Exception No. 1, I&E contends that the ALJs erred by recommending a ROE by taking the average of I&E's DCF and CAPM results. I&E alleges the ALJs' recommendation is flawed due to the ALJs' reasoning that I&E did not use its 10.44% CAPM ROE as a comparison to its 8.45% DCF ROE. Additionally, I&E states the ALJs essentially gave the CAPM a 50% weight by averaging the DCF and CAPM ROE results. I&E deems that given the flaws of the CAPM, there is no way to give an appropriate weight to the CAPM. Hence, I&E explains that it has simply used the CAPM as a comparison to the DCF and does not incorporate it in its ROE calculation. Therefore, I&E asserts that the Commission should rely primarily on the I&E DCF analysis and grant PAWC a ROE of 8.45%. I&E Exc. at 3-5.

In its Reply to I&E's Exception No. 1, PAWC maintains the ALJs correctly used both the DCF and CAPM results. The Company states the ALJs properly found that the Commission has recently adopted the use of both the DCF and CAPM methodologies to determine the ROE in *Aqua 2022* and *Columbia Water 2024*. PAWC R. Exc. at 3.

In its Replies to Exceptions, the OCA agrees with I&E that the ALJs erred by averaging I&E's DCF and CAPM ROE results. The OCA insists the Commission

should select a ROE from the testimony of one of the Parties in this case based on a fully substantiated cost of equity analysis. Regarding averaging I&E's DCF and CAPM ROE results, the OCA declares I&E did not present testimony, the ALJs did not present findings of fact in the Recommended Decision, nor is there any record evidence to support the ALJs' recommendation that the Commission set a ROE based upon the average of I&E's DCF and CAPM results. The OCA further claims it did not have an opportunity in rebuttal or surrebuttal testimony to address I&E's CAPM or the averaging of I&E's DCF and CAPM. Moreover, the OCA argues that since I&E did not give its CAPM any weight when recommending a ROE, the OCA did not respond to I&E's testimony concerning its CAPM. Therefore, the OCA avers it was denied due process as it did not have an opportunity to be heard at a meaningful time and in a meaningful manner. OCA R. Exc. at 7-8, (citing *Montefiore*). Finally, the OCA asserts that while its own ROE testimony presented an average of its DCF and CAPM results, the other Parties had an opportunity to respond to this testimony. OCA R. Exc. at 8.

(3) OCA Exception No. 11 and Replies

In its Exception No. 11, the OCA reinforces its claim that the ALJs erred by recommending a 9.45% ROE that used the average of I&E's DCF and CAPM analysis. The OCA avers the ALJs modified I&E's recommendation by averaging I&E's DCF and CAPM results, although I&E did not recommend this method. By picking what parts of I&E's ROE analysis to use, and ignoring other evidence, the OCA argues that the ALJs recommended a ROE that is excessive by thirty-five (35) basis points. The OCA states that its own recommended ROE falls within the zone of reasonableness that protects both consumer and shareholder interests and provides just and reasonable rates. As previously noted, based on DCF and CAPM results, the OCA's ROE recommendation is either 9.1% or 8.7% depending on whether alternative ratemaking requests or the Company's actual capital structure are granted in this proceeding. Since the ALJs recommended granting the Company's actual capital structure, the OCA insists that the Company's ROE should

be no higher than 8.7%. The OCA notes that its proposed ROE is based on the average of its DCF and CAPM results. By using both DCF and CAPM results, the OCA maintains it provided an accurate assessment of PAWC's ROE as it measures market risk and its impact on individual companies. Lastly, the OCA restates that its 9.1% proposed ROE falls within PAWC's DCF ROE range. OCA Exc. at 15-17.

In its Replies to Exceptions, PAWC restates its position that the OCA's hypothetical capital structure is improper and the ALJs decision to not use the OCA's ROE analysis is supported by the record evidence. The Company argues the OCA's ROE recommendations have two primary errors. First, PAWC contends that the OCA's criticism of the long-term growth rate used in its DCF does not meet the OCA's own standard. Second, the Company notes that the OCA used an ERP based on surveys and its own calculations. PAWC argues that its ERP based on *Value Line* projected growth rates is more accurate, as it is consistent with historical equity returns. PAWC R. Exc. at 4-7.

d. Disposition

We agree with the ALJs' recommendation to take the average of I&E's DCF and CAPM ROE results. This produces a ROE of 9.45%, noting I&E's DCF and CAPM produce a ROE range of reasonableness from 8.45% to 10.44%. Based upon our informed judgment, which includes consideration of a variety of factors such as increasing inflation leading to increases in interest rates and capital costs, we find that a ROE of 9.45% is reasonable and appropriate for PAWC. As discussed in Section IX.D.2, *supra*, we have also determined that the Company's request for an upward adjustment to its ROE for management performance should be denied. Therefore, we shall award the Company a total ROE of 9.45%.

Before concluding this section, we stress that based upon the specific record developed in this proceeding, we have determined that taking the average of the DCF and CAPM results produces a reasonable ROE. However, we do not strictly endorse averaging the DCF and CAPM in other proceedings where it is determined that methodologies other than the DCF are necessary to determine the utility's ROE. Consistent with these determinations, we shall deny PAWC's Exception No. 1, I&E's Exception No. 1, and the OCA's Exception No. 11.

E. Overall Rate of Return

1. Positions of the Parties

PAWC claimed that it should be permitted to earn the following overall rates of return in this proceeding:

- (1) An overall rate of return of 8.17% on a total company basis, comprised of a weighted average of a 4.71% rate of return on long-term debt, and a 10.95% rate of return on common equity, inclusive of an upward adjustment for management effectiveness. Additionally, this is based on an actual capital structure of 44.70% long-term debt and 55.30% common equity;
- (2) An overall rate of return of 8.22% for its water operations, comprised of a weighted average of a 4.76% rate of return on long-term debt, and a 10.95% rate of return on common equity, inclusive of an upward adjustment for management effectiveness. Additionally, this is based on an actual capital structure of 44.01% long-term debt and 55.99% common equity; and
- (3) An overall rate of return of 7.94% for its wastewater operations, comprised of a weighted average of a 4.76% rate of return on long-term debt, a 2.67% rate of return on long-term debt for wastewater-specific debt

issuances, and a 10.95% rate of return on common equity, inclusive of an upward adjustment for management effectiveness. Additionally, this is based on an actual capital structure of 42.73% long-term debt, 4.40% wastewater-specific long-term debt, and 52.87% common equity.

PAWC Exh. 13-A at Schs. 11 and 12; Exh. 13-R at Sch 14.

I&E argued that PAWC should be afforded the opportunity to earn the following overall rates of return:

- (1) An overall rate of return of 6.82% for PAWC's water operations. This recommended overall rate of return is comprised of a weighted average of a 4.76% rate of return on long-term debt and an 8.45% rate of return on common equity, and is based off of the Company's proposed capital structure for its water operations.
- (2) An overall rate of return of 6.62% for PAWC's wastewater operations. This recommended overall rate of return is comprised of a weighted average of a 4.76% rate of return on long-term debt, a 2.67% rate of return on wastewater-specific long-term debt, and an 8.45% rate of return on common equity, and is based off of the Company's proposed capital structure for its wastewater operations.

I&E M.B. at 65; I&E St. 2-SR at 44.⁸³

The OCA proffered that the Commission should allow PAWC the opportunity to earn the following overall rates of return on its rate base:

- (1) An overall rate of return of 6.97% for PAWC's water operations. This recommended overall rate of return is comprised of a weighted average of a 4.76% rate of

⁸³ We note that I&E did not provide a proposed overall rate of return for PAWC on a total company basis.

return on long-term debt, a 2.62% rate of return on wastewater-specific long-term debt, and a 9.10% rate of return on common equity, and is based on a hypothetical capital structure of 49% long-term debt and 51% common equity.

- (2) An overall rate of return of 6.97% for PAWC's water operations. This recommended overall rate of return is comprised of a weighted average of a 4.76% rate of return on long-term debt and a 9.10% rate of return on common equity and is based on a hypothetical capital structure of 46.84% long-term debt, 4.40% wastewater-specific long-term debt, and 48.76% common equity.

OCA M.B. at 46-47; OCA St 2., Exh. LA-6 at 7-8; OCA St. 3 at 4.⁸⁴

2. Recommended Decision

The ALJs recommended that the Company be afforded the opportunity to earn an overall rate of return of 7.44% for its water operations and an overall rate of return of 7.20% for its wastewater operations. These recommended overall rates of return are based upon the ALJs' recommendations, *supra*: (1) that the Commission adopt PAWC's proposed actual capital structures; (2) that the Commission adopt PAWC's proposed claimed cost rates for long-term debt and wastewater-specific long-term debt; (3) averaging the results of I&E's DCF and CAPM analyses; and (4) awarding PAWC an upward adjustment of ten basis points to its ROE in recognition of the Company's business risks and management performance. The ALJs' recommended overall rates of return are outlined in Tables 12 and 13, as follows:

⁸⁴ Like I&E, the OCA did not provide a proposed overall rate of return for PAWC on a total Company basis. Additionally, in calculating its proposed overall rate of return for PAWC's wastewater operations, the OCA utilized PAWC's originally proposed rate of return on long-term debt for wastewater-specific debt issuances of 2.62%. The Company revised this to 2.67% in its rebuttal testimony. *See*, PAWC St. 13-R at 11.

Table 12: The ALJs' Recommended Capital Structure and Overall Rate of Return for PAWC's Water Operations

Type of Capital	Ratio	Cost Rate	Weighted Cost
Long-Term Debt	44.01%	4.76%	2.09%
Common Equity	55.99%	9.55%	5.35%
Total	100.00%		7.44%

Table 13: The ALJs' Recommended Capital Structure and Overall Rate of Return for PAWC's Wastewater Operations

Type of Capital	Ratio	Cost Rate	Weighted Cost
Long-Term Debt	42.73%	4.76%	2.03%
WW-Specific Long-Term Debt	4.40%	2.67%	0.12%
Common Equity	52.87%	9.55%	5.05%
Total	100.00%		7.20%

The ALJs applied these rates of return to Table IA of each of the sets of rate tables set forth in Appendix A to the Recommended Decision. R.D. at Appendix A, Table IA-Water, Table IA-Wastewater SSS, and Table IA-Wastewater CSS.⁸⁵

3. Exceptions and Replies

As outlined above, each of PAWC, I&E, and the OCA filed Exceptions to the ALJs' recommendations on a fair rate of return for the Company. Each Party's Exceptions and Replies to Exceptions on the overall rate of return are based on their respective Exceptions and Replies to Exceptions regarding the ALJs' recommended proxy group, capital structure, and the cost of common equity, *supra*.

⁸⁵ The ALJs did not provide a recommended overall rate of return for PAWC on a total company basis.

4. Disposition

For the reasons discussed above, we have adopted the ALJs' recommendation as to the appropriate proxy group, capital structure and cost of debt for PAWC. Additionally, as we have rejected the Company's request for an upward adjustment to its ROE for management performance, we have modified the ALJs' recommendation as to the appropriate cost of common equity for PAWC. This will, in turn, modify the ALJs' recommended overall rate of return. The following tables summarize our final determinations regarding PAWC's capital structure, cost of debt, and cost of common equity, as well as the resulting weighted costs. As these tables indicate, we shall set an authorized overall rate of return for PAWC of: (1) 7.33% on a total Company basis;⁸⁶ (2) 7.39% for the Company's water operations; and (3) 7.15% for the Company's wastewater operations. We shall apply these rates of return, as set forth in Table IA, to each of the sets of rate tables that are attached to the Commission Tables Calculating Allowed Revenue Increase at the end of this Opinion and Order.

Table 14: PAWC Capital Structure – Authorized Overall Rate of Return on a Total Company Basis

Type of Capital	Ratio	Cost Rate	Weighted Cost
Long-Term Debt	44.70%	4.71%	2.11%
Common Equity	55.30%	9.45%	5.23%
Total	100.00%		7.33%

⁸⁶ As previously noted, the ALJs did not make a recommended overall rate of return for PAWC on a total Company basis.

Table 15: PAWC Capital Structure – Authorized Overall Rate of Return for Water Operations

Type of Capital	Ratio	Cost Rate	Weighted Cost
Long-Term Debt	44.01%	4.76%	2.09%
Common Equity	55.99%	9.45%	5.29%
Total	100.00%		7.39%

Table 16: PAWC Capital Structure – Authorized Overall Rate of Return for Wastewater Operations

Type of Capital	Ratio	Cost Rate	Weighted Cost
Long-Term Debt	42.73%	4.76%	2.03%
WW-Specific Long-Term Debt	4.40%	2.67%	0.12%
Common Equity	52.87%	9.45%	5.00%
Total	100.00%		7.15%

X. Rate Structure and Rate Design

This section of the Opinion and Order addresses the ALJs' recommendations pertaining to cost-of-service, revenue allocation, and rate design. When a utility files for a rate increase and the requested increase exceeds \$1 million, the utility must include with its filing a cost-of-service study (COSS) in which it assigns to each customer class a rate based upon the operating costs that it incurred in providing that service. 52 Pa. Code § 53.53; *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1015 (Pa. Cmwlth. 2006) (*Lloyd*). Public utility rates should enable the utility to recover its cost-of-service through the creation of a rate design that recovers costs from the appropriate customer class as closely as possible to the allocated cost-of-service. These rates are required by statute to be just, reasonable, and non-discriminatory. 66 Pa.C.S. §§ 1301.

PAWC submitted five separate COSSs, one for its water operations (PAWC Exh. 12-A Revised) and four for its wastewater operations. PAWC presented a COSS for its wastewater SSS operations (PAWC Exh. 12-B Revised), for its CSS wastewater operations (PAWC Exh. 12-C Revised), and it prepared separate wastewater service COSSs for the Brentwood operations (PAWC Exh. 12-D Revised) and the BASA operations (PAWC Exh. 12-E Revised).⁸⁷

A. Cost-of-Service Studies – Water Operations

1. Positions of the Parties

PAWC utilized the Base-Extra Capacity (BEC) method in preparing its Water COSS. This method is described in the American Water Works Association's Water Rates Manual (AWWA Manual) and, according to the Company, has been accepted by the Commission as the appropriate methodology for determining class cost-of-service. PAWC M.B. at 54-55. Under the BEC method, investment and costs are first classified into four primary functional cost categories: (1) base or average capacity; (2) extra capacity; (3) customer; and (4) fire protection. Once investment and costs are classified to these functional categories, they are allocated to the various customer classes. OCA St. 4 at 12.

The OCA and the OSBA generally agreed with PAWC's use of the BEC methodology; however, the OCA and the OSBA recommended modifications to the system-wide maximum day extra-capacity demand factor of 1.4 and the maximum hour extra-capacity factor of 2.1 utilized by PAWC to allocate functionalized costs to the

⁸⁷ PAWC submitted a separate COSS for the BASA operations to comply with the settlement filed in *BASA*. While PAWC submitted a COSS for the Brentwood acquisition in its initial filing and rebuttal case, as previously explained, PAWC agreed to remove the Brentwood acquisition from this case.

various customer classifications, contending that they are outdated. *See*, OCA M.B. at 61-65; OSBA M.B. at 14-17. The OCA also contended that interruptible industrial usage should be included in the extra capacity allocations because those customers have not been regularly interrupted during periods of peak demand. OCA M.B. at 65 (citing OCA St. 4-SR at 9). For its part, PAWLUG criticized the demand study statistics used in the Water COSS because the study was conducted from 2013-2015 and residential consumption has declined since that time. *See*, PAWLUG M.B. at 14-15.

PAWC explained that its proposed system-wide maximum day demand factor of 1.4 is based on a detailed analysis, reflecting PAWC's actual maximum daily send-out since its formation in 1987. PAWC St. 12-R at 5. Specifically, the Company's actual maximum day send-out was 1.4 times average day send-out in each of the years 1988, 1995, 1996, 1999, and 2003, and, according to PAWC, it has experienced system-wide maximum day factors close to that value in other years since 1987. PAWC M.B. at 55. Additionally, PAWC indicated that the water usage on the maximum day of 2021 in several areas within its overall water operations was more than 1.4 times the average usage for that year. *Id.* PAWC submitted that the 1.4 system-wide maximum day demand factor employed in its Water COSS produces a diversity factor that is reasonable based on the range recommended in the AWWA Manual. PAWC M.B. at 55-56 (citing PAWC St. 12-R at 6-8).

PAWC further explained that its system-wide maximum hour demand factor of 2.1 was based on a detailed analysis of its actual maximum hour send-out. PAWC St. 12-R at 8.

As the OCA averred that PAWC's maximum day demand factor is outdated and not representative of PAWC's actual system-wide experience, it proposed the use of a maximum day factor of 1.2, based on its truncated data set to include data for only the

last twelve years.⁸⁸ OCA R.B. at 40. PAWC pointed out that the OCA's proposed maximum day factor of 1.2 was experienced in 2012 and is the highest maximum day factor within the OCA's limited twelve-year window. PAWC St. 12-R at 5.

In lieu of the 2.1 maximum hour factor employed in PAWC's Water COSS, the OCA and the OSBA proposed the use of a maximum hour demand factor of 1.5 and 1.8, respectively. OCA St. 4 at 15-17; OCA St. 4-SR at 6-9; OSBA St. 1-R at 9, 13. PAWC noted that, rather than conducting their own analysis of maximum hour send-out, the OCA proposed a maximum hour ratio derived from demand data using a study conducted by The York Water Company and the OSBA proposed a maximum hour factor derived from its recommended adjustment to the maximum day factor. PAWC M.B. at 56-57.

Both the OCA and the OSBA challenged PAWC's proposal to continue relying on demand data from a 1988 analysis to determine a maximum hour demand factor for its COSS. The OCA contended that PAWC ignores that its data and analysis is increasingly less reliable with each rate case and cannot reasonably be considered "representative" of PAWC's actual, recent customer demands, particularly where PAWC's own witness makes an adjustment to the Company's revenues for the future test years to reflect what he claims has been a "significant and pervasive decline in usage for [residential, commercial and municipal] classes over the past ten years." OCA R.B. at 40-41 (citing PAWC St. 10 at 67-72, 78-79).

Additionally, the OCA explained that the 2.1 maximum hour factor utilized by PAWC is based on a 1988 analysis and recommended that PAWC should be required to update its analysis of system-wide maximum hour extra capacity demands prior to its

⁸⁸ In rebuttal testimony, the OSBA supported the OCA's maximum day factor. See, OSBA St. 1-R at 8-13; OSBA M.B. at 16-17; OSBA R.B. at 11.

next base rate proceeding. OCA M.B. at 65. The OSBA noted its agreement with this recommendation. OSBA St. 1-R at 13.

As indicated, *supra*, the OCA also contended that interruptible industrial usage should be included in the extra capacity allocations because those customers have not been regularly interrupted during periods of peak demand. OCA M.B. at 65 (citing OCA St. 4-SR at 9). The OCA based its proposal on the Commission's recent decision in a Philadelphia Gas Works (PGW) rate case. More specifically, the OCA noted that in *PGW 2023*, the Commission agreed with PGW that interruptible demand should be treated as firm for the purpose of PGW's COSS. OCA M.B. at 65 (citing *PGW 2023* at 111-12, 138-39). The OCA requested that the Commission make the same finding here on grounds that PAWC's sole interruptible customer has not been interrupted in 20 years. *See*, OCA St. 4-SR at 9.

PAWLUG does not contest PAWC's proposal to utilize the BEC methodology for the Water COSS. However, PAWLUG opposed PAWC's proposed maximum hour demand ratio for the residential customer class. PAWLUG averred that the Commission should adjust PAWC's proposed COSS to use the actual maximum hour demand ratio for the residential customer class. PAWLUG M.B. at 13-14.

PAWLUG also opposed various proposals advanced by other Parties to adjust PAWC's COSS. PAWLUG disagreed with the OCA, noting that the OCA's proposal to simply include interruptible usage with industrial customer class allocation for extra capacity demand costs does not align with cost causation because the vast majority of PAWC's industrial customers are firm service customers and are already paying rates set in alignment with cost causation for firm service. PAWLUG M.B. at 13. PAWLUG noted the testimony of PAWC's witness, Ms. Constance Heppenstall, that "this adjustment to the cost of service for industrial curtailment customers has been reflected in the Company's cost of service studies since at least the Company's 2007 rate

case and Docket No. R-00072229 and has long been accepted by the Commission and other parties.” *Id.* at 17 (citing PAWC St. 12-R at 10). PAWLUG contended that increasing the cost-of-service for PAWC’s industrial class to now include interruptible usage creates substantial complications that were not present in *PGW 2023*, including a likelihood of intraclass subsidization of PAWC’s sole interruptible industrial customer by the remaining firm industrial customers. PAWLUG M.B. at 13, 17.

Lastly, PAWLUG asserted that the estimated system wide maximum demand allocators developed by the OCA and the OSBA should be rejected in favor of prospective solutions to comprehensively update PAWC’s demand data. PAWLUG M.B. at 13, 18-20.

While I&E made various recommendations based on the COSSs presented by PAWC, I&E did not challenge specific elements of the COSSs presented by PAWC. Additionally, as discussed, *infra*, regarding the customer cost analysis, I&E recommended the results of the Company’s more direct customer cost be used to determine the customer charge. I&E M.B. at 67; I&E R.B. at 26.

2. Recommended Decision

In their Recommended Decision, the ALJs found that the COSS methods and factors utilized by PAWC for its water operations are reasonable and consistent with past practice and recommended that the Commission adopt the Company’s COSS without modification. R.D. at 195.

However, while the ALJs recommended adoption of PAWC’s COSS, they did agree with the OCA that for PAWC’s next base rate case, PAWC should be required to update its analysis of system wide maximum hour extra capacity demands and then include the results of its updated analysis in its Water COSS for that case. The ALJs

found that PAWC's analysis of system wide maximum hour extra capacity should be updated to better reflect demands on PAWC's system. R.D. at 195.

3. Exceptions and Replies

a. PAWC Exception No. 7 and Replies

In its Exception No. 7, PAWC reiterates its previous arguments, maintaining that no Party has identified any errors in the 1988 analysis used to determine the maximum hour demand factor for its COSS and its results have been accepted in prior PAWC cases. PAWC Exc. at 26. Therefore, PAWC submits that the ALJs' recommendation for a large, multi-year study of PAWC's system-wide maximum hour demands prior to its next base rate case is unwarranted. Moreover, PAWC contends that in performing such an analysis, the Company faces challenges in accurately measuring maximum hour demand in districts with multiple groundwater sources due to a number of factors, such as missing SCADA connections, tank filling, and metering issues. *Id.*

In Replies, the OCA asserts that the Company's data cannot reasonably or reliably be considered representative of PAWC's actual, recent demand, particularly where PAWC's own witness makes an adjustment to the Company's revenues for the future test years to reflect what he claims has been a "significant and pervasive decline in usage for [residential, commercial and municipal] classes over the past ten years." OCA R. Exc. at 13 (citing PAWC St. 10 at 67-72, 78-79). The OCA explains that this is a continuation of the declining consumption trend that PAWC's witness, Mr. Charles Rea, identified from reports analyzing water usage since 1992 and the impact of energy efficiency legislation in 1992 and 2007— all of which occurred *after* the 1988 demand analysis relied on by PAWC. OCA R. Exc. at 13 (citing PAWC St. 10 at 67-70). Therefore, the OCA maintains that the Company's assertions ignore that PAWC's data and analysis become less reliable with each rate case.

b. OCA Exception No. 13 and Replies

In its Exception No. 13, the OCA argues that the ALJs erred by recommending that the Commission reject the OCA's proposal to adjust PAWC's Water COSS to include interruptible usage⁸⁹ in the extra capacity factor allocations. OCA Exc. at 23-25. The OCA maintains that there is no factual premise for excluding interruptible industrial usage in the extra capacity factor allocations, since these customers have not been required to curtail their usage in the last 20 years. The OCA maintains that this is consistent with the Commission's decision in *PGW 2023*, wherein the Commission found that interruptible demand should be included with firm industrial customers in PGW's COSS based on a record showing no interruptions for over 20 years. OCA Exc. at 24-25.

In their Replies, PAWLUG and Cleveland-Cliffs each maintain that the OCA's arguments are misplaced. PAWLUG R. Exc. at 1-3; Cleveland-Cliffs R. Exc. at 1-2. Specifically, PAWLUG maintains that the Commission's decision in *PGW 2023* should be distinguished because: (1) in *PGW 2023*, the Commission approved the COSS proposed by the utility; whereas here, the OCA seeks to modify the COSS proposed by PAWC; and (2) the Commission's findings in *PGW 2023* sought to align PGW's Rate IT customer class, consisting exclusively of interruptible customers, with cost-of-service. PAWLUG R. Exc. at 2 (citing *PGW 2023* at 138). Here, because the interruptible customers in the instant proceeding are not a separate class, they are a part of the larger industrial class, which is mostly made up of firm customers. As such, PAWLUG argues that including interruptible usage as firm would cause firm industrial customers to subsidize costs. PAWLUG R. Exc. at 2-3.

⁸⁹ PAWC provides service under an Industrial Curtailment Rate that applies a reduced tail block rate to participating customers' usage over 15 million gallons a month. In exchange, participants must curtail usage of Company-supplied water for industrial purposes when requested or be subject to penalties for failure to curtail. See, Supplement No. 2 to Tariff Water – PA P.U.C. No. 5, First Revised Pages 18-19, effective January 1, 2018.

Since PAWC's interruptible load allows the Company to plan for a higher peak load without additional capacity investment, which results in savings to the system even in the absence of interruption events, and interruptible customers do not contribute to extra-capacity demand costs, Cleveland-Cliffs argues that the adjustment to the COSS proposed by the OCA would unreasonably attribute cost savings made possible by industrial, non-firm customers to other customer classes and artificially inflate the amount of costs that the Company incurs to serve industrial load. Cleveland-Cliffs R. Exc. at 2.

4. Disposition

The Commission uses the results from COSSs as a guide in developing appropriate customer class rates. Nevertheless, as we have stated in past rate decisions, COSSs are tools to be used in the ultimate design of customer rates, but they are necessarily subject to the philosophies of the analysts preparing them. We therefore emphasize that appropriate judgment and discretion is required in analyzing the COSSs and using them to help set the final customer class rates based on the evidentiary record.

We agree with the ALJs' recommendation that PAWC's proposed water COSS be approved, and the OCA's arguments in support of including interruptible industrial usage in the extra capacity factor allocations be rejected. Since interruptible customers must be prepared to curtail their water usage during peak periods when requested, it is appropriate to exclude interruptible usage from the extra capacity components of PAWC's allocation factors. Including interruptible load in the extra capacity components of these factors would over-allocate costs to the industrial class by failing to recognize the value of curtailment.

Although curtailment has not occurred for several years, participating customers must be prepared to curtail their usage when requested or face penalties for

failure to curtail. PAWC's tariff provides a reduced rate for customers served on the Industrial Curtailment Rate and it is appropriate to also reflect the value of this demand-side resource in the cost allocation process. Accordingly, we shall deny the OCA's Exception No. 13.

Although, for the purposes of this proceeding, we have found that the Company's water COSS should be accepted as adequate given the data available in this case, we acknowledge that PAWC has not updated its analysis of system-wide maximum hour extra capacity demands since 1988. As indicated by the Company, the system-wide maximum day extra capacity demand factor used in its water COSS was last experienced in 2003, which was over twenty (20) years ago. Since 2003, water demand on the PAWC system has changed due to water conservation, legislation, development, and changing land uses.⁹⁰ Therefore, since PAWC does not have recent actual maximum peak hour demand data for its water system, we agree with the ALJs' recommendation that PAWC should be required to update this analysis prior to its next base rate proceeding and include the results of that analysis in the COSS filed in the next base rate proceeding. Accordingly, we shall deny PAWC's Exception No. 7.

B. Cost-of-Service Studies – Wastewater Operations

1. Positions of the Parties

For its Wastewater SSS operations, PAWC's COSSs were prepared using the functional cost allocation methodology described in *Financing and Charges for*

⁹⁰ We note that although it is possible that total residential demand has increased due to more people working from home, when people work at home, the days and number of hours that water can be used increases significantly; therefore, the maximum day and maximum hour demands of residential customers are likely to decrease. This is because residential customers no longer need to concentrate their use of water to days and hours they are not at work outside of their homes.

Wastewater Systems, Manual of Practice No. 27, published by the Water Environment Federation. PAWC St. 12 at 16-24; *See*, PAWC Exh. 12-B Revised. That allocation methodology was modified to determine the incremental cost related to handling stormwater for PAWC's CSS Wastewater operations. PAWC St. 12 at 25-31; *See*, PAWC Exh. 12-E Revised.

While none of the Parties raised any objections to the allocation methodology employed in PAWC's wastewater COSSs, I&E noted that it used the Company's COSS to develop its various wastewater rates that move the relative rates of return for each class toward zero. PAWC M.B. at 58-59; I&E M.B. at 68. Similarly, the OCA noted that its positions on excluding the pending wastewater acquisitions and the Act 11 shift are reflected in the Wastewater revenue allocation and rate design of the OCA's witness, Mr. Jerome Mierzwa. OCA M.B. at 67 (citing OCA St. 4 at 38-39).

2. Recommended Decision

Since none of the Parties raised any objections to the allocation methodology employed in PAWC's wastewater COSSs, the ALJs recommended that the Commission adopt PAWC's wastewater COSSs. R.D. at 197.

3. Disposition

None of the Parties filed Exceptions to the ALJs' recommendation. Finding the ALJs' recommendation to be reasonable, we adopt it without further comment.

C. Cost-of-Service Studies – Cost-of-Service for Future General Rate Increases

1. Positions of the Parties

PAWC objected to providing additional cost-of-service information in its future base rate filings for systems acquired pursuant to Section 1329 of the Code, as proposed by I&E and the OCA. PAWC M.B. at 59; I&E M.B. at 68-69; OCA M.B. at 67-68. PAWC averred that the Commission should reject this recommendation and continue its approach of moving toward single tariff pricing for all of PAWC's systems, including those acquired under Section 1329, and evaluate the necessity of separate COSSs as part of future acquisition proceedings. PAWC M.B. at 59 (citing PAWC St. 1-R at 29-31); PAWC R.B. at 48.

Further, PAWC has historically excluded Rider Demand Industrial Sales (DIS) and Rider Demand Resale Sales (DRS) customers from the COSS and allocated revenue from these customers as a credit to the overall cost-of-service, thereby reducing the overall revenue requirement for all customers. *See*, OCA St. 4, at 19. PAWC explained that in approving Riders DIS and DRS, the Commission found that those riders create benefits for all PAWC water customers by preserving or attracting incremental sales that, because of competitive forces, could not otherwise be made. PAWC St. 12-R at 11. Therefore, PAWC objected to the OCA's request for the Company to include Riders DIS and DRS as separate customer classes in its Water COSS, arguing that revenues from those riders are appropriately reflected as a deduction to all classes' cost-of-service. PAWC M.B. at 59-60.

Specifically, I&E recommended that when PAWC files its next base rate case, should it then own the BASA and/or Brentwood systems, a separate COSS be provided for each system to ensure the rates charged thereto are just, reasonable, non-discriminatory, and in the public interest. I&E R.B. at 27-28. Likewise, the OCA

requested that if the Commission rejects the inclusion of BASA and Brentwood in the current rate case, and PAWC claims them in a future rate case, the Company should be required to provide a separate COSS for each. OCA M.B. at 67.

The OCA further suggested that for future Section 1329 acquisitions, PAWC should prepare separate COSSs in the first base rate case that includes those systems, unless the utility shows in the underlying Section 1329 proceeding that a separate COSS should not be required. OCA M.B. at 67-68. Going forward, after the initial base rate case in which a Section 1329 system is properly included, the OCA asserted that PAWC should continue to provide separate COSSs for the Section 1329 systems either individually or (for non-CSS wastewater only) as a group. Where Section 1311(c) is used to require water customers to subsidize revenue shortfall for systems acquired under Section 1329, the amount of that subsidy should be known and transparent, so a determination can be made whether the proposed Act 11 reallocation is in the “public interest.” OCA M.B. at 68.

As discussed, *supra*, PAWLUG opposed the OCA’s proposal to modify PAWC’s system-wide demand factors in this proceeding; however, PAWLUG supports prospective efforts to update PAWC’s demand study. Therefore, PAWLUG recommended that PAWC conduct a new demand study to confirm its demand ratios reflect current usage and demand patterns. PAWLUG did not object to PAWC’s suggestion of proceeding with a feasibility study as an initial step but requested that the feasibility study be presented with PAWC’s next base rate filing rather than being presented for comment and review between rate filings. PAWLUG noted that this proposal would necessarily extend the use of PAWC’s existing demand study for one additional rate case, but also achieve incremental progress towards a comprehensively updated demand study. PAWLUG M.B. at 20-21.

Additionally, PAWLUG asserted that the OCA's proposal to modify PAWC's prospective COSSs to include Rider DIS and Rider DRS customers should be denied. PAWLUG contended that the OCA's proposal presents a solution to a perceived problem that has not been remotely substantiated through the available means, since both Rider DIS and Rider DRS prescribe minimum rate requirements for these customers in the tariffs, and there is no record of discovery disputes where PAWC has declined to respond to any inquiry concerning compliance with the minimum rate requirements. PAWLUG M.B. at 21.

2. Recommended Decision

Finding the OCA's proposal to be reasonable, the ALJs recommended that the Commission direct PAWC to prepare separate COSSs in the initial base rate case that includes systems acquired under Section 1329, unless PAWC shows in the underlying Section 1329 proceeding that a separate COSS should not be required⁹¹ and, after the initial base rate case, the Company should continue to provide separate COSSs for the Section 1329 systems. R.D. at 202-03. The ALJs found this requirement will "allow greater transparency for the system to determine whether an Act 11 reallocation to subsidize a revenue shortfall is actually in the public interest." R.D. at 203.

In recommending that the Commission direct PAWC to provide additional water cost-of-service information in its future base rate filings, the ALJs specifically recommended PAWC include Rider DIS and Rider DRS customers as separate customer classes in the Water COSS in its next base rate proceeding. R.D. at 203. The ALJs noted that, in the current proceeding, PAWC did not separately determine the costs associated with serving Rider DIS and DRS customers in its Water COSS; the Company simply

⁹¹ The ALJs noted that this recommendation also encompasses I&E's request that PAWC be required to provide separate COSSs for BASA and Brentwood, should PAWC own these systems by that time. R.D. at 203.

reflected revenues from Rider DIS and DRS customers as a credit to the overall cost-of-service. R.D. at 202-03. As such, the ALJs found the OCA's proposal to be reasonable and agreed with the OCA that having cost-of-service information for these two riders in the next base rate case will ensure that the rates charged to these riders are reasonable and in the public interest. R.D. at 203.

Lastly, the ALJs noted that, while they found PAWLUG's proposal to be generally reasonable, they disagree about presenting the feasibility study with PAWC's next base rate filing rather than in between filings. The ALJs reasoned that filing the feasibility study between rate cases will allow more time for review without the many distractions that can be associated with a base rate case. Accordingly, while the ALJs recommended approval of the requested feasibility study, they also recommended that the Commission direct PAWC to file the feasibility study ninety (90) days before its next base rate case so parties will have adequate time for review. R.D. at 203-04.

3. Exceptions and Replies

a. PAWC Exception No. 8 and Replies

In its Exception No. 8, PAWC objects to the ALJs' recommendation that the Company maintain separate COSSs for systems acquired under Section 1329 of the Code *after* the initial base rate case where the acquisition is reflected in the Company's revenue requirement.⁹² PAWC Exc. at 26. First, PAWC argues that this would be time-consuming and unnecessary based on PAWC's movement toward single tariff pricing, as well as adding unnecessary complexity to its future base rate cases. PAWC Exc. at 26-27. Second, PAWC argues that it would be unwieldy to provide separate

⁹² The Company notes it is not excepting to the ALJs' recommendation that PAWC prepare separate COSSs for Section 1329 acquisitions in the first base rate proceeding where the systems are included in revenue requirement. PAWC Exc. at 26.

COSs for the ten Section 1329 acquisitions already consolidated with its revenue requirement and COSs for its water and wastewater SSS operations. PAWC Exc. at 27.

In its Replies, I&E states that no matter how time-consuming and complex for the Company, it is in the public interest that the rates charged to customers are just, reasonable, and based on an appropriate cost to service. I&E R. Exc. at 13.

In its Replies, the OCA explains that PAWC can continue to propose rates that move Section 1329 systems towards consolidation with its wastewater SSS and CSS wastewater divisions; however, the difference is that the information provided in the COS will enable the Commission and parties to evaluate the reasonableness of the proposed subsidies. The OCA contends that the ALJs properly found this requirement will “allow greater transparency for the system to determine whether an Act 11 reallocation to subsidize a revenue shortfall is actually in the public interest.” OCA R. Exc. at 15 (citing R.D. at 203).

Furthermore, the OCA also notes that the ALJs recommended adoption of the OCA’s proposal, which provides the option for PAWC to provide separate COSs for the Section 1329 systems individually or as two groups: (1) CSS wastewater Section 1329 systems; and (2) non-CSS wastewater Section 1329 systems. OCA R. Exc. at 16 (citing R.D. at 201, 203). Therefore, in response to the Company’s concerns regarding separate COSs for each Section 1329 system, the OCA explains that the Company can limit the number of COSs for Section 1329 systems to those that are included for the first time, and as few as two other studies (CSS and non-CSS).

b. PAWC Exception No. 9, PAWLUG Exception No. 2, and Replies

In their Exceptions, PAWC and PAWLUG each object to the ALJs’ recommendation that the Company provide cost-of-service information about Riders DIS

and DRS in future base rate filings as separate customer classes. PAWC Exc. at 27-28; PAWLUG Exc. at 3-4.

PAWC maintains that these Riders are designed to retain or attract industrial and resale load for the benefit of all PAWC customers,⁹³ and therefore, the revenues derived from Rider DIS and DRS customers are appropriately reflected as a deduction to all classes' cost-of-service. PAWC Exc. at 27-28.

PAWLUG argues that the potential usefulness of such information does not support the Commission's requirement that PAWC modify its COSS. Additionally, PAWLUG suggests that the burden should be on the OCA and other Parties to ask for information about cost-of-service for PAWC's Rider DIS and Rider DRS customers. PAWLUG Exc. at 4.

In its Replies, the OCA explains that the requirement does not change PAWC's ability to continue to negotiate discounted rates; however, the difference is that the information provided in the COSS will enable the Commission and the Parties to evaluate the reasonableness of the negotiated rates. OCA R. Exc. at 14 (citing R.D. at 203).

The OCA additionally contends that PAWLUG's argument, in its Exceptions, should be rejected, given the fact that PAWLUG also requested additional information regarding demand ratios on which PAWC bases its COSS. The OCA points

⁹³ PAWC explains that Riders DIS and DRS authorize the Company to negotiate contracts at rates, with specified minimum and maximum levels, designed to retain or attract industrial and resale load for which the customer or applicant for service has a viable competitive alternative that the customer intends to select to the detriment of the Company and its other customers. PAWC Exc. at 27 (citing PAWC St. 12-R at 11).

out that in response to PAWLUG's request, the ALJs noted the limited time during a rate case:

[f]ilings under Section 1308(d) of the Public Utility Code trigger a strict statutory deadline which limits the amount of time available to the parties and the Commission to review the associated filings. However, filing the feasibility study between rate cases will allow more time for review without the many distractions that can be associated with a base rate case.

OCA R. Exc. at 14 (citing R.D. at 203-04). The OCA notes the ALJs finding that the request for PAWC to provide cost-of-service information for the Riders with its filing to be a reasonable one, and providing the information does not prejudice whether negotiated rates for these customers should be discontinued – it simply facilitates review within the limited time available in a base rate case. OCA R. Exc. at 14.

4. Disposition

We agree with the ALJs' recommendation that, not only should PAWC continue to prepare separate COSSs for new Section 1329 acquisitions in the first base rate proceeding where those systems are included in PAWC's revenue requirement, but for Section 1329 acquisitions that are included in the present base rate case, PAWC should continue to prepare separate COSSs either individually for each acquisition or as a group.⁹⁴ This requirement is reasonable given the amount of revenue requirement at issue and the principle that rates should be reasonably cost-based.⁹⁵ As noted, the OCA's proposal only applies going forward. Therefore, according to the OCA's proposal,

⁹⁴ This group should include only non-CSS wastewater Section 1329 systems. The CSS wastewater systems (whether or not acquired under Section 1329) should be included in the separate COSS for CSS wastewater systems.

⁹⁵ PAWC claimed that the full cost-of-service for the two Section 1329 systems (BASA and Brentwood) is \$41.9 million. See, PAWC Exhs. 12-D and 12-E.

PAWC is not required to provide separate or group COSSs for the ten systems acquired under Section 1329 that have already been consolidated into water operations, wastewater SSS operations, and CSS wastewater operations. We find that this requirement allows for greater transparency of the system in order to determine whether an Act 11 reallocation to subsidize a revenue shortfall is actually in the public interest. Accordingly, we shall deny PAWC's Exception No. 8.

Additionally, we agree with the ALJs' recommendation that in its next base rate proceeding, the Company should include Rider DIS and Rider DRS customers as separate customer classes in its water COSS, rather than simply reflecting the revenues from these Riders as a credit to the overall cost-of-service. Including Rider DIS and DRS customers in the water COSS will not prejudice whether negotiated rates for these customers should be discontinued but will assist in ensuring that the rates charged to Rider DIS and DRS customers are reasonable. PAWLUG's suggestion, that the burden should be on the Parties to ask for information about cost-of-service for PAWC's Rider DIS and Rider DRS customers, rings hollow given PAWLUG's own request for additional information to which the ALJs' response took note of the limited time during a rate case. Therefore, we find the request for PAWC to provide cost-of-service information for the Riders with its filing to be a reasonable one, and providing this information does not prejudice whether negotiated rates for these customers should be discontinued, it simply facilitates review within the limited time available in a base rate case. Accordingly, we shall deny PAWC's Exception No. 9 and PAWLUG's Exception No. 2.

D. Cost-of-Service Studies – Allocation of Arrearage Management Program (AMP) Costs and Administrative Costs for H2O Programs

1. Positions of the Parties

Currently, PAWC offers customer assistance through its Help to Others (H2O) programs, which are administered by the Dollar Energy Fund (DEF) and is expanding its H2O program to assist low-income customers by offering arrearage forgiveness through its AMP.⁹⁶ *See*, CAUSE-PA St. 1 at 40; *see also*, PAWC St. 1 at 15-16, 34.

As previously referenced, PAWC presented revised COSSs in its rebuttal testimony. In addition to correcting the aforementioned adjustment to exclude interruptible load from the COSS, PAWC also revised its allocation of low-income program costs by directly allocating those costs to residential customers only, including costs of its AMP and administrative costs for other low-income programs.⁹⁷ *See*, PAWC St. 12-R at 10-11.

⁹⁶ Under the AMP, qualifying residential customers will receive \$25 of arrearage forgiveness monthly. PAWC St. 1 at 15-16.

⁹⁷ PAWC recovered the direct costs of the Company's residential low-income discounts from the residential class in the Company's rate design. However, in its original filing, PAWC allocated \$3,180,090 caused by the Company's AMP and administrative costs associated with its low-income residential programs among *both* residential and non-residential customer classes in its COSSs. OSBA M.B. at 18. Initially, PAWC claimed that costs associated with its AMP are recovered in base rates from residential customers. Later, the Company acknowledged that these costs are not directly assigned to the residential class in its COSSs. Therefore, PAWC adopted the OSBA's recommendation, agreeing that its AMP credits are incremental to other uncollectible expense and its customer assistance programs are designed to benefit residential customers, and directly assigned AMP costs and residential low-income program administrative costs to the residential class. *Id.*; PAWC St. 12-R at 10-11.

The OCA contended that the costs for PAWC's AMP and administration of its H2O Grant and Discount programs are properly allocated consistent with the allocation of uncollectible costs generally, *i.e.*, to all customer classes, as the Company did in its initial filing. OCA M.B. at 68-70 (citing OCA St. 5-R at 1-6). The OCA's witness, Mr. Colton, provided data showing that the arrears that would be made subject to arrearage forgiveness are substantial and sufficiently high that PAWC will have already contributed to its reserve for write-offs before these low-income customers enter the arrearage forgiveness program. To the extent that the program succeeds in prompting future in-full payments toward current bills, plus a copayment toward arrears, PAWC will reduce the dollars that will ultimately be found to be uncollectible. There would be no new, and no incremental, arrearage forgiveness program costs to be directly assigned to the residential class. OCA M.B. at 68-69.

The OCA also opposed PAWC's proposal to directly allocate its customer assistance program administrative costs to residential customers only, asserting that the only way to appropriately capture, and to allocate, both the costs and the cost reductions, is to allocate the costs as PAWC initially proposed to do, based on an O&M composite factor. OCA M.B. at 70.

In its Main Brief, CAUSE-PA argued that it "supports PAWC's practice of equitably allocating certain universal service program costs across all ratepayers." CAUSE-PA M.B. at 20. CAUSE-PA cited 52 Pa. Code §§ 69.261-69.267 to support its argument. CAUSE-PA argued that it is unreasonable to review universal services, such as the AMP and the H2O programs, strictly as a benefit for residential customers. CAUSE-PA M.B. at 20-21. As CAUSE-PA's witness, Mr. Geller, stated, the societal impacts of utility insecurity "significantly undermine worker productivity, impacting businesses, non-profits, government entities, schools, and other nonresidential customer groups." *Id.*; CAUSE-PA St. 1-R at 6-7.

PAWC, the OSBA, and PAWLUG objected to the OCA's and CAUSE-PA's positions, maintaining that the programs are designed to benefit residential customers, and, therefore, support the Company's current practice of recovering costs associated with its AMP, and administrative costs associated with the H2O programs and DEF amongst both residential and non-residential customers. PAWC M.B. at 60; OSBA M.B. at 18; PAWLUG M.B. at 22.

PAWLUG concurred with the OSBA that, to the extent the Commission approves recovery of incremental costs of the AMP, such costs are properly allocated to residential customers. Similarly, the administrative costs of other low-income programs are properly allocated to residential customers. Any positive impact on bad debt expense resulting from these programs would benefit the residential class by improving collectibles for residential customers and reducing the class's allocation of bad debt expense. Moreover, CAUSE-PA's reliance on the Commission's policies related to cost recovery for mandatory electric and gas Customer Assistance Programs should be disregarded as irrelevant to PAWC's voluntary low-income programs.⁹⁸ Accordingly, PAWLUG argued that the Commission should approve PAWC's COSS revisions allocating any incremental AMP costs and administrative costs for other low-income programs to residential customers. PAWLUG M.B. at 22.

2. Recommended Decision

In their Recommended Decision, the ALJs agreed with the OSBA and PAWLUG that costs for PAWC's AMP and administration of its H2O Grant and Discount programs are appropriately assigned to the residential class. The ALJs reasoned that since these programs are only available to residential customers, the costs of these programs are appropriately assigned to the residential class. Moreover, the ALJs noted

⁹⁸ See, PAWLUG St. 1-S at 15.

that there is no evidence in the record to demonstrate that the residential class will suffer an undue economic impact by requiring it to be solely responsible for these programs and administrative costs. The ALJs also agreed with PAWLUG that any positive impact on bad debt expense resulting from these programs will benefit the residential class by improving collectibles for residential customers and reducing the class's allocation of bad debt expense. Accordingly, the ALJs recommended that the Commission adopt the OSBA's proposal to assign these costs to the residential class. R.D. at 209.

Separately, the OCA requested that, regardless of what determination is made regarding recovery of AMP costs going forward, the amortization of the regulatory liability for AMP costs in the last base rate case, but never incurred, should be directly credited to the residential class. *See*, OCA M.B. at 69-70. The OCA observed that PAWC directly assigns the administrative expenses associated with these programs without also identifying and directly assigning the administrative savings. The ALJs reasoned that if the costs are assigned to the residential class, any savings should similarly be assigned to the residential class. Accordingly, the ALJs found the OCA's proposal to be reasonable and recommended that it be adopted by the Commission. R.D. at 209-10.

3. OCA Exception No. 14 and Replies

In its Exception No. 14, the OCA contends that the ALJs erred by recommending that AMP costs and the administrative costs of the H2O Grant and Discount programs be directly assigned to the residential class only. The OCA maintains that the costs for PAWC's AMP and administration of its H2O Grant and Discount programs are properly allocated consistent with the allocation of uncollectible costs generally, *i.e.*, to all customer classes. OCA Exc. at 25-26.

In their Replies, the OSBA and PAWLUG maintain that the ALJs were correct in adopting the OSBA's recommendation on this issue because these programs are only available to residential customers, and as such, the costs of these programs are appropriately assigned to the residential class. OSBA R. Exc. at 3-4; PAWLUG R. Exc. at 3. The OSBA pointed out that, in their Recommended Decision, the ALJs recommended that the Commission reduce the incremental AMP costs in the revenue requirement from \$2,377,200 as originally proposed by PAWC to \$209,746 (excluding BASA and Brentwood), thereby removing the large majority of AMP costs that otherwise would be directly assigned to the residential class as specified by the Recommended Decision. The OSBA asserted that in addition to the remaining \$209,746 of AMP costs, the ALJs were correct in recommending that the administrative costs for the H2O Grant and Discount programs (which total \$315,390) should be allocated to the residential class only. OSBA R. Exc. at 3.

PAWLUG submits that the OCA has not offered a compelling basis for diverting from the Commission's long-standing adherence to cost-of-service principles regarding recovery of program costs from customers eligible to participate in the program. PAWLUG R. Exc. at 3.

4. Disposition

The direct revenue shortfall from residential low-income discounts is recovered from the residential class in the Company's rate design. As previously indicated, \$3,180,090 in AMP costs and administrative costs associated with its H2O Grant and Discount and DEF programs is proposed by PAWC to be allocated among its residential class customers. Specifically, PAWC proposes to allocate \$2,031,317 for its proposed AMP and \$416,569 in DEF administrative costs among its residential water customers. For wastewater, PAWC proposes to allocate a total of \$345,883 in AMP expense and \$70,931 in DEF administrative costs among its residential customers within

its four claimed wastewater operations (Wastewater SSS, CSS Wastewater, BASA, and Brentwood). In addition, as shown in Table 17, PAWC allocated \$315,390 in administrative costs for its H2O Grant and Discount program among residential water customers.

Table 17: PAWC's Allocation of H2O Grant and Discount Program Administrative Costs

Residential Low-Income Program Costs	
AMP Expense Claim (Water)	\$2,031,317
Dollar Energy (Water)	\$416,569
AMP Expense Claim (WW)	\$345,883
Dollar Energy (WW)	\$70,931
H2O Grant and Discount Programs	\$315,390
Total	\$3,180,090

See, PAWC Exh. 3-B at 336; *see also*, PAWC Exhs. 12-A Revised, 12-B Revised, 12-C Revised, 12-D Revised, and 12-E Revised under Proposed Rates.

We agree with the ALJs that costs for PAWC's AMP and administration of its residential low-income programs are appropriately assigned to the residential class. It does not appear that PAWC has adjusted its uncollectible costs downward to account for bad debt that will be "forgiven" through the AMP. PAWC calculates its uncollectible expense by applying the historical two-year average uncollectible percentage of 1.176% to total proposed sales revenue. See, PAWC Exh. 3-B at 339. To this amount, PAWC adds \$2,377,200 in AMP-related uncollectible expense⁹⁹ plus \$487,500 in DEF

⁹⁹ As described in Section VII.J, *supra*, we have reduced this amount to \$209,746, consisting of an allowance of \$183,485 for the Company's water operations, \$14,967 for the Company's wastewater SSS operations, and \$11,295 for the Company's wastewater CSS operations. Additionally, we have excluded all amounts related to BASA and Brentwood.

administrative costs. *See*, PAWC Exh. 3-B at 336. We do not find persuasive the OCA's argument that AMP expense represents a subset of uncollectible expense. Incremental AMP expense appears to represent a new cost that would not otherwise be accounted for as uncollectible expense. Therefore, we agree with the ALJs that these costs should be directly assigned to the residential class, on whose behalf they are incurred. Accordingly, we shall deny the OCA's Exception No. 14.

E. Revenue Allocation and Act 11

1. Positions of the Parties

As Victory Brewing noted in its Main Brief, the purpose of revenue allocation is to establish the responsibility of each customer class for a portion of the revenue requirements that are approved by the Commission. A key factor in determining the appropriate portion of the revenue requirements that is allocated to each class is the COSS. Victory Brewing M.B. at 7 (citing *Lloyd*).¹⁰⁰

PAWC's proposed revenue allocation is described on pages 60-61 of the Company's Main Brief and is set forth in PAWC Exhibits 10-A Revised, 10-B, 10-C, 10-D and 10-E Revised and is generally based on the Company's COSSs.

As discussed below, the OCA and the OSBA recommended alternative revenue allocations for water service based on their respective COSSs. OCA M.B. at 71; OSBA M.B. at 19. Regarding its water operations, PAWC's proposed allocation of its requested revenue requirement is shown in Table 18, below:

¹⁰⁰ It should be noted that Victory Brewing has not contested the results of costs being allocated to certain customer classes, given that the Company's revenue allocation goals were consistently applied in accordance with prior rate cases. Victory Brewing M.B. at 7-8.

Table 18: PAWC's Proposed Water Operations Revenue Distribution

	Pro Forma FPFTY Cost of Service			Present Rates	Proposed Rates	Proposed Increase	
	Cost of Service	Act 11 Re-Allocation	Total COS				
Residential	\$612,997,598	\$45,864,399	\$658,861,997	\$528,290,043	\$657,085,231	\$128,795,188	24.4%
Commercial	\$233,858,828	\$17,571,738	\$251,430,566	\$202,779,636	\$254,604,000	\$51,824,364	25.6%
Industrial	\$44,198,427	\$4,547,070	\$48,745,497	\$37,580,738	\$48,143,784	\$10,563,046	28.1%
Public Authority	\$24,425,618	\$2,664,710	\$27,090,328	\$22,559,539	\$26,209,929	\$3,650,390	16.2%
Other Water Utilities - Group A	\$11,845		\$11,845	\$51,822	\$53,666	\$1,844	3.6%
Other Water Utilities - Group B	\$628,455		\$628,455	\$202,436	\$277,021	\$74,585	36.8%
Private Fire Protection	\$5,808,618	\$439,468	\$6,248,086	\$5,301,032	\$6,304,285	\$1,003,253	18.9%
Public Fire Protection	\$11,863,933		\$11,863,933	\$9,519,368	\$11,847,068	\$2,327,700	24.5%
Total Sales of Water	\$933,793,321	\$71,087,384	\$1,004,880,707	\$806,284,614	\$1,004,524,984	\$198,240,370	24.6%

See, PAWC Exh. 12-A Revised. PAWC objected to the OCA's and the OSBA's proposals for the same reasons the Company rejected the Parties' revisions to its water COSS. PAWC R.B. at 49.

In this filing, PAWC invoked Section 1311(c)¹⁰¹ of the Code, 66 Pa.C.S. § 1311(c), to mitigate the impact of revenue increases on wastewater customers by recovering a portion of the Company's wastewater revenue requirement from its total water and wastewater customer base. Table 19 outlines PAWC's purported effect on each wastewater operation of allocating a portion of wastewater revenue requirement to water operations:

¹⁰¹ As previously noted, Section 1311(c) of the Code, 66 Pa.C.S. § 1311(c), provides, in relevant part, that the Commission, "when setting base rates, after notice and an opportunity to be heard, may allocate a portion of the wastewater revenue requirement to the combined water and wastewater customer base if in the public interest."

Table 19: PAWC's Purported Revenue Requirement Allocated from Wastewater to Water Customer Base

Wastewater Operations	FPFTY June 30, 2025
Wastewater Sanitary Sewer Systems General Operations	\$31,962,411
Butler Wastewater ("WW") Operations	\$21,552,699
~~Brentwood WW Operations~~	~~\$1,565,232~~
Wastewater Combined Sewer Systems Operations	\$16,007,052
Total	\$69,522,162

See, PAWC St. 1 at 20.¹⁰² Several Parties took issue with PAWC's proposal to use Section 1311(c) to mitigate the impact of rate increases on wastewater customers by recovering a portion of the Company's wastewater revenue requirement from its total water and wastewater customer base. See, I&E St. 3 at 12; OCA St. 4 at 22-28; OSBA St. 1 at 33-34; Cleveland-Cliffs St. 1 at 7-8; PAWLUG St. 1 at 23-27. PAWC argued that, while Section 1311(c) allocation plays an important role in mitigating the increases to PAWC's 76,000 wastewater customers, it has a modest effect on water customers' bills – representing an increase of approximately \$6 per month to an average residential customer. PAWC M.B. at 60-61 (citing PAWC St. 1 at 20-21; PAWC St. 10 at 51-52).

In addition, PAWC submitted that its proposed rates would properly move the rates of return for all classes closer to the overall system average rate of return,¹⁰³ as

¹⁰² As indicated previously, PAWC agreed to exclude Brentwood. See, PAWC M.B. at 60. However, this does include revenue associated with Farmington (wastewater), STMA and BASA operations. I&E, the OCA, and the OSBA oppose the shifting of any revenue requirement related to the pending BASA acquisition. I&E M.B. at 71; OCA M.B. at 74; OSBA M.B. at 8-9. Removing BASA reduces PAWC's proposed shift by an additional \$21.5 million.

¹⁰³ See, PAWC St. 1 at 19-20.

demonstrated by the following indexed relative rates of return by customer class at present and proposed rates in Table Nos. 20 and 21, below:

Table 20: PAWC's Relative Rates of Return for its Water Operations

Class	Under Present Rates	Under Proposed Rates
Residential	0.98	0.99
Commercial	1.03	1.03
Industrial	0.98	0.98
Public Authority	1.17	0.93
Other Water Utilities - Group A	8.51	6.57
Other Water Utilities - Group B	(0.17)	0.08
Private Fire Protection	1.16	1.02
Public Fire Protection	0.98	1.00
Total	1.00	1.00

See, PAWC Exh. 12-A Revised.

Table 21: PAWC's Relative Rates of Return for its Wastewater Operations

Class	Wastewater SSS Operations		CSS Wastewater Operations	
	Under Present Rates	Under Proposed Rates	Under Present Rates	Under Proposed Rates
Residential	1.35	1.27	1.10	1.08
Non-Residential	1.00	1.16	0.73	0.79
Industrial	0.79	1.02	0.23	0.45
Bulk	1.36	0.87	1.90	1.65
Total	1.00	1.00	1.00	1.00

See, PAWC Exhs. 12-B Revised and 12-C Revised. Moreover, PAWC averred that denial of the Company's proposal could result in significant rate increases in several wastewater zones, eroding wastewater affordability and posing potential for rate shock to the Company's wastewater customers. PAWC M.B. at 50-51.

The Company proposed allocating the Act 11 wastewater revenue requirement directly to water customers based on wastewater class contributions to the revenue requirement deficiency and, where such contributions are not class specific, allocating to water customers based on relative levels of water cost-of-service. *See*, PAWC Exhs. 10-B through 10-E. The Company contended that its proposal is reasonable since, as its witness, Mr. Rea, explained, there is not a complete match between wastewater and water customer classes. PAWC St. 10-R at 34, 36.

According to I&E, the Commission should not permit the Company to allocate any of its wastewater revenue requirement to water customers. I&E explained that, given that the Company is proposing that its water customers subsidize wastewater customers by \$71,087,394, simply removing the BASA and Brentwood systems from this proceeding reduces the Act 11 subsidy to \$47,969,463. I&E M.B. at 70-71 (citing PAWC Exh. 3-A); I&E St. 3 at 12. Based upon I&E's proposed wastewater rates, the total subsidy needed to operate the wastewater SSS systems is \$357,517. *Id.* This \$357,517 is the amount necessary based on PAWC's full requested increase being approved. Therefore, I&E contended that if its proposed increase is adopted, there is no need for a subsidy at all. I&E M.B. at 71.

Other Parties acknowledged that the Commission should permit the Company to allocate some portion of its wastewater revenue requirement to water customers, but not the amount sought by the Company.

The OCA argued that the Company's proposed allocation should be reduced given the Commission's determination in *Aqua 2022* to limit Aqua's proposed allocation. The OCA asserted that shifting 94% of the claimed wastewater revenue deficiency is in no way reasonable. This would recover 27% of the total wastewater revenue requirement through the rates for water service. Allocating such a significant percentage of the total wastewater revenue requirement to water, the OCA reasoned,

moves all customers further from paying rates that reflect their indicated cost-of-service and would result in wastewater rates that have no reasonable relationship to the cost of serving those customers. The OCA asserted that its proposal would move the wastewater SSS and CSS rates closer to their indicated cost-of-service while not disproportionately increasing rates for water customers. OCA M.B. at 72-74.

As noted in Section VI.E of this Opinion and Order, *supra*, the OCA proposed a revenue requirement increase of \$45,437,081 for PAWC on a total Company basis. The OCA submitted that it would be reasonable to shift up to 75% of the wastewater SSS revenue requirement increase and up to 50% of the CSS wastewater revenue requirement increase to water customers. OCA St. 4 at 28. Regarding the wastewater revenue requirement, the OCA recommended a Pre-Act 11 Allocation wastewater SSS revenue requirement increase of \$20.3 million, and a CSS Wastewater revenue requirement increase of \$7.3 million for a combined total increase of \$27.6 million at PAWC's claimed revenue requirement. Therefore, the OCA submitted that after the Act 11 wastewater allocation, this would result in an approximate increase in revenue requirement as shown below:

OCA Recommended Revenue Requirement		
Water Operations	Wastewater SSS Operations	Wastewater CSS Operations
4.5%	5.3%	4.7%
\$36,690,821	\$5,078,655	\$3,667,604

See, OCA R.B. at 49. Regarding how to assign wastewater revenue requirement to the water customer base, the OCA contended that the dollars are properly allocated based on the Water COSS adopted by the Commission. OCA M.B. at 74-75.

The OSBA and Cleveland-Cliffs only commented on the method of determining the allocation, not the amount of the allocation. *See*, OSBA M.B. at 19-21;

Cleveland-Cliffs M.B. at 3-4.¹⁰⁴ Cleveland-Cliffs agreed with the OCA that the Act 11 subsidy should be allocated among water classes based on the results of the water COSS. Cleveland-Cliffs M.B. at 3-6. According to Cleveland-Cliffs, the Commission should “require the Company to maintain its current practice of allocating any subsidy approved by the Commission based on the underlying water cost of service percentages from PAWC’s COSS.”¹⁰⁵ Cleveland-Cliffs M.B. at 5.

The OSBA supported the Company’s methodology. Its principal arguments are that allocating the subsidy as the OCA has done treats wastewater costs like water costs and thus violates the plain language of 66 Pa.C.S. § 1311(c) and the cost-causation requirements of *Lloyd*. OSBA M.B. at 20-21. In its Main Brief, the OSBA pointed out the legal problem with the OCA’s and Cleveland-Cliffs’ methodology- it transforms wastewater costs into water costs, and then those “transformed” wastewater costs are allocated based upon PAWC’s water COSS. Such a “transformation” violates the plain language of the statute. Specifically, Section 1311(c) explicitly uses the word “allocate” – not “transform” or “change.” The OSBA averred that while it is true that the Commission has latitude in interpreting its statutes, the Commission has no authority to change the words of those statutes. OSBA M.B. at 20-21.

¹⁰⁴ CAUSE-PA stated that it did not take a position with respect to Act 11 in this proceeding and contended that the Company’s proposal be rejected based on arguments raised by others. CAUSE-PA M.B. at 23-24.

¹⁰⁵ In current rates, the wastewater subsidy is recovered from water customers according to the customer class share of water costs. Since the total wastewater subsidy cannot be tracked to specific water service classes, the total wastewater subsidy reallocation is currently based on each water service class’s proportionate share of total water service cost responsibility under current rates. Therefore, Cleveland-Cliffs contended that PAWC’s new allocation methodology in which wastewater subsidies from wastewater service classes are directly assigned to the corresponding water service classes is not reasonable. Cleveland-Cliffs M.B. at 4.

The OSBA further argued that such a transformation of wastewater costs into water costs so that a water COSS can be applied violates the basic tenets of the *Lloyd* decision. The OSBA contended that if cost-of-service is the polestar, then diluting a water COSS with wastewater costs is forbidden. OSBA M.B. at 21.

PAWLUG recommended that the Commission slightly modify PAWC’s allocation of the Act 11 subsidy to reflect cost causation for directly assignable costs:

PAWLUG Brief Table 1¹⁰⁶ Revised Re-allocation of Wastewater Subsidy (\$Millions)				
Customer Class	PAWC Proposed Re-allocation		PAWLUG Proposed Re-allocation	
	\$	%	\$	%
Residential	\$45.9	64.5%	\$46.0	64.8%
Commercial	\$17.6	24.7%	\$19.6	27.6%
Large Industrial	\$4.5	6.4%	\$4.3	6.0%
Municipal	\$2.7	3.8%	\$1.1	1.5%
Fire	\$0.4	0.6%	\$0.07	0.1%
Total	\$71.1	100.0%	\$71.1	100.0%

PAWLUG averred that its revised allocation acknowledges some incongruity between the water and wastewater customer classes, but appropriately aligns a greater portion of the Act 11 allocation on the basis of wastewater cost-of-service. PAWLUG M.B. at 23-25. PAWLUG also recommended that the Commission “moderate” the impact of the proposed Act 11 allocation. PAWLUG M.B. at 23.

¹⁰⁶ PAWLUG St. 1S, p. 7 (originally presented as PAWLUG Surrebuttal Testimony Table 1).

2. Recommended Decision

The ALJs recommended that, in lieu of the Company's proposal, which allocates \$71 million of wastewater costs to water customers under Act 11, the OCA's approach to the Act 11 subsidy should be adopted, reasoning as follows:

The OCA's approach constitutes a reasonable balance that will afford some rate relief to PAWC's wastewater customers while still moving Wastewater SSS and CSS rates closer to their cost of service without excessively burdening PAWC's water customers. We further agree with OCA's recommendation that 75% of the Wastewater SSS revenue requirement increase and 50% of the CSS Wastewater revenue requirement increase be assigned to water customers. While this will result in more substantial rate increases for WW CSS customers like those in Scranton, we agree this is more reasonable than the Company's 0% increase.

R.D. at 227.

3. I&E Exception No. 3 and Replies

In its Exception No. 3, I&E argues that the ALJs erred in recommending that the Commission adopt the OCA's proposed Act 11 shift because "[t]he RD does not persuasively explain why the OCA approach would be more reasonable than the other Act 11 subsidy recommendations proposed in this proceeding." I&E Exc. at 8.

In their Replies, PAWC and the OCA each request that I&E's Exception No. 3 be denied, contending that the Commission should adopt the ALJs' recommendation to use the OCA's proposed methodology to allocate revenue

requirement 66 Pa.C.S. § 1311(c). PAWC R. Exc. at 18; OCA R. Exc. at 16-17.¹⁰⁷ The OCA explained that it was only after an extensive summary and examination of all of the Parties' positions, that the ALJs endorsed the OCA's proposal, which will help mitigate the increase to PAWC's water customers. OCA R. Exc. at 16-17. PAWC notes that, although it proposed a higher Section 1311(c) allocation, the Company does not object to the ALJs' recommendation. PAWC submits that I&E's proposal would result in unaffordable wastewater rates in clear contravention of the purpose of Section 1311(c). PAWC R. Exc. at 18.

4. Disposition

The OCA has proposed: (1) a significantly less overall revenue requirement increase to both water and wastewater customers; and (2) to shift less of the wastewater revenue requirement to water customers. Specifically, the OCA recommended a lower overall revenue requirement increase to the CSS Wastewater operations (\$7.3 million or 9.3%), compared to PAWC's proposed revenue increase (\$15.8 million or 20.1%). *See*, OCA Exh. LA-1. Second, the OCA recommended a shift of half of its reduced CSS revenue requirement to water customers, which would result in a 4.7% revenue increase remaining for the customers in the CSS Wastewater operations. Therefore, under the OCA's proposal, customers in the CSS Wastewater operations would be paying only 50% of the increase needed to cover their full cost-of-service. We agree with the ALJs that this is more reasonable than the Company's proposed 0% increase.

¹⁰⁷ The OCA notes that its proposed methodology also addresses how the Act 11 allocation is assigned to water classes, specifically that it should be based on the water COSS. OCA R. Exc. at 17 (citing R.D. at 216-19; OCA M.B. at 74-75; OCA R.B. at 50-51). None of the Parties filed an exception on that issue.

The OCA has additionally proposed that 75% of the OCA's recommended revenue deficiency for wastewater SSS operations be allocated to water operations. The OCA recommended a lower overall revenue requirement increase to the wastewater SSS operations (\$20.3 million or 21.3%), compared to PAWC's proposed revenue increase (\$31.9 million or 33.4%). *See*, OCA Exh. LA-1. The OCA's proposal to shift 75% of its reduced wastewater SSS revenue requirement to water customers would result in a 5.3% revenue increase remaining for the customers in the wastewater SSS operations, resulting in customers in the wastewater SSS operations paying only 25% of the increase needed to cover their full cost-of-service. *Id.*

Therefore, under the OCA's proposal, water customers, most of whom are not wastewater customers, would see an additional revenue requirement increase of \$18.9 million, or 2.2%, related solely to the shift of costs that the wastewater SSS (\$15.2 million) and CSS wastewater (\$3.7 million) customers are not covering for their wastewater service. *See*, OCA Exh. LA-1.

Although the OCA's proposal concerning the Act 11 assignment of the wastewater revenue requirement to water customers is based on its proposed water and wastewater revenue requirement increases, we acknowledge that wastewater cost-of-service is a significant driver of PAWC's rate increase request in this proceeding, and therefore, it would be unreasonable to assign no increase to those customers, as proposed by the Company. Therefore, we agree with the ALJs that the OCA's approach constitutes a reasonable balance that will afford some rate relief to PAWC's wastewater customers while still moving wastewater SSS and CSS rates closer to their cost-of-service without

excessively burdening PAWC's water customers. Accordingly, we shall deny I&E's Exception No. 3.¹⁰⁸

F. Tariff Structure – Residential Customer Charge

PAWC currently provides water utility service through its water operations in five different rate zones, as follows:

- Rate Zone 1 – General Statewide Rate;
- Rate Zone 2 – Valley;
- Rate Zone 3 – Scranton Lackawanna Industrial Building Company (SLIBCO);
- Rate Zone 4 – Turbotville; and
- Rate Zone 5 – Steelton.

The largest of these rate zones is Rate Zone 1, with over 99% of the Company's total water revenue. OCA St. 4 at 4.

¹⁰⁸ Although we are adopting the OCA's revenue allocation methodology, as noted in Section VI.E of this Opinion and Order, we have authorized the following individual allowed annual revenue requirement increases based upon the record in this proceeding: \$92,572,399, or 11.2774%, for the Company's water operations, \$6,169,555, or 6.52%, for its wastewater SSS operations, and \$5,322,644, or 6.77%, for its CSS wastewater operations. As set forth in Table Act 11-Water and Wastewater Revenue Requirement Summary, which is part of the Commission Table Calculating Allowed Revenue Increase, which are attached to this Opinion and Order, we have authorized a Pre-Act 11 Allocation revenue requirement increase of \$68,741,091 for the Company's water operations, \$24,678,219 for its wastewater SSS operations, and \$10,645,287 for its CSS wastewater operations. We have then employed the OCA's revenue allocation methodology to arrive at the final revenue requirement increase amounts above.

PAWC currently provides SSS wastewater service through its wastewater SSS operations in six different rate zones, as follows:

- Rate Zone 1 – General Statewide Rate;
- Rate Zone 2 – New Cumberland;
- Rate Zone 5 – Valley;
- Rate Zone 7 – York;
- Rate Zone 8 – Foster Township; and
- Rate Zone 9 – Royersford.

The largest of these rate zones is Rate Zone 1, with approximately 60% of the Company's total current SSS wastewater revenue. OCA St. 4 at 4-5.

Currently, PAWC also provides CSS wastewater service through its CSS wastewater operations in three different rate zones, as follows:

- Rate Zone 3 – Scranton;
- Rate Zone 4 – Kane; and
- Rate Zone 6 – McKeesport.

The largest of these rate zones is Rate Zone 3, with approximately 70% of the Company's total current CSS wastewater revenue. OCA St. 4 at 5-6.

1. Water Operations

a. Positions of the Parties

Regarding its water operations, PAWC has proposed to increase the residential 5/8, 3/4, 1, and 1½, inch monthly customer charges from \$17.50 to \$20.00 in the FPFTY. In support, the Company provided two customer cost analyses for the

FPFTY in PAWC Exhibit 12-A Revised, Appendix A, Attachment RS1j.¹⁰⁹ The results of the first cost analysis, shown on page 1, include all costs being allocated to the customer cost function and results in a cost of \$25.57 per month in the FPFTY. Additionally, PAWC provided a second customer cost analysis that relied on the allocation of costs more directly applicable to customers. The result of the more direct customer cost analysis is \$20.26 per month per 5/8" residential customer in the FPFTY. See, PAWC Exh. 12-A Revised, Appendix A, Attachment RS1j at 2. PAWC submitted that its proposed \$20.00 per month residential customer charge is fully supported by its witness, Ms. Heppenstall's direct cost analysis. PAWC M.B. at 51-52.

I&E agreed with PAWC's proposed increase to \$20.00 for the monthly customer charges for 5/8, 3/4, 1, and 1½, inch residential water customers, based on the Company's direct customer cost analysis.¹¹⁰ I&E M.B. at 74.

Regarding residential customers with meter sizes over 2", commercial, and municipal customers, I&E accepted the Company's proposed customer charges for those customers noting that all of the proposed increases were in the 7% to 8% range, which it deemed to be a reasonable increase for a customer charge. I&E M.B. at 75. In addition, I&E did not make any adjustments to the Company's proposed customer charge for the Industrial and Other Water Utilities Monthly, Groups A and B, because while those classes have a larger percentage increase in their customer charge, the percent increase for an average industrial customer is reasonable. *Id.*

¹⁰⁹ A customer cost analysis is a part of a COSS that is used to determine the appropriate fixed customer charges for the various classes and meter sizes. It is necessary to perform a customer cost analysis because a fixed customer charge represents the revenue that the Company is guaranteed to receive each month, regardless of the level of usage. As acknowledged in the seventh edition of the AWWA Manual, there is a tradeoff between revenue stability from a high customer charge, and affordability and conservation from a low customer charge and higher usage rates. I&E M.B. at 72.

¹¹⁰ In the event that less than the full requested increase is granted, I&E proposed that these customer charges be scaled back. I&E M.B. at 74.

The OCA averred that PAWC's monthly residential water customer charges should remain at their current rates, contending that PAWC's analysis includes costs that are not direct customer costs and do not change with the addition or subtraction of a customer, including office building and furniture expenses. OCA M.B. at 78. The OCA adjusted the Company's calculated direct customer charge, at PAWC's filed-for revenue requirement increase, removing the improperly included office building and furniture costs and to reflect the OCA's recommended rate of return. These adjustments, shown on OCA Schedule JDM-4SR, reduce the calculated charge to \$18.73. Based on the OCA's overall position on revenue requirement, the OCA recommended the existing \$17.50 monthly charge for residential customers should be maintained. OCA M.B. at 77-78.

b. Recommended Decision

In their Recommended Decision, the ALJs agreed with I&E and found that PAWC's proposal to increase the monthly water residential customer charge from \$17.50 to \$20.00 in the FPFTY is justified. R.D. at 234. The ALJs recommended that the Commission reject the OCA's argument that PAWC's analysis included costs that are not direct customer costs, noting the Company's contention that the OCA sought to exclude similar costs from consideration of the residential customer charge in Aqua's most recent base rate case which the Commission rejected. R.D. at 235 (citing *Aqua 2022* at 268-69). The ALJs noted that in *Aqua 2022*, the Commission indicated that "[w]e find that the OCA proposed limitation of costs excludes customer costs that should be included in a customer charge and is unreasonably narrow." R.D. at 235 (citing *Aqua 2022* at 269). Accordingly, the ALJs recommended that the Commission adopt PAWC's proposal to increase the monthly residential customer charge from \$17.50 to \$20.00. R.D. at 235.

c. OCA Exception No. 15 and Replies

In its Exception No. 15, the OCA contends that the ALJs erred by recommending that the Commission adopt the Company's direct customer cost analysis for the water customer charge. In support, the OCA reiterates arguments advanced in its Main and Reply Briefs. OCA Exc. at 26-27. The OCA posits that the customer cost analysis is flawed because it includes costs that are not direct customer costs and do not change with the addition or subtraction of a customer, using office building and furniture expenses as an example. Additionally, in support of its proposal that the existing \$17.50 monthly residential customer charge should be maintained, the OCA argues that a reduction in the Company's revenue requirement increase would indicate a lesser water customer charge. OCA Exc. at 27-28.

In its Replies, PAWC posits that the OCA's Exception on this matter should be rejected since the arguments presented by the OCA have already been considered by the ALJs, who recommended that the Commission reject such arguments. PAWC R. Exc. at 19.

d. Disposition

A fixed customer charge represents the revenue that the Company is guaranteed to receive each month, regardless of the level of usage. As indicated previously, the latter of the two customer cost analyses provided by the Company relied on the allocation of costs more directly applicable to customers and is used to support PAWC's proposal to increase the residential 5/8, 3/4, 1, and 1½, inch monthly customer charges from \$17.50 to \$20.00. The result of this more direct customer cost analysis is \$20.26 per month per 5/8" residential customer in the FPFTY. *See*, PAWC Exh. 12-A Revised.

With regard to the alternative proposal of the OCA, which relies on the OCA's assertion that PAWC's customer cost analysis is flawed because it includes costs that are not direct customer costs and do not change with the addition or subtraction of a customer, we find it to be without merit. Rather, we concur with the ALJs that we have previously rejected such limitations on cost recovery through the fixed customer charge, as proposed by the OCA. *See, UGI Electric 2018* at 168-75; *see also, Aqua 2022* at 268-69. Therefore, based upon our consideration of the evidence and record herein, we shall adopt the ALJs' recommendation on this issue. Accordingly, we shall deny the OCA's Exception No. 15.

2. Wastewater Operations

a. Positions of the Parties

Regarding PAWC's wastewater SSS operations, most rate zones currently have a monthly wastewater residential customer charge of \$14.30. PAWC is proposing to increase that charge to \$20.00 per month. In support, the Company provided one COSS for the wastewater SSS operations (Rate Zones 1, 2, 5, 7, 8, and 9). PAWC Exh. 12-B Revised. This COSS included a customer cost analysis that claimed the wastewater SSS operations wastewater customer cost is comprised of \$13.43 per month of direct customer costs, and \$29.20 per month of inflow and infiltration (I&I) costs for a total cost of \$42.63 for a residential customer. *See, PAWC Exh. 12-B Revised.*

I&E supported a monthly wastewater residential customer charge of \$15.00, noting that a \$15.00 per month customer charge will recover more than the direct customer cost of \$13.87¹¹¹ per month plus a small portion of the I&I costs identified by

¹¹¹ The Company's claimed direct customer costs of \$13.87 per month was revised in its rebuttal testimony to \$13.43 per month. *See, PAWC Exh. 12-B Revised.*

the Company. In support of limiting the amount of I&I costs to be recovered through the customer charge I&E's witness, Mr. Kubas, provided the following explanation:

I recognize that I&I costs are a large portion of the cost of operating wastewater systems. However, I&I costs relate to flow, which does not vary with the number of customers, a typical criterion for determining if a cost should be recovered in the customer charge. Therefore, I recommend only a small part of I&I costs be recovered in the customer charge to generate revenue, but I believe it is improper to recover more than a small amount of the cost of I&I in the customer charge.

I&E St. 3 at 19.

Additionally, for wastewater SSS operations commercial customers, I&E recommended a customer charge of \$36.70, or an increase of \$1.70 from the current \$35.00 customer charge. This is a 4.9% increase, which matches the increase I&E recommended for residential customers. I&E M.B. at 76.

The OCA argued that the current customer charges in Rate Zones 1, 2, 5, and 6 should be maintained at \$14.30, the current residential customer service charges in Rate Zones 3, 4, 7, and 9 should be reduced to \$14.30 for consistency,¹¹² and any additional revenue to be recovered from residential customers should be recovered through increases in volumetric usage charges. OCA M.B. at 78-79. These

¹¹² The Company proposed the Rate Zone 3 residential customer charge *increase* from \$19.50 per month to \$19.71 per month, or by 1.1%. The Company proposed the Rate Zone 4 residential customer charge *decrease* from \$40.00 per month to \$20.00 per month, or by 50%. The Company proposed the Rate Zone 7 residential customer charge *increase* from \$18.00 per month to \$20.00 per month, or by 11.1%. The Company proposed the Rate Zone 9 residential customer charge *decrease* from \$48.00 per month to \$20.00 per month, or by 58.3%. See, PAWC Exhs. 10-C at 3-4, 10-B at 6, 8. In Rate Zone 8 all customers are currently charged a flat rate charge, which PAWC has proposed to *decrease* from \$106.00 to \$100.00. See, PAWC Exh. 10-B at 7.

recommendations are supported by the testimony of the OCA's witness, Mr. Colton, with regard to the impact of higher fixed charges on customers' ability to control their bills. *Id.*

b. Recommended Decision

In their Recommended Decision, the ALJs agreed with I&E that a \$15.00 per month wastewater residential customer charge will recover more than the direct customer costs of \$13.87 per month but will limit the amount of I&I costs to be recovered through the customer charge. The ALJs also noted their agreement with I&E that its \$0.70 increase, which constitutes a 4.9% increase, will provide the Company with sufficient revenue while limiting the increase to low-usage residential customers. R.D. at 235-36.

Although no one else addressed it, the ALJs also noted their agreement with I&E's proposal to increase the monthly wastewater customer charge from \$35.00 to \$36.70, or by \$1.70, for wastewater SSS operations commercial customers. Similar to the residential customer charge, this constitutes an increase of 4.9%, which is a reasonable increase to the monthly wastewater customer charge for wastewater SSS commercial customers. R.D. at 236.

c. OCA Exception No. 16 and Replies

In its Exception No. 16, the OCA states, "[t]he ALJs erred by adopting I&E's \$15 proposal because that proposal is not supported by substantial evidence and is the result of I&E witness [Mr.] Kubas arbitrarily assigning a small portion of certain indirect costs – Inflow and Infiltration (I&I) costs – to the customer charge..." OCA Exc. at 28.

The OCA contends that PAWC's wastewater direct customer cost calculation improperly included I&I costs, since these costs do not vary directly with the addition or subtraction of a customer. The OCA argues that I&E's \$15 customer charge proposal similarly committed the same error by including a small portion of I&I costs in its calculation. The OCA asserts that, exclusive of I&I costs, the Company's calculation of customer costs would indicate a direct cost of \$13.87 at the Company's proposed revenue requirement. Therefore, the OCA maintains that, regarding residential wastewater customers with 5/8, 3/4, 1, and 1½, inch meters, in those rate zones with a current monthly residential customer charge of \$14.30, the \$14.30 customer charge should be maintained, and in those rate zones with a current monthly residential customer charge which exceeds \$14.30, the charge should be reduced to \$14.30 for consistency. OCA Exc. at 28-29.

In its Replies, PAWC posits that the OCA's Exception on this matter should be rejected since the arguments presented by the OCA have already been considered by the ALJs, who recommended that the Commission reject such arguments. PAWC R. Exc. at 19.

In its Replies, I&E maintains that, since it is appropriate to recover a small portion of I&I costs through the customer charge, I&E's analysis should be adopted. I&E explains that the increase will provide sufficient revenue, while limiting the increase to low-usage residential customers. I&E R. Exc. at 14.

d. Disposition

Before us are three divergent positions regarding the appropriate monthly residential customer charge for wastewater customers. Each Party's respective proposals have been summarized in Table 22, as follows:

Table 22: Comparison of Monthly Residential Customer Charge Proposals

	Current Customer Charge	PAWC Proposed Customer Charge	I&E Proposed Customer Charge	OCA Proposed Customer Charge
<u>Wastewater SSS Operations</u>	(1)	(1)	(3), (4)	(5)
Rate Zone 1	\$14.30	\$20.00	\$15.00	\$14.30
Rate Zone 2	\$14.30	\$20.00	\$15.00	\$14.30
Rate Zone 5	\$14.30	\$20.00	\$15.00	\$14.30
Rate Zone 7	\$18.00	\$20.00	\$15.00	\$14.30
Rate Zone 8 (Flat Rate)	\$106.00	\$100.00	\$132.00	N/A
Rate Zone 9	\$48.00	\$20.00	\$15.00	\$14.30
<u>CSS Wastewater Operations</u>				
Rate Zone 3 (2)	\$19.50	\$19.71	\$20.00	\$14.30
Rate Zone 4	\$40.00	\$20.00	\$20.00	\$14.30
Rate Zone 6	\$14.30	\$20.00	\$20.00	\$14.30

- (1) See, PAWC Exhs. 10-B at 6-7, 10-C at 3-4.
- (2) PAWC indicated that it limited the increase in Rate Zone 3 – Scranton in accordance with its agreement with the seller that it is limited to proposing an increase of 1.9% per year. PAWC St. 4 at 40.
- (3) See, I&E Exh. 3, Schs. 3 and 19.
- (4) I&E indicated that its monthly residential flat rate proposal of \$132.00 for Rate Zone 8 is based upon the average bill of a Rate Zone 1 customer that uses 3,122 gallons per month. I&E St. 3 at 22.
- (5) See, OCA St. 4 at 47.

We agree with the ALJs that I&E’s proposed 4.9% increase to the current \$14.30 per month customer charge will provide the Company with sufficient revenue while limiting the increase to low-usage residential customers, as well as limiting the amount of I&I costs recovered through the customer charge. We recognize that I&I costs are a large portion of the cost of operating wastewater systems. PAWC estimated its costs related to I&I total approximately \$25.7 million. See, PAWC Exh. 12-B Revised. PAWC included only two-thirds of this amount (\$17.1 million) in its customer cost analysis, and I&E’s \$15 per month customer charge proposal further limits this, recovering only 3.6%¹¹³ of all costs related to I&I in the customer charge.

¹¹³ [586,012 ÷ (\$15.00 - \$13.43)] / \$25,667,991.

Furthermore, under I&E's proposal, the decrease to the present Rate Zone 7 customer charge from \$18.00 per month to \$15.00 per month will be slightly less than under the OCA's proposal, thus generating more revenue in Rate Zone 7 than reducing the Rate Zone 7 customer charge to \$14.30 per month.

In this case, we agree with the ALJs' reasoning and add that revenue stability for the utility must be balanced against the affordability and conservation concerns. I&E's proposal appears to accomplish this objective. Accordingly, we shall deny the OCA's Exception No. 16.

G. Tariff Structure – Water Rate Design

1. Positions of the Parties

PAWC noted that initially, the OSBA's witness, Mr. Higgins, recommended a \$5.3 million reduction to the Commercial class offset by a \$5.3 million increase to the Municipal class. PAWC M.B. at 62 (citing OSBA St. 1 at 35). Subsequently, Mr. Higgins updated his proposed revenue allocation based on the results of his rebuttal COSS. PAWC M.B. at 62 (citing OSBA St. 1-SR at 19). PAWC further noted that Cleveland-Cliffs' witness, Mr. Richard Baudino, recommended an alternative revenue allocation that results in a higher increase for the Municipal class, and a lower increase for the Residential, Commercial, Industrial, and Private Fire classes. PAWC M.B. at 62 (citing Cleveland-Cliffs St. 1 at 12). PAWC's witness, Mr. Rea, did not oppose the proposals of Mr. Higgins and Mr. Baudino for higher increases for the Municipal class with offsetting decreases to other customer classes. PAWC M.B. at 62-63 (citing PAWC St. 10-R at 43). However, PAWC submitted that the OCA's proposed alternative revenue allocation for water service should be rejected because it is based on the OCA's alternative and deficient COSS. PAWC M.B. at 63 (citing OCA St. 4 at 33-34).

PAWC also submitted that the Company's proposed meter charges are reasonable, and the Commission should reject the alternative proposals of I&E, the OCA, PAWLUG, CEO, and Cleveland-Cliffs. PAWC M.B. at 63 (citing I&E St. 4 at 30-35; OCA St. 4 at 35-36; Cleveland-Cliffs St. 1 at 13-14; PAWLUG St. 1 at 28-29). Specifically, PAWC averred that the proposals of PAWLUG and Cleveland-Cliffs would result in increased meter charges with no cost-basis. More specifically, Mr. Rea stated that PAWC's meter charges for the Industrial and Other Water Utilities classes are already more than double PAWC's proposed meter charges for residential and commercial charges with meter sizes of 4" and above. Mr. Rea continued that the proposal of PAWLUG's witness, Ms. LaConte, would result in the meter charges being more than four times the proposed charges for residential and commercial charges with no apparent basis in cost. PAWC St. 10-R at 45. PAWC also disagreed with the recommendation of I&E's witness, Mr. Ethan Cline, to adopt a Rate Zone 1 (RZ-1) residential customer charge of \$19.50 because his calculation is based solely on a cost allocation study restricted to direct customer-related costs. PAWC M.B. at 63 (citing PAWC St. 10-R at 44).

PAWC also submitted that the alternative volumetric rate proposals of I&E, the OCA, PAWLUG, and Cleveland-Cliffs should all be rejected. PAWC M.B. at 63 (citing I&E St. 4 at 36-41; OCA St. 4 at 36-37; PAWLUG St. 1 at 28-29; Cleveland-Cliffs St. 1 at 13-14). PAWC contended that Mr. Cline and the OCA's witness, Mr. Mierzwa, have not demonstrated that the Company's proposed rates for Rate Zone 2 (RZ-2) – Valley and Rate Zone 4 (RZ-4) - Turbotville are unreasonable, and adoption of their recommendations would delay their full integration into RZ-1. PAWC also submitted that the recommendations of PAWLUG and Cleveland-Cliffs conflict with the intent to design industrial rates to collect total revenue allocated to that class less revenues from current industrial meter charges. PAWC M.B. at 63-64 (citing PAWC St. 10-R at 47).

I&E submitted that given its recommendation that Audubon and Farmington be removed from the instant case, I&E recommended that the rate zones for Audubon and Farmington also be removed. Therefore, I&E did not address proposed rate changes for the Audubon and Farmington rate zone customers. I&E M.B. at 76.

I&E's witness, Mr. Cline, opined that except for the proposal to merge RZ-2 – Valley usage rates into RZ-1, the Company's proposed rates, which are based on the Company's proposal to consolidate monthly metered rates for all customer classes in the following rate zones into RZ-1 for the FPFTY, are reasonable: (1) RZ-2 – Valley; (2) Rate Zone 3 (RZ-3) – SLIBCO; (3) RZ-4 – Turbotville; and (4) Rate Zone 5 (RZ-5) – Steelton. I&E M.B. at 76-77 (citing I&E St. 4-SR at 21; PAWC St. 10 at 35). Mr. Cline explained that the proposed usage rates for the RZ-1 residential class, and the usage rates for any rate zones that are being proposed to merge with RZ-1 rates, need to be increased because of the decreased customer charge revenue based on I&E's recommended customer charges compared to PAWC's proposed customer charges under the fully requested revenue increase. I&E St. 4 at 36. Further, Mr. Cline noted that given its recommendations regarding the Act 11 subsidy and the adjustments made by I&E's witnesses, Mr. DC Patel and Ms. Okum, it is more likely that the usage rate will be subject to a scale back rather than an increase. As such, Mr. Cline did not calculate what the increase would be at the fully proposed increase. *Id.*

Mr. Cline recommended adopting PAWC's proposed customer charges for the Commercial, Municipal, Industrial, and Other Water Utilities Monthly – Groups A and B rate classes. I&E M.B. at 77 (citing I&E St. 4 at 34-35).

Regarding RZ-2, I&E averred that: (1) the proposed percentage increase for residential customers is at least double that of the average residential customers in the other rate zones; and (2) for commercial customers, the disparity between the percentage increases for the other rate zones, apart from RZ-4, is more than that of the residential

customers. I&E M.B. at 77-78 (citing PAWC Exh. 10-A at 4, 11, 77, 83). As set forth in Table 23, below, Mr. Cline recommended the following usage rates for RZ-2 Residential and Commercial:

Table 23: I&E's Recommended RZ-2 Residential and Commercial Rates

Rate Zone 2 Residential and Commercial Usage Rates			
Usage Level	Present Rate Per Hundred Gal	I&E Proposed Rate Per Hundred Gal	Revenue Percent Increase
Residential			
First 3,400 Gal	\$1.1000	\$1.6000	45.5%
Over 3,400 Gal	\$1.1000	\$1.6000	45.5%
Commercial			
First 16,000 Gal	\$1.1000	\$1.6500	55%
Over 16,000 Gal	\$1.1000	\$1.2540	14%

I&E St. 4 at 37-38. Mr. Cline averred that a \$1.6 per hundred-gallon usage rate for residential customers will generate a reasonable percent increase on the total residential bill. Mr. Cline continued that for commercial customers, he kept the second block usage rate at approximately 76% of the first block, which is the same ratio as the Company's proposed rates. Accordingly, Mr. Cline submitted that the resulting overall percentage increases for commercial customers is reasonable. I&E St. 4 at 38.

Mr. Cline agreed with PAWC's recommendation to set RZ-3 commercial and municipal usage rates equal to RZ-1. I&E St. 4 at 38-39.

Mr. Cline also submitted that the Company's proposal to set the RZ-4 residential and municipal rates equal to RZ-1 is reasonable. However, Mr. Cline averred that PAWC's proposal to set RZ-4 commercial usage rates equal to RZ-1 would result in a 68.56% increase to the average RZ-4 commercial customer bill. I&E St. 4 at 39-40 (citing PAWC St. 10, Exh. 10-A at 77, 83). Mr. Cline provided that because this represents an unnecessarily large increase when compared to the increase proposed for RZ-1 commercial customers, he set the RZ-4 commercial usage rates equal to those of

RZ-2, thereby allowing RZ-2 and RZ-4 to be merged after this base rate case, and likely merged with RZ-1 after the subsequent base rate case. I&E St. 4 at 40. Accordingly, Mr. Cline submitted that the percentage increases become far more reasonable based on these adjustments. As set forth in Table 24, Mr. Cline recommended the following RZ-4 Residential and Commercial usage rates:

Table 24: I&E’s Recommended RZ-4 Residential and Commercial Rates

Rate Zone 4 Residential and Commercial Usage Rates			
Usage Level	Present Rate Per Hundred Gal	I&E Proposed Rate Per Hundred Gal	Revenue Percent Increase
Commercial			
First 16,000 Gal	\$1.1000	\$1.6500	55%
Over 16,000 Gal	\$1.1000	\$1.2540	14%

I&E St. 4 at 40.

Finally, Mr. Cline accepted PAWC’s proposal to set RZ-5 residential, commercial, municipal, and industrial rates equal to that of RZ-1. I&E St. 4 at 41.

The OCA provided that in addition to its recommendations regarding the residential customer charges, *supra*, it disagreed with the Company’s proposed residential Water usage charge for RZ-2 – Valley customers. OCA M.B. at 79 (citing OCA St. 4 at 36-37). The OCA submitted that to allow gradualism and reduce rate shock, the usage charge for RZ-2 – Valley customers should be set at 70% of the RZ-1 usage charge, which will limit the increase for a RZ-2 – Valley residential customer using 3,201 gallons per month to about 1.7x the OCA’s proposed system average increase. Further, the OCA added that I&E agreed that PAWC’s proposed increase for Valley customers is unnecessarily large and recommended a more moderate increase. OCA M.B. at 80 (citing I&E St. 4-SR at 28; I&E St. 4 at 37-38).

PAWLUG provided that as part of PAWC's justification for proposing the RDM and ECIC, discussed in Section XI.A, *infra*, the Company asserted an interest in reducing revenue volatility. PAWLUG averred that although it opposes approval of the RDM and ECIC, the Company can address revenue stability for industrial customers by increasing the Industrial customer charge for customers with meters that are 6" or larger. PAWLUG M.B. at 26. Specifically, PAWLUG's witness, Ms. LaConte, recommended that the Company decrease the volumetric rate and increase the customer charge for industrial customers because a higher customer charge will reduce revenue volatility and provide a stable and reliable revenue stream. PAWLUG St. 1 at 28 (citing PAWC St. 10 at 90). As such, PAWLUG submitted that adoption of the below modified rate design will ensure more stable revenue from the Industrial customer class:

Table 3 Revised Industrial Rate Design			
Description	Current	PAWC	PAWLUG
Customer Charge			
6" Meter	\$1,401	\$1,401	\$2,802
8" Meter	\$2,243	\$2,243	\$4,486
10" Meter	\$3,223	\$3,223	\$6,446

Table 3 Revised Industrial Rate Design			
Description	Current	PAWC	PAWLUG
Volumetric Charge			
First 16,000 Gal	\$1.4200	\$1.9128	\$2.8565
Next 584,000 Gal	\$1.0804	\$1.4824	\$1.4083
All Over 600,000 Gal	\$0.8499	\$1.1477	\$1.0329
Above 15,000,000*	\$0.5110	\$0.6852	\$0.6167
*Curtailment rate Source: Exhibit 10-A Water Operations.			

PAWLUG St. 1 at 28-29. PAWLUG noted that its revised rate design would recover 17% of the Company's fixed costs through customer charges, compared to the Company's determination that approximately 95% of its costs are fixed. PAWLUG St. 1 at 29.

PAWLUG noted that while PAWC's customer charge analysis provides a cost basis for the 5/8" meter customer charge, it opposed the Company's proposed rate design because it is not cost-based. PAWLUG M.B. at 27 (citing PAWC St. 10-R at 45; PAWC St. 10, Exh. 10-A). Further, PAWLUG argued that the Company has not established the cost-basis for the existing Industrial customer charge. Moreover, PAWLUG contended that under its proposed rate design, the overall revenue requirement allocated to industrial customers would remain unchanged. As such, PAWLUG submitted that its proposal is reasonable and should be approved by the Commission. PAWLUG M.B. at 27.

Cleveland-Cliffs averred that it is "problematic" that the Company did not propose any increase to the existing industrial meter charges but is seeking to collect the entire industrial revenue increase through the volumetric charges. Cleveland-Cliffs M.B. at 6 (citing PAWC St. 10 at 86). In response to the testimony of PAWC's witness, Mr. Rea, that over 95% of the Company's costs are fixed and do not vary with water consumption, Cleveland-Cliffs' witness, Mr. Baudino, provided that volumetric rates collect these costs based on the volumes of water consumed by the water service rate classes. Mr. Baudino continued that as consumption varies by month and year, the Company's collection of fixed costs will also vary, thereby introducing more variability in its revenues and earnings than if more costs, such as meter charges, were collected from fixed charges. Accordingly, Mr. Baudino submitted that to the extent possible, fixed costs should be collected through fixed charges. Mr. Baudino added that under Mr. Rea's proposed rate design, PAWC would collect even more fixed costs through volumetric rates, which moves in the opposite direction from cost-causation. Cleveland-Cliffs St. 1 at 13-14.

Cleveland-Cliffs also addressed Ms. LaConte's proposed rate design for the Industrial class, noting that the industrial meter charges would nearly double and provide for smaller percentage increases to the volumetric charges. According to Cleveland-Cliffs, the Company's description of its variable versus fixed costs would justify an even greater increase in industrial fixed charges. However, Cleveland-Cliffs submitted that Ms. LaConte's proposal would ensure that more of PAWC's fixed costs would be collected through a meter charge. Cleveland-Cliffs M.B. at 6-7 (citing PAWLUG St. 1 at 28). As such, Cleveland-Cliffs submitted that PAWLUG's proposed rate design for the Industrial class should be approved, or alternatively, industrial customer charges should be increased by the same percentage as industrial volumetric charges. Cleveland-Cliffs M.B. at 7.

Victory Brewing agreed with Cleveland-Cliffs' recommendation of higher customer charges and lower volumetric charges for large industrial customers because it allows customers to reduce their bills through conservation when possible. Victory Brewing M.B. at 8 (citing Cleveland-Cliffs St. 1 at 13-14). Victory Brewing averred that this outcome is consistent with prior Commission rulings where, for example, the Commission has recognized that it is appropriate to set a customer charge that ensures the recovery of fixed costs that are more customer-related than usage-related while still allowing some revenue to be recovered through usage-based charges. Victory Brewing M.B. at 6 (citing *PPL 2012*).

The City of Scranton requested that the Commission deny the requested water tariff increase, noting that its residents are already struggling to make ends meet and the additional burden of an increase to water rates would exacerbate that situation. City of Scranton M.B. at 2.

2. Recommended Decision

The ALJs noted that PAWC currently offers water service in:

- (1) RZ-1 – the largest rate zone, with over 99% of PAWC’s total water revenue;
- (2) RZ-2 – Valley; (3) RZ-3 – SLIBCO; (4) RZ-4 – Turbotville; and (5) RZ-5 – Steelton.

The ALJs also noted that PAWC is proposing to consolidate rates for RZ-2 – Valley, RZ 3 – SLIBCO, RZ-4 – Turbotville, and RZ-5 – Steelton, with RZ-1 rates. The ALJs further noted that PAWC’s only proposed changes in volumetric rate structure are changes in the steps for volumetric rates necessary to move Steelton, Valley, and SLIBCO rate zones to RZ-1 rates. R.D. at 245-46 (citing PAWC St. 10 at 31, 35).

The ALJs agreed with I&E that PAWC’s proposed consolidation of the other rate zones into RZ-1 in the FPFTY is reasonable, with the exception of RZ-2 – Valley. The ALJs noted that this proposed change would cause a 63% rate increase for a residential customer using 3,201 gallons per month, making it twice the system average. As such, the ALJs agreed with I&E’s alternate proposal of \$1.60 per hundred-gallon usage rate for residential customers, finding that this will generate a reasonable increase on the total bill for a RZ-2 residential customer. Similarly, the ALJs agreed with I&E that its proposed adjustment to the commercial customer rate of \$1.6500 for the first 16,000 gallons, and \$1.2540 over 16,000 gallons, will generate a reasonable increase for the commercial class and, therefore, should be adopted. R.D. at 246.

The ALJs also agreed with I&E’s concerns regarding PAWC’s proposed consolidation of RZ-4 – Turbotville into RZ-1. The ALJs noted that I&E’s witness, Mr. Cline, agreed with the proposal, insofar as to consolidate residential and municipal rates with RZ-1 is reasonable. However, the ALJs pointed out that Mr. Cline determined that PAWC’s proposal, as it relates to commercial usage, would result in a 68.56% average bill increase for a RZ-4 –Turbotville customer, which is excessive when compared to the RZ-1 commercial customer. Accordingly, the ALJs agreed with Mr. Cline’s proposal to

set the RZ-4 commercial usage rates equal to the RZ-2 commercial usage rate of \$1.6500 for the first 16,000 gallons, and \$1.2540 over 16,000 gallons, so that RZ-2 and RZ-4 may be merged after this base rate case, with the goal of merging RZ-4 with RZ-1 after PAWC's next base rate case. The ALJs also agreed that this proposal will result in a far more reasonable increase than proposed by PAWC. R.D. at 246.

Separately, the ALJs agreed with PAWC that PAWLUG's proposed rate design, to increase the Industrial customer charge for customers with meters that are 6" or larger, is not cost based and should be rejected. Further, the ALJs were not persuaded by PAWLUG's counter argument that: (1) PAWC's customer charge analysis only provides a cost basis for the 5/8" meter customer charge; (2) PAWC has not established the cost-basis for the existing Industrial customer charge; and (3) the overall revenue requirement allocated to Industrial customers would not change. Moreover, the ALJs agreed with PAWC's witness, Mr. Rea, that volumetric rates for industrial customers should be designed to collect the total revenue allocated to that class, less revenue from current industrial meter charges. R.D. at 247.

The ALJs also recommended that because the Company does not oppose the higher increases for the Municipal class proposed by the OSBA and Cleveland-Cliffs, the Commission adopt this proposal. R.D. at 247.

3. Exceptions, Replies, and Dispositions

a. PAWLUG Exception No. 1 and Replies

In its Exception No. 1, PAWLUG argues that the ALJs' recommendation that the Commission approve higher increases for the Municipal class proposed by the OSBA and Cleveland-Cliffs: (1) lacks clarity as to which of the proposals would be implemented; (2) conflicts with cost-of-service principles; and (3) would result in unjust

and unreasonable rates for municipal customers, including the public colleges and hospitals in the Company's service territory. PAWLUG Exc. at 2 (citing R.D. at 247; Supplement No. 48 Tariff Water-Pa. P.U.C. No. 5, Rule 26).

PAWLUG notes that the Commonwealth Court and the Commission have repeatedly held that a utility's cost of providing service must be the guiding principle – or polestar – in utility ratemaking. PAWLUG Exc. at 2 (citing *Lloyd*; see also, i.e., *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-2008-2073938 (Order entered March 26, 2009) (*PGW 2008*)). Further, PAWLUG contends that the cost-of-service for the Municipal class was modified substantially due to a correction made by the Company. Specifically, PAWLUG notes that the original rate filing included an overstated allocation factor for the meters and services in the Municipal class, which resulted in the Municipal class cost-of-service considerably below cost-of-service at present revenues, with a Relative Rate of Return (RROR) at present revenues of 0.33. PAWLUG Exc. at 2-3 (citing PAWC St. 10-R at 2; PAWC St. 12, Exh. 12-A, Sch. B). PAWLUG continues that in Rebuttal, PAWC adjusted the Municipal class RROR at present revenues to 1.16. PAWLUG Exc. at 3 (citing Cleveland-Cliffs St. 1-R at 10).

Consequently, PAWLUG contends that the basis for the Parties' proposal, to assign a higher increase for the Municipal class, no longer exists. Further, PAWLUG notes that while both the OSBA and Cleveland-Cliffs acknowledged this correction, they continued to propose that the Municipal class absorb a higher share of revenues than proposed by the Company. PAWLUG notes that the OSBA, to moderate the rate increase for the Residential and Commercial classes, assigned costs to the Municipal class based on the results of its COSS. PAWLUG Exc. at 3 (citing OSBA St. 1-S at 19). PAWLUG further notes that Cleveland-Cliffs retracted its statement that the Municipal class should receive an increase above system average but recommends flat percentage increases for each customer class. PAWLUG Exc. at 3 (citing Cleveland-Cliffs St. 1-R at 10).

PAWLUG avers that the ALJs made no distinction between these two proposals and, while there may have been a basis to adjust the Company's proposed increase to Municipal based on the original 0.33 RROR, such a proposal is now unreasonable and contrary to *Lloyd*. Further, PAWLUG argues that following PAWC's Rebuttal COSS changes, PAWC's revenue allocation for the Municipal class makes reasonable progress towards cost-of-service and should be approved. Moreover, PAWLUG argues that due to the inconsistencies between the recommendations of Cleveland-Cliffs and the OSBA, unintended consequences are likely to result from efforts to incorporate the ALJs' directive to shift additional revenue to the Municipal class. PAWLUG Exc. at 3.

In its Replies, the OCA infers that PAWLUG is proposing that the Company's updated revenue allocation should be adopted without modification. OCA R. Exc. at 17-18 (citing PAWLUG Exc. at 3). The OCA disagrees with this proposal, arguing that contrary to PAWLUG's averment, the record demonstrates that based on the Company's corrected COSS, PAWC's revenue allocation would under-allocate costs to the Municipal class. OCA R. Exc. at 18 (emphasis omitted).

The OCA contends that at proposed rates, the system average increase is 24.6%, and the Company proposed a 16.2% increase for the Municipal class, which would leave that class short of the cost-of-service (cost-of-service is \$27.1 million, compared to revenues of \$26.2 million). However, the OCA notes that the OSBA proposed to match cost-of-service by increasing Municipal class revenues to \$27.83 million, compared to the OSBA's calculated cost-of-service of \$27.88 million. The OCA points out that because this is a 23.4% increase at PAWC's proposed revenue requirement, it is still under the system average increase of 24.6%. OCA R. Exc. at 18 (citing OSBA St. 1 at Sch. KCH-12; PAWC Exh. 12-A Revised).

The OCA notes that comparing the different proposals is complicated because different parties have different Water COSS results and proposed different amounts to be shifted under Act 11. OCA R. Exc. at 18 (citing PAWLUG Exc. at 3; PAWC St. 12, Exh. 12-A; OSBA St. 1-R at Sch. KCH-12). Thus, the OCA submits that generally, the ALJs' recommendation to assign additional revenue to the Municipal class, to more closely align cost-of-service and revenues, is reasonable and supported by the record because the resulting increase with the additional revenue would still be less than the system average. OCA R. Exc. at 18.

In its Replies, the OSBA counters that the ALJs properly recommended allocating a higher revenue increase to the Municipal class. OSBA R. Exc. at 4 (citing PAWLUG Exc. at 2-3). The OSBA notes that it took full account of the correction of PAWC's error in its initial cost allocation to the Municipal class and, consequently, recommended a revenue allocation to the Municipal class less than the system average on a percentage basis, but is not as far below the average as the Company initially proposed. OSBA R. Exc. at 4 (citing OSBA St. 1-R at 5-6; PAWLUG Sch. KCH-12 at 1). Further, the OSBA submits that the extent of PAWC's originally proposed, below-average increase to the Municipal class, as set forth in the Company's direct filing, remains unjustified despite the Company's correction. OSBA R. Exc. at 4.

b. Disposition

As noted by the ALJs, PAWC did not oppose higher increases for the Municipal class. R.D. at 247. Specifically, PAWC's witness, Mr. Rea, did not oppose the proposal of the OSBA's witness, Mr. Higgins, who initially recommended a \$5.3 million reduction to the Commercial class offset by a \$5.3 million increase to the Municipal class, and subsequently, updated his proposed revenue allocation based on the results of his rebuttal COSS. *See*, PAWC St. 10-R at 43; OSBA St. 1-S at 19 (citing OSBA St. 1-R at Sch. KCH-12); OSBA St. 1 at 35. Additionally, Mr. Rea did not oppose the alternative

revenue allocation initially proposed by Cleveland-Cliffs' witness Mr. Baudino, who recommended that at the Company's requested percentage increase of 24.6%, the Municipal (or Public) class receives an increase of 30.8%, and Residential, Commercial, Industrial, and Private Fire classes each receive an increase near the system average of 24.4%. *See*, PAWC St. 10-R at 43; Cleveland-Cliffs St. 1 at 12 (citing Cleveland Cliffs St. 1 at Exh. RAB-8). Subsequently, Mr. Baudino recommended an equal percentage increase for the Residential, Commercial, Industrial, and Municipal (or Public) classes. Cleveland-Cliffs St. 1-R at 10. Notwithstanding, the ALJs recommended that the Commission adopt the proposal of higher increases for the Municipal class, noting that PAWC did not oppose such increases. R.D. at 247.

We agree with the OCA and the OSBA that the ALJs properly recommended allocating a higher revenue increase to the Municipal class. As noted by the OCA, the record evidence supports that PAWC's revenue allocation would under-allocate to the Municipal class based on the Company's corrected COSS. *See*, OCA R. Exc. at 18. The OCA pointed out that with a system average increase of 24.6%, and PAWC proposing a 16.2% increase for the Municipal class, the cost-of-service is \$27.1 million, compared to revenues of \$26.2 million. However, the OSBA proposed an increase to Municipal (or Public) class revenues of \$27.83 million, compared to the OSBA's calculated cost-of-service of \$27.88 million, for a 23.4% increase at PAWC's proposed revenue requirement, which is still under the system average increase of 24.6%. *See*, OCA R. Exc. at 18; OSBA St. 1-R at Sch. KCH-12; PAWC St. 12, Exh. 12-A (Revised). Therefore, as noted by the OCA, assigning additional revenues to the Municipal class is reasonable because the resulting increase would be less than the system average and would move the Municipal class closer to its cost-of-service. We agree. Furthermore, we find PAWLUG's argument, that the basis for assigning a higher increase for the Municipal class no longer exists, to be meritless. Accordingly, we shall deny PAWLUG's Exception No. 1.

c. PAWLUG Exception No. 3, Cleveland-Cliffs Exception No. 1 and Replies

In its Exception No. 3, PAWLUG argues that the ALJs erred in declining to increase the industrial customer charge. PAWLUG Exc. at 4 (citing R.D. at 247). PAWLUG contends that the Company's industrial meter charges should be designed to recover the cost-of-service and, contrary to the ALJs' recommendation, the Company's proposal to not increase the industrial customer charge is not cost-based and, therefore, should be rejected. PAWLUG Exc. at 4.

PAWLUG contends that the Industrial customer charge for meters 6" and above should not be increased because such charges are higher than the customer charges applicable to the Company's residential and commercial customers.¹¹⁴ Further, PAWLUG argues that the cost for the Company's Industrial customer charge is limited to a customer cost analysis of the cost-of-service for 5/8" meters, with larger RZ-1 residential and commercial meter sizes receiving proportional increases based on that analysis. PAWLUG Exc. at 4-5 (citing PAWC St. 12-R at 13; PAWC St. 10 at 35). Accordingly, PAWLUG contends that the Company has not established a cost basis for the larger Industrial meter customer charges. PAWLUG Exc. at 5.

PAWLUG also disagrees with PAWC's position that Industrial customer charges for larger meters should not be increased because those charges are higher than current Residential and Commercial customer charges. According to PAWLUG, PAWC's position lacks a cost basis because the Company has not established a cost basis for the Residential and Commercial customer charge for meters 6" and larger. PAWLUG Exc. at 5. Further, PAWLUG avers that given the absence of a customer cost analysis for the large meter industrial customers, it is more reasonable to assign an increase rather than

¹¹⁴ We note that more than once in its Exceptions, PAWLUG does not refer to the appropriate abbreviation for inches. See, PAWLUG Exc. at 4-5.

leave the customer charge unchanged from the Company's prior rate case. PAWLUG Exc. at 5 (citing PAWLUG St. 1 at 28). Moreover, PAWLUG maintains that increasing the fixed costs would reduce revenue volatility and ensure the recovery of fixed costs. Accordingly, PAWLUG submits that its proposed rate design should be approved or, alternatively the Commission should approve Cleveland-Cliffs' proposal and increase industrial customer charges by the same percentage increase as the industrial volumetric charges. PAWLUG Exc. at 5 (citing PAWLUG M.B. at 26; Cleveland-Cliffs M.B. at 7).

In short, PAWLUG submits that the Company's proposal to preserve the current Industrial customer charge and apply all of the Industrial class revenue increase to volumetric rates should be denied because it is not cost-based and is unsupported and unreasonable. However, PAWLUG notes that if the Commission approves the Company's recommendation to preserve the existing Industrial class customer charges, then the proportional scale back supported by PAWC should be applied solely to the volumetric Industrial rates. PAWLUG Exc. at 5.

In its Exception No. 1, Cleveland-Cliffs argues that the ALJs: (1) incorrectly asserted that the Company's proposal aligns more closely with cost-of-service than the rate design proposals of PAWLUG, Victory Brewing, and Cleveland-Cliffs; (2) did not reasonably address concerns related to the industrial rate design; and (3) incorrectly asserted that PAWC's proposal to not increase the existing industrial meter charges and instead seek to collect the entirety of the industrial revenue increase through the volumetric charges is more reflective of Company's cost-of-service testimony than the proposals of the industrial parties. Cleveland-Cliffs Exc. at 1-2 (citing R.D. at 247). Cleveland-Cliffs maintains that the Company's proposed rate design would collect even more costs through volumetric rates, which moves in the opposite direction of cost-causation. Cleveland-Cliffs Exc. at 2 (citing PAWC St. 10 at 86).

Cleveland-Cliffs argues that its proposal, and the proposals of PAWLUG and Victory Brewing, would result in a modest movement toward the Company's cost-of-service. Specifically, Cleveland-Cliffs maintains that PAWLUG's proposal to approximately double the industrial meter charges and provide for smaller percentage increases to the volumetric charges is a step toward cost-of-service and would ensure that more fixed costs would be collected through a meter charge. Cleveland-Cliffs Exc. at 2-3 (citing PAWLUG St. 1 at 28). Accordingly, Cleveland-Cliffs repeats its position that the Commission should approve PAWLUG's proposed rate design for the Industrial class or increase the customer charges for the Industrial class by the same percentage as the volumetric charges. Cleveland-Cliffs Exc. at 3.

d. Disposition

Both PAWLUG and Cleveland-Cliffs disagree with the ALJs' recommendation that the Commission reject PAWLUG's proposal to increase the meter charge for Industrial customers. PAWLUG Exc. at 4; Cleveland-Cliffs Exc. at 2-3. PAWLUG's witness, Ms. LaConte, proposed to decrease the volumetric rate and increase the Industrial customer charge to reduce revenue volatility and provide a more stable and reliable revenue stream by recovering more costs through a fixed charge, which will reduce the possibility of the Industrial class paying more than its cost to serve if sales are higher than projected. PAWLUG St. 1 at 28-29. Cleveland-Cliffs' witness, Mr. Baudino, argued that fixed costs should be collected through fixed charges, and proposed that an equal percentage increase be applied to both meter charges and volumetric charges for the Industrial class. Cleveland-Cliffs St. 1 at 14. As such, Cleveland-Cliffs recommended that the Commission either increase Industrial customer charges by the same percentage as Industrial volumetric charges or approve Ms. LaConte's rate design proposal for the Industrial class. Cleveland-Cliffs M.B. at 7.

We concur with the ALJs that PAWLUG's proposal, to increase the Industrial customer charge for customers with meters that are 6" or larger, should be rejected. Contrary to the proposals of PAWLUG's witness, Ms. LaConte, and Cleveland Cliffs' witness, Mr. Baudino, PAWC's witness, Mr. Rea, supported the Company's proposal to leave the monthly meter charges for the Industrial class unchanged. As noted by the ALJs, Mr. Rea explained that volumetric rates for industrial customers should be designed to collect the total revenue allocated to the Industrial class less revenue from current Industrial meter charges. PAWC St. 10-R at 47. We agree. Further, Mr. Rea provided that Ms. LaConte's proposal has no apparent basis in cost and would result in Industrial meter charges more than four times the proposed Residential and Commercial meter charges. Mr. Rea also testified that PAWC did not propose any changes to meter charges for the Industrial and Other Water Utilities classes because those charges are already more than double the Company's proposed meter charges for residential and commercial charges for meter sizes 4" and above. PAWC St. 10-R at 45. We find Mr. Rea's testimony persuasive. Moreover, we agree with the ALJs that PAWLUG's argument in response to the Company's position – PAWC's customer charge analysis only provides a cost basis for the 5/8" meter customer charge; PAWC has not established the cost-basis for the existing Industrial customer charge; and PAWC's overall revenue requirement allocated to Industrial customers would remain unchanged – is not persuasive. *See*, R.D. at 247; *see also*, PAWLUG M.B. at 27.

On review, we find that PAWLUG and Cleveland-Cliffs have not provided sufficient analysis to support their position that PAWLUG's proposed rate design for the Industrial class should be approved or that Industrial customer charges should be increased. Thus, as the ALJs observed, PAWLUG's proposal to increase the Industrial customer charge for customers with meters that are 6" or larger should be rejected. Furthermore, to the extent that Cleveland-Cliffs argues that the ALJs did not reasonably address concerns regarding the Industrial rate design, we find this argument is meritless.

Accordingly, we shall deny PAWLUG's Exception No. 3 and Cleveland-Cliffs' Exception No. 1.

H. Tariff Structure – Wastewater Rate Design

1. Positions of the Parties

Regarding wastewater SSS Operations, PAWC submitted that the Commission should reject I&E's and the OCA's proposed increases to wastewater SSS rates, *infra*, which include their COSS recommendations and modifications to the Company's Act 11 allocation, for the reasons set forth in the Rate Structure and Rate Design Section of PAWC's Main Brief, under the Cost-of-Service Studies Section and the Revenue Allocation and Act 11 Section. PAWC M.B. at 64 (citing I&E St. 3, Sch. 3; OCA St. 4 at 39, 46-48). PAWC added that the recommendations of I&E's witness, Mr. Kubas, do not account for the affordability for wastewater SSS customers. As such, PAWC also submitted that the Commission should reject I&E's and the OCA's proposed reduction to the residential service charge, to be consistent with charges to other residential customers. Furthermore, PAWC submitted that the Commission should reject Mr. Kubas' recommended charges for unmetered service and rates for special flat rate customers, to be consistent with the overall increase for the wastewater SSS group. PAWC M.B. at 64 (citing OCA St. 10-R at 58-59).

PAWC submitted that its proposed 9.9% increase in rates over two years (resulting in an annual increase of approximately 4.45%) for seven bulk wastewater customers that are served by the York system, referred to as York Bulk Customers (YBCs), is reasonable and justified because YBCs have viable and competitive alternatives to receiving service from the Company. PAWC noted that the YBCs consist of: (1) The York Water Company, which is the owner of the former West York Borough Collection System; (2) Springettsbury Township; (3) North York Borough; (4) York

Township; (5) Manchester Township; (6) West Manchester Township; and (7) Spring Garden Township. PAWC M.B. at 64 (citing PAWC St. 6-R at 18; PAWC St. 3 at 66-69). According to PAWC, the proposed rate increases will cover the variable costs of bulk treatment service and contribute to the total fixed costs incurred to furnish wastewater service to retail customers in PAWC's wastewater SSS Operations. PAWC M.B. at 64-65 (citing PAWC St. 12 at 9). Further, PAWC averred that the Company presented substantial evidence regarding the competitive alternatives available to YBCs, including affidavits showing that the YBCs had competitive alternatives at the time of the acquisition of the York system and continue to have alternatives to bulk wastewater service. PAWC M.B. at 65 (citing PAWC St. 6-R at 19-22; PAWC Exh. ECA-1R (CONFIDENTIAL); PAWC Exh. ECA-2R). As such, PAWC submitted that the Commission should deny I&E's proposed rate increase for the YBCs. PAWC M.B. at 65.

PAWC added that the YBCs have greater bargaining power because they negotiated as a block and, if the Company had refused to enter into a uniform contract with all of the YBCs, then the Company would have lost all of the bulk customers. PAWC submitted that given these circumstances, it is inappropriate to consider whether the rate charged to one given bulk customer maximizes the amount of revenue that the Company could have received from that particular customer. PAWC M.B. at 66.

With respect to CSS wastewater and BASA operations, PAWC averred that the Commission should accept the Company's proposed rate design for BASA. PAWC M.B. at 67. PAWC further averred that the Commission should reject I&E's and the OCA's below recommendations pertaining to CSS wastewater operations, which include higher rates for City of Scranton than proposed by the Company. PAWC submitted that the Company proposed City of Scranton CSS rates consistent with the purchase agreement for that system, and any increase in rates for City of Scranton customers directed by the Commission should be just, reasonable, and consistent with the concept of gradualism to avoid rate shock. PAWC M.B. at 67-68 (citing PAWC St. 4-R at 12-13).

I&E provided that the goal of its witness, Mr. Kubas, was to reduce the revenue shortfall of \$31,962,411, created by PAWC's proposal to decrease present rate revenue by \$169,253, or 0.2%, from \$95,470,866 to \$95,301,613. PAWC M.B. at 80 (citing I&E St. 4 at 15-17). I&E averred that it is unreasonable to subsidize wastewater customers to the extent proposed by the Company because most Company water customers are not wastewater customers. *See*, OCA M.B. at 80 (citing OCA St. 1 at 7). As such, Mr. Kubas recommended a total increase in the wastewater SSS system of \$32,265,198, which results in a remaining subsidy in the wastewater SSS Operations of \$321,682. Further, Mr. Kubas noted that he used the Company's COSS to develop the various wastewater rates that move the relative rate of return of each class towards 1.0. I&E M.B. at 80 (citing I&E St. 4 at 17).

Regarding Wastewater SSS Operations, I&E posited that customers in the following locations should receive a higher percentage increase than proposed by PAWC: (1) Caln, West Brandywine (WB), the VA Medical Center (VA), and St. Lawrence Borough (St. Lawrence) in RZ-1; and (2) various Bulk contracts in RZ-7. I&E M.B. at 80 (citing PAWC Vol. 9, Exh. 10-B at 31). Further, I&E averred that class rates should be based on cost; however, upon applying the Company's proposed increase, the RROR for these customers is 0.87, which demonstrates they are not paying their cost to serve. I&E M.B. at 80-81 (citing I&E St. 3 at 45). As such, Mr. Kubas recommended rates to move these customers closer to the cost to serve. Specifically, Mr. Kubas recommended a monthly charge of \$456.50 and a usage rate of \$1.680 per hundred gallons for Caln, West Brandywine, and the VA. Mr. Kubas further recommended that in accordance with the general tariff provision requiring all customers to pay a monthly customer charge, the Company begin to charge St. Lawrence a monthly customer charge of \$456.50. I&E M.B. at 81 (citing I&E St. 3 at 46).

I&E submitted that the rates for YBCs must be increased to move these customers close to their cost to serve because PAWC has not provided sufficient evidence

to demonstrate that YBCs have a competitive alternative. As such, Mr. Kubas recommended further increases of approximately 50% to the Company's proposed increases to the YBC usage rates, resulting in a subsidy of \$7,999,227. I&E M.B. at 81-82 (citing I&E Exh. 3, Sch. 3 at 2; I&E St. 3 at 49, 53). Mr. Kubas added that this subsidy should continue to be decreased in future cases. I&E M.B. at 82 (citing I&E St. 3 at 53).

Regarding CSS wastewater operations, I&E submitted that the goal of Mr. Kubas was to reduce the subsidy of \$16,007,052, created by PAWC's proposal to decrease present rate revenue by \$226,926, or 0.3%, from \$78,636,222 to \$78,409,294. PAWC M.B. at 82 (citing PAWC Vol. 9, Exh. 10-C at 1, 3-38; I&E Exh. 3, Sch. 17 at 1). As such, Mr. Kubas recommended a total increase in the CSS wastewater system of \$15,744,287, which reduces the CSS wastewater operations subsidy to \$35,835. I&E M.B. at 82 (citing I&E St. 3 at 57-58; I&E Exh. 3, Schs. 1, 16).

I&E submitted that its proposed rates all serve to move customers closer to their cost to serve and represent reasonable increases. Therefore, I&E recommended their rates should be adopted. I&E M.B. at 83.

The OCA's witness, Mr. Mierzwa, provided that the Company's volumetric rate proposals should be proportionately adjusted to recover the cost-of-service approved by the Commission for: (1) each current wastewater SSS and CSS wastewater customer class; and (2) any revenue deficiency resulting from the adoption of his monthly residential customer charge recommendations for wastewater SSS and CSS wastewater residential customers. OCA St. 4 at 48. Further, the OCA agreed with PAWC that if the Commission approves the Company's proposal to delay the effective date for new rates for certain wastewater rate zones, then it should also adopt the Company's proposal to impute revenues by calculating the proof of revenues as if the customers were paying the new rates without any delay. OCA M.B. at 80 (citing PAWC St. 4-R at 12; OCA St. 4

at 49-50). The OCA added that this is necessary to prevent other ratepayers from paying the cost of rate commitments that the Company chose to make in its agreements to purchase those systems. OCA M.B. at 80.

The City of Scranton submitted its opposition to Mr. Kubas' recommendations because, according to the City of Scranton, Mr. Kubas' recommendations include higher rates than PAWC's proposed rates. The City of Scranton agreed with the Company that first, Scranton CSS wastewater rates remain consistent with the purchase agreement for that system. Further, the City of Scranton requested that the Commission refrain from increasing costs for the City of Scranton, particularly given the terms of the Asset Purchase Agreement. Second, if the Commission considers any increase in wastewater rates for Scranton CSS ratepayers, then that increase should be just, reasonable, and consistent with the concept of gradualism and rate shock. City of Scranton M.B. at 1.

2. Recommended Decision

The ALJs summarized that the Company provides the following rate schedules in the following rate zones: (1) SSS, which includes RZ-1 – PAWC Statewide; RZ-2 – New Cumberland; RZ-5 – Valley; RZ-7 – York; Rate Zone 8 (RZ-8) – Foster Township; and Rate Zone 9 (RZ-9) – Royersford; and (2) CSS, which includes RZ-3 – Scranton, RZ-4 – Kane, and Rate Zone 6 (RZ-6) – McKeesport. The ALJs also noted that PAWC proposed the following: (1) under the provisions of Act 11, to reallocate a portion of the wastewater revenue requirement calculated in this case to its water service customers; (2) to move all CSS wastewater customers, with the exception of the Scranton system, to a single tariff with a single set of rates; (3) to move New Cumberland and Valley to wastewater SSS RZ-1; (4) to set fixed charges to be the same for all wastewater customers, unless prohibited by prior agreement; and (5) to move rates in the wastewater SSS group for the York and Royersford system closer to RZ-1 rates.

R.D. at 254 (citing PAWC St. 10 at 36-37, 40-41). The ALJs also summarized PAWC's proposal for wastewater service rate design and tariff consolidation. R.D. at 254-55 (citing PAWC St. 10 at 41-42). Moreover, the ALJs noted that PAWC proposed to change the Company's current methodology of the volumetric component of bills for residential customers from being based on total metered usage for a month to winter averaging. R.D. at 255 (citing PAWC St. 10 at 42).

The ALJs agreed with the testimony of the OCA's witness, Mr. Mierzwa, that the Company's volumetric rate proposals should be proportionately adjusted to recover the cost-of-service approved by the Commission for each current wastewater SSS and CSS wastewater customer class. R.D. at 255-56 (citing OCA St. 4 at 48). Further, the ALJs responded to I&E's proposal to increase YBCs' rates by approximately 50% because, according to I&E, PAWC's argument that competitive alternatives for YBCs is speculative. Specifically, the ALJs found that based on the pertinent testimony of PAWC's witness, Mr. Aiton, it is "more than speculative" to conclude that YBCs do not have competitive alternatives. Accordingly, the ALJs recommended that the Commission reject I&E's proposed rate increase for the YBCs. R.D. at 256-57 (citing PAWC St. 3 at 66-67).

At the same time, however, the ALJs concurred with the recommendation of I&E's witness, Mr. Kubas, that PAWC begin to charge St. Lawrence a monthly customer charge, to ensure that St. Lawrence contributes appropriate revenues to fund the Company's direct and indirect customer costs for service. R.D. at 257 (citing I&E M.B. at 80-81). The ALJs recommended that the Company charge St. Lawrence the same service charge per month that the Commission approves for other Wastewater SSS RZ-1 bulk metered usage customers, including Caln, West Brandywine, and the VA Medical Center, that have special rates for bulk metered usage. R.D. at 257.

3. Exceptions, Replies, and Dispositions

a. I&E Exception No. 4 and Replies

In its Exception No. 4, I&E contends that the ALJs erred in recommending that the Commission reject I&E's proposal to increase the rates for YBCs by approximately 50%. I&E repeats its argument that YBCs should be paying a rate that is closer to the cost to serve because "it is at best speculative that these customers have competitive alternatives." I&E Exc. at 9.

I&E reiterates its position that rates for YBCs must be increased to move those customers close to their cost to serve because PAWC has not provided sufficient evidence to demonstrate that YBCs have a competitive alternative. As such, I&E repeats its recommendation to decrease the subsidy and, after applying Mr. Kubas' proposed rate design, the YBCs continue to receive a \$7,999,227 subsidy. I&E Exc. at 9-10 (citing I&E St. 3 at 34, 49).

I&E disagrees with the ALJs claim that the testimony of PAWC's witness, Mr. Aiton, provides assurance that there is a competitive alternative. I&E Exc. at 10 (citing R.D. at 256-57). According to I&E, PAWC's claims concerning the viable competitive alternative are "unsupported" because PAWC failed to describe the alternative and failed to provide the fixed costs or variable costs these customers would incur to utilize the alternative. I&E Exc. at 10 (citing I&E St. 3-SR at 31-32; I&E St. 3 at 48). Further, I&E posits that having an alternative is not the same as having an alternative that is both viable and competitive. I&E Exc. at 10 (citing I&E R.B. at 34).

I&E repeats that PAWC has not provided evidence of the competitive alternative. Instead, I&E avers that PAWC has continued to request that the Commission rely on the customer's threat to leave the system. Further, I&E posits that if a viable

competitive alternative exists, then the Company must demonstrate what that alternative is because the cost to serve YBCs is allocated to other PAWC customers. As such, I&E contends that “something more than an unsubstantiated threat to leave the system should be necessary in order for that subsidy to be imbedded in rates.” I&E Exc. at 11. Accordingly, I&E argues that the Commission should reject the ALJs’ recommendation and approve the YBCs rates as proposed by Mr. Kubas. I&E Exc. at 10-11.

In its Replies, PAWC counters that I&E’s argument was considered and rejected by the ALJs at the hearing because I&E’s witness admitted that YBCs have competitive alternatives. PAWC R. Exc. at 19 (citing R.D. at 256-57). PAWC contends that contrary to I&E’s assertion, the record fully supports the ALJs’ finding that the YBCs have competitive alternatives. Further, PAWC refers to the ALJs’ finding that the YBCs are in close geographic proximity, meaning that YBCs could enter, or already have entered, into intermunicipal flow agreements to transmit wastewater flow between themselves and to other surrounding municipalities with existing treatment capacity, instead of sending their flows to the York wastewater treatment plant. PAWC R. Exc. at 19 (citing R.D. at 256; PAWC St. 3 at 66-67). Moreover, PAWC points out that its witness, Mr. Abruzzo, testified that YBCs had competitive alternatives when the Company acquired the York system in 2021, and when the Company litigated its 2022 rate case. PAWC R. Exc. at 19 (citing PAWC St. 6-R at 19-22). Furthermore, PAWC reiterates that the record evidence includes affidavits from the YBCs demonstrating that they had competitive alternatives in the recent past and continue to have alternatives to bulk wastewater service from PAWC today. PAWC R. Exc. at 19-20 (citing PAWC Exh. ECA-2R).

PAWC disputes I&E’s argument that the ALJs’ finding is speculative because PAWC did not present any evidence on what costs the YBCs would incur to exercise their competitive alternatives. PAWC R. Exc. at 20 (citing I&E Exc. at 10-11). PAWC counters that contrary to I&E’s argument otherwise, the Company is only required

to introduce evidence that competitive alternatives exist. Further, PAWC reiterates that the Company's proposed rates for the YBCs cover the variable costs of bulk treatment service and provide a meaningful contribution to the total fixed costs incurred to furnish wastewater service to retail customers. PAWC Exc. at 20 (citing PAWC R.B. at 55; PAWC M.B. at 64-67). Moreover, PAWC contends that because the YBCs contribute about 54% of the treatment flows to the system, the loss of these customers would necessitate a rate increase for retail customers and have an adverse impact on the operation of the wastewater treatment plant. Accordingly, PAWC submits that the ALJs' recommendation to increase rates consistent with the existing agreements between the Company and the YBCs is just and reasonable. PAWC R. Exc. at 20.

b. Disposition

As previously noted, the ALJs were not persuaded by I&E's position that YBC rates should be increased by approximately 50%. According to I&E, PAWC's argument that YBCs have competitive alternatives is speculative at best. R.D. at 256. The ALJs reasoned that it is more than speculative to conclude that YBCs do not have competitive alternatives. We concur with the ALJs' reasoning.

As discussed by the ALJs, PAWC's witness, Mr. Aiton, provided testimony to substantiate its claim that YBCs that have entered into wastewater treatment and conveyance agreements to treat their wastewater flows at the York wastewater treatment plant (WWTP) have competitive alternatives to PAWC service. Specifically, Mr. Aiton provided that:

The [YBCs] are in close geographic proximity – which means that they could enter into (and have in some circumstances already entered into) intermunicipal flow agreements to transmit wastewater flow between themselves and to other surrounding municipalities with existing treatment capacity, instead of sending their flows to the York WWTP. The

[YBCs] are sophisticated, knowledgeable, and experienced. Therefore, they could divert flows to alternative treatment providers or develop a new treatment system.

In the proceeding for approval of PAWC's acquisition of the York wastewater system at Docket Nos. A-2021-3024681 et al. ("Acquisition Proceeding"), the [YBCs] opposed the transaction and testified that [they] were planning for a competitive alternative to bulk treatment service from PAWC. As witnesses for the [YBCs] explained in their testimony in the Acquisition Proceeding and discussed in detail by Company witness Bernard D. Grandusky in Statement No. 7-R submitted on August 19, 2022 in PAWC's 2022 rate case, unless PAWC entered into the Bulk Agreements on the terms and rates set forth in those contracts, each of the [YBCs] would leave the York System after PAWC's acquisition and pursue alternative treatment.

PAWC St. 3 at 66-67. Further, the Company's witness, Mr. Abruzzo, provided testimony that PAWC presented evidence demonstrating the competitive alternatives available to YBCs, including affidavits showing that the YBCs had competitive alternatives at the time of the acquisition of the York system. PAWC St. 6-R at 19; PAWC Exh. ECA-2R. Moreover, in the *PAWC 2022* proceeding, I&E proposed to increase the rates for the YBCs by 50% because of the lack of competitive alternatives. However, I&E subsequently withdrew that proposal in response to PAWC's rebuttal testimony. PAWC St. 6-R at 19-22. Thus, we find the ALJs' recommendation to reject I&E's proposed rate increase for the YBCs reasonable. Therefore, I&E's Exception No. 4 is denied.

c. I&E Exception No. 6 and Replies

In its Exception No. 6, I&E argues that the ALJs did not address whether its proposed wastewater rates are adopted in total. According to I&E, the ALJs did not address several aspects of I&E's wastewater rate design, including PAWC's proposal that the Commission reject Mr. Kubas' recommended charges for unmetered rates. I&E Exc.

at 15 (citing R.D. at 247). Accordingly, I&E requests that for clarification and in conjunction with granting I&E's Exceptions related to rate design, the Commission affirmatively adopt I&E's wastewater rate design in total. I&E Exc. at 15 (citing I&E M.B. Appendix B at 2-6). I&E adds that its proposed rates should be adopted because they serve to move customers closer to their cost to serve and represent reasonable increases. I&E Exc. at 15.

In its Replies, PAWC states that to the extent the ALJs did not explicitly approve a proposed modification to the Company's rate design, the Commission should approve the rate design proposed by the Company. PAWC R. Exc. at 17, n. 79.

d. Disposition

At the onset, we will address I&E's claim that the ALJs failed to address "various aspects of the I&E wastewater rate design." I&E Exc. at 15. We note that the ALJs were aware of the position and arguments put forth by I&E; however, it is up to the ALJs to determine whether, and to what extent, further discussion and analysis is warranted. *See, Aqua 2022* at 112-13. Here, it appears that the ALJs did not believe that further consideration of I&E's wastewater rate design proposal was necessary. Accordingly, to the extent that I&E claims that the ALJs overlooked I&E's wastewater rate design, we find that this argument is without merit.

To summarize, and for the purposes of clarity, the ALJs agreed with the OCA that the volumetric rates proposed by PAWC should be proportionately adjusted to recover the cost-of-service approved by the Commission for the wastewater SSS and CSS wastewater customer classes. R.D. at 255. Further, the ALJs recommended that the Commission reject I&E's proposed rate increase for the YBCs. R.D. at 256-57. The ALJs also agreed with I&E that PAWC should be directed to begin charging St. Lawrence a monthly customer charge, to ensure that St. Lawrence contributes appropriate revenues

to fund PAWC's direct and indirect customer costs for service. R.D. at 257. Additionally, the ALJs recommended that PAWC charge St. Lawrence the same service charge per month that the Commission approves for other wastewater SSS Rate Zone 1 bulk metered usage customers that have special rates for bulk metered usage, including Caln, West Brandywine, and the VA Medical Center. *Id.* Based on the forgoing, I&E's Exception No. 6 is denied.

I. Tariff Structure – Winter Averaging Proposal

1. Positions of the Parties

PAWC proposed to change the way that the Company determines the volumetric component of residential customer bills to a winter averaging methodology, to more closely align wastewater bills in the summertime with cost-causation design principles. PAWC explained that winter averaging is a method for determining the volumetric components of wastewater bills that attempts to separate metered water usage that is likely to go through the wastewater system from water usage that is used for outdoor purposes in the summer. PAWC further explained that under winter averaging, a customer's bill in the wintertime is determined by actual metered water usage for the month, and in the summertime the customer's bill is determined by the lesser of the actual metered water usage for the month or the average water consumption for that customer in the winter months of January, February, and March. PAWC noted that the winter averaging calculation will be customized for each individual customer, and the methodology will be the same for all customers, but the calculations will be completed on an individual basis so that each customer will be billed based on their winter average usage and not the average monthly usage for all residential customers. PAWC St. 10 at 42-45.

In response to I&E's below recommendation that winter averaging only be approved as a temporary program, PAWC countered that such an implementation would require "shadow billing," which would require the Company to develop two sets of billing determinants, two sets of rates, and two different bill calculations for each wastewater customer, in order to provide a comparative analysis of bills and revenues with and without winter averaging. PAWC R.B. at 56 (citing Tr. at 2010-11). Further, PAWC provided that although higher-income customers are more likely to benefit more from winter averaging by having greater seasonal water usage in the summertime for which they would no longer be billed for wastewater service, this is a fair result supported by cost causation and does not mean that low-income customers will not benefit from winter averaging. PAWC R.B. at 56-57 (citing PAWC St. 10-R at 54-55). As such, PAWC submitted that winter averaging will benefit all customers and is reflective of cost-causation. PAWC M.B. at 68 (citing PAWC St. 10-R at 55).

According to I&E, wastewater usage is currently based upon actual water usage, but PAWC is proposing a winter averaging plan where the wastewater usage volume for a residential customer be adjusted downward to account for water purchased but not entering the wastewater system. I&E M.B. at 83. Initially, I&E proposed two conditions related to the Company's winter averaging proposal: (1) because the program is designed to help only residential wastewater customers, none of the revenue shortfall from this proposal be recovered from other wastewater customers or water customers; and (2) the Commission determine that the proposal is approved as a temporary program, thereby allowing the resulting revenue impacts to be evaluated in the first rate case following the program's implementation. I&E M.B. at 84 (citing I&E St. 3 at 55-56). Subsequently, I&E recommended that the program not be approved because, according to I&E, the Company does not want to track multiple sets of numbers under a temporary program. I&E M.B. at 85 (citing I&E St. 3-SR at 38). I&E also referred to the arguments of the OCA and CAUSE-PA to aver that this program has the potential to have a disproportionate impact on low-income customers. I&E M.B. at 85-86 (citing OCA

St. 5 at 98, 105; CAUSE-PA St. 1 at 13). As such, I&E submitted that PAWC's proposed winter averaging program should be rejected in its entirety. I&E M.B. at 86 (citing I&E St. 3-SR at 38-39).

The OCA submitted that the Company's proposal to change the way it determines the volumetric component of bills for residential wastewater customers should be rejected because the proposal would disproportionately harm low-income customers. OCA M.B. at 80-81 (citing OCA St. 4-SR at 19-20; OCA St. 4 at 40-44; OCA St. 5-SR at 9-11; OCA St. 5 at 97-109; CAUSE-PA St. 1 at 13-14; I&E St. 3-SR at 38-39). The OCA averred that the record shows that customers who will pay the increase in charges are disproportionately likely to be low-income. Further, the OCA asserted that the Company has failed to demonstrate that its proposed methodology for recognizing outdoor usage would reasonably achieve its stated purpose. OCA M.B. at 81. Specifically, the OCA contended that the Company's data shows there is not a substantial variability in residential water bills (and thus in residential consumption) between the PAWC-defined "winter months" and the remaining nine "non-winter" months. OCA M.B. at 81-82 (citing OCA St. 5 at 97-99; OCA St. 5 at 99-101; OCA St. 4 at 43-44). As such, the OCA submitted that the Company's proposed methodology should be rejected. However, the OCA averred that if PAWC's proposal is adopted, then the volumetric charges should be made subject to the same low-income discounts to which other PAWC volumetric charges are subject. OCA M.B. at 82 (citing OCA St. 5 at 109).

CAUSE-PA averred that the Company's proposed winter averaging methodology is inequitable and contrary to the public interest because it improperly favors customers: (1) that reside in larger properties and have greater levels of discretionary water usage in the non-winter months; and (2) with summer vacation homes and swimming pools, which may have low average usage in the winter months. As such, CAUSE-PA submitted that PAWC's proposal to change the way it determines the

volumetric component of bills for residential wastewater customers should be rejected because it would shift costs from higher income customers with greater discretionary usage onto lower income customers. CAUSE-PA M.B. at 25-26 (citing CAUSE-PA St. 1 at 13).

According to CAUSE-PA, the Company's winter averaging methodology is flawed because it assumes that: (1) outdoor water usage does not impact wastewater system costs, without consideration of whether a given system is combined stormwater and wastewater; (2) increased summer water usage is all attributable to outdoor water usage, without consideration of a customer's average winter usage; and (3) customers with a vacation home used primarily in the summer months, families with children returning from college for summer vacation, and other households with higher summer usage would be charged the lower winter rates over the course of 12 months. CAUSE-PA M.B. at 26 (citing CAUSE-PA St. 1 at 13). Further, CAUSE-PA noted the OCA's assertion that the Company has not presented a legitimate basis to overcome concerns related to adverse impacts on low-income customers. CAUSE-PA M.B. at 26-27 (citing OCA St. 5-SR at 11). Moreover, CAUSE-PA noted that the Act 11 equity issues are relevant to this discussion because the Company is proposing to shift wastewater costs from higher income customers to lower income customers while, concurrently, shifting costs from wastewater customers onto water customers. As such, CAUSE-PA submitted that the Company's proposed winter averaging methodology should be rejected because it is unreasonable and contrary to the public interest. CAUSE-PA M.B. at 27 (citing CAUSE-PA St. 1 at 13-14).

2. Recommended Decision

The ALJs agreed with I&E, the OCA, and CAUSE-PA that the Company's winter averaging proposal should be rejected. Specifically, the ALJs agreed with the OCA that PAWC failed to show that its proposed methodology for recognizing outdoor

wastewater usage would reasonably achieve its stated purpose. Further, the ALJs were persuaded by the legitimate concerns raised by both the OCA and CAUSE-PA that the Company's winter averaging proposal might have a disproportionate and adverse impact on low-income customers. R.D. at 264.

The ALJs noted that the Company rejected I&E's suggestion that the winter averaging program be approved on a temporary basis until the Company's next base rate case, to allow interested parties and the Commission an opportunity to evaluate whether this program achieved its stated goals. The ALJs found that PAWC's unwillingness to track the information needed for evaluation of the program during the next base rate case does not instill confidence in the proposal. Accordingly, the ALJs recommended that the Commission reject the Company's winter averaging proposal. R.D. at 264-65.

3. PAWC Exception No. 13 and Replies

In its Exception No. 13, PAWC disagrees with the ALJs' recommendation to deny the Company's winter averaging proposal for wastewater customers. PAWC Exc. at 32 (citing R.D. at 264-65). PAWC repeats that it proposed winter averaging to more closely align wastewater bills with cost-causation, adding that it will address the concern of several customers regarding charges for seasonal outdoor water usage. PAWC Exc. at 32 (citing R.D. at 49-52). Further, PAWC maintains that contrary to criticism and assertions otherwise, winter averaging will benefit customers and more closely align summer wastewater bills with cost-causation rate design principles. PAWC Exc. at 33 (citing R.D. at 259-64; PAWC St. 10 at 43-44). Moreover, PAWC submits that the ALJs failed to address the record evidence that the winter averaging proposal: (1) is statistically supported; (2) will benefit both higher- and lower-income customers; and (3) has been successfully implemented by other utilities, including Company affiliates, in other jurisdictions to the benefit of customers. PAWC Exc. at 33 (citing PAWC R.B. at 56-57; PAWC St. 10 at 43-44).

In its Replies, I&E agrees with the ALJs' recommendation to deny PAWC's winter averaging proposal for wastewater customers. I&E R. Exc. at 14 (citing R.D. at 264-65). I&E argues that PAWC has offered no explanation regarding why the ALJs' analysis is incorrect but instead maintains that winter averaging will more closely align summer wastewater bills with cost causation. Accordingly, I&E submits that the Commission must deny PAWC's winter averaging proposal. I&E R. Exc. at 14.

In its Replies, the OCA agrees with the ALJs' recommendation to reject PAWC's proposal to change the way that it determines the volumetric component of bills for residential wastewater customers because: (1) PAWC failed to demonstrate that it would reasonably achieve its stated purpose; and (2) the methodology would disproportionately and adversely impact low-income customers. OCA R. Exc. at 18-19 (citing R.D. at 264-65).

The OCA disagrees with the Company's argument that the ALJs failed to address the Company's position that the proposed methodology: (1) is statistically supported; (2) will benefit both higher- and lower-income customers; and (3) has been implemented by utilities in other states. OCA R. Exc. at 19 (citing PAWC Exc. at 33). Specifically, the OCA counters that the statistics that the Company based its claim on demonstrate that the difference between residential customers' usage during the winter average period, when compared to their usage during the remaining months, ranged from 100 to 173 gallons per month during the past few years, or approximately 2.4 gallons per day. OCA R. Exc. at 19 (citing OCA St. 4 at 43-44, Table 6). Further, the OCA notes that similarly, the Company's data shows that there is not a substantial variability on a bill basis. For example, the OCA offers that the three-month average median bill of \$62.06 during the "winter months," as defined in PAWC's proposal, did not substantially differ from the average of the median bills for the remaining nine months of \$63.49. The OCA continues that the median residential bill for January 2023 of \$67.43 was identical to the median residential bills in both June 2023 and July 2022, and higher than the median

residential bills in each of the other seven non-winter months. OCA R. Exc. at 19 (citing OCA St. 5 at 98-99). The OCA adds that an extra shower and loads of wash fully account for the Company's historic difference between residential winter and summer water usage, given that the average shower uses 17.2 gallons of water and a standard washing machine uses 20 gallons of water per load. OCA R. Exc. at 19 (citing OCA St. 4 at 43).

The OCA points out that PAWC conceded that higher income customers are more likely to benefit from the winter averaging proposal because they are more likely to be absent from their homes during the winter. Further, the OCA notes that PAWC did not dispute that, where residential customers have higher usage in the summer months not due to outdoor usage but because they are absent from their homes in the winter, PAWC's winter averaging proposal would understate summer months usage that flows through the sewer system. Moreover, the OCA argues that contrary to the Company's averment that the purpose of its winter averaging proposal is to shift costs from higher-income customers to lower-income customers, the unrebutted evidence shows that customers who will pay the increase in charges are disproportionately likely to be low-income. OCA R. Exc. at 19-20 (citing OCA M.B. at 81-82; PAWC St. 10-R at 55).

The OCA also argues that adoption of some form of winter averaging in other jurisdictions does not warrant approval of PAWC's proposed winter averaging methodology and the various assumptions about summer usage on which the methodology is based. Accordingly, the OCA submits that the ALJs' recommendation that the Commission reject PAWC's proposal is supported by the disproportionate harm to the low-income wastewater customers who will bear the burden of foregone revenue created by winter averaging, with little opportunity to be the recipient of any reduced bills. OCA R. Exc. at 20 (citing R.D. at 264-65; OCA M.B. at 80-82; OCA R.B. at 55-56). The OCA adds that if the Company's proposed winter averaging methodology is adopted, then the volumetric charges should be made subject to the same low-income

discounts to which other PAWC volumetric charges are subject. OCA R. Exc. at 20 (citing OCA M.B. at 82; OCA St. 5 at 109).

In its Replies, CAUSE-PA argues that the Commission should affirm the ALJs' recommendation rejecting the Company's proposed winter averaging methodology. CAUSE-PA notes that the Company's proposal allegedly attempts to separate indoor water usage from outdoor water usage (such as landscaping and swimming pools) that is not necessarily passed through wastewater systems. Further, CAUSE-PA explains that under the Company's winter averaging proposal, a customer's wastewater bill in the winter averaging months of January-March, would be determined by actual metered water usage for the month. In non-winter months, a customer's wastewater bill would be based on the lesser of their actual monthly metered water usage or the average water usage for that customer for the winter months. Moreover, CAUSE-PA notes that PAWC acknowledged that the winter averaging method, if approved, would increase volumetric wastewater rates for all customers. CAUSE-PA R. Exc. at 18 (citing CAUSE-PA M.B. at 25; PAWC St. 10 at 43-44). Accordingly, CAUSE-PA reiterates that the Company's proposed winter averaging methodology: (1) is inequitable and contrary to the public interest; and (2) improperly favors customers that reside in larger properties and have greater levels of discretionary water usage in the non-winter months. CAUSE-PA R. Exc. at 18 (citing CAUSE-PA M.B. at 25-26).

CAUSE-PA maintains its position that the Company's proposed winter methodology would inequitably shift costs from higher income customers with greater discretionary usage onto lower income customers that struggle to afford basic home services. Further, CAUSE-PA notes that the Company has conceded that the beneficiaries of the proposed winter averaging methodology are likely higher income customers. Therefore, CAUSE-PA continues, the proposed methodology will disproportionately harm lower income households. CAUSE-PA R. Exc. at 19 (citing CAUSE-PA M.B. at 26-27). Moreover, CAUSE-PA repeats the OCA's assertion that the

Company has not set forth a legitimate basis to overcome concerns related to adverse impacts on low-income customers. CAUSE-PA R. Exc. at 19 (citing CAUSE-PA M.B. at 26-27; OCA St. 5-SR at 11 (PUBLIC)). Furthermore, CAUSE-PA offers that if the Company's winter averaging proposal were implemented, then some families would be able to afford and maintain swimming pools at the expense of other families' ability to maintain drinking water. CAUSE-PA R. Exc. at 19-20 (citing CAUSE-PA M.B. at 25-26). CAUSE-PA contends that this scenario is unreasonable, inequitable, and contrary to the public interest.

CAUSE-PA further maintains that the Company's proposed winter averaging methodology and assumptions for the proposal are flawed because the methodology assumes that: (1) outdoor water usage does not impact wastewater system costs, without consideration of whether a given system is combined stormwater and wastewater, or how the discharge of outdoor water usage may nevertheless impact wastewater systems; (2) increased summer water usage is entirely attributable to outdoor water usage, without any individualized determination of whether a customer's average winter usage is reflective of their average summer usage. CAUSE-PA R. Exc. at 20 (citing CAUSE-PA M.B. at 26).

In summary, CAUSE-PA repeats that the Company's proposed winter averaging methodology is unreasonable, inequitable, and contrary to the public interest. CAUSE-PA R. Exc. at 20 (citing CAUSE-PA M.B. at 25-26). Therefore, CAUSE-PA recommends that the Commission reject PAWC's Exception No. 13. CAUSE-PA R. Exc. at 20.

4. Disposition

At the onset, we will address PAWC's claim that the ALJs failed to address the record evidence pertaining to the Company's winter averaging proposal arguments

and considerations. We note that the ALJs were aware of the position and arguments put forth by PAWC; however, as previously noted, the ALJs have the discretion to determine whether, and to what extent, further discussion and analysis is warranted. Here, it appears that the ALJs did not believe that further consideration of the record evidence pertaining to the winter averaging proposal was necessary. Accordingly, we find PAWC's claim that the ALJs overlooked any of the Company's arguments and considerations is without merit.

We agree with the ALJs that PAWC failed to sufficiently demonstrate that their proposed winter averaging methodology would reasonably achieve its stated purpose for more closely aligning wastewater bills to cost causation. As detailed by the OCA's witness, Mr. Mierzwa, when the average monthly water usage of a residential customer during the months of January through March (*i.e.*, the winter months that PAWC proposes to utilize under its winter averaging methodology), is compared to the average monthly usage for the remaining months of the year, the difference is *de minimis*, with the last two years ranging from 100 to 173 gallons per month. OCA St. 4 at 43. Mr. Mierzwa continued:

I would expect that during the summer months[,] customers are likely to take more showers and wash clothes more often. The average shower uses 17.2 gallons of water. A standard washing machine uses 20 gallons of water per load. A few extra showers and clothes washing loads per month would totally account for the historic difference between Residential winter and summer water usage. Therefore, it does not necessarily follow that PAWC's Residential customer outdoor water usage during the summer is sufficiently significant to justify adopting winter averaging and the resulting increase in volumetric rates...

Id. We agree with Mr. Mierzwa's reasoning here. Moreover, we agree with the OCA and CAUSE-PA that PAWC's winter averaging proposal might have a disproportionate adverse impact on low-income customers. Indeed, by PAWC's own admission, the

beneficiaries of the winter averaging proposal are likely to be higher income customers because they are the customers more likely to have seasonal water usage during the summer that would no longer be billed for wastewater service. PAWC St. 10-R at 54-55. Furthermore, as pointed out by the ALJs, we find it significant that PAWC did not agree with I&E's suggestion that the winter averaging program be approved on a temporary basis, thereby allowing the Company to track the information needed for evaluation of the program. *See*, R.D. at 264. Indeed, PAWC's unwillingness to undertake the necessary measures to track the winter averaging methodology on a temporary basis for further evaluation does not instill confidence in their proposal. Therefore, for all of the foregoing reasons, PAWC's winter averaging proposal must be rejected. Accordingly, we shall deny PAWC's Exception No. 13.

J. Scale Back of Rates

1. Positions of the Parties

PAWC submitted that if the Commission approves a revenue requirement that is less than that proposed by the Company, then the Company proposes to proportionally reduce the water and wastewater revenue requirements and the proposed amount of reallocation from wastewater to water under Act 11 to be proportional so that the same percentages to the total of water service revenue requirement, wastewater service revenue requirement, and Act 11 reallocation amounts be maintained at proper levels. PAWC asserted that the levels of rates for water service and wastewater service relative to each other should be maintained as proposed in the event that a lower revenue requirement is approved by the Commission. PAWC St. 10-R at 37 (citing PAWC St. 10 at 16-17).

PAWC's witness, Mr. Rea, agreed with I&E's witness, Mr. Cline, that the first step in any scale back determination is to calculate the revenue requirement for

wastewater operations and a scale back for wastewater operations, because that must be set first to determine the revenue requirement amount that must be allocated to water operations. Further, Mr. Rea did not object to Mr. Cline's proposal that if a revenue requirement for water service is approved at levels below PAWC's recommended amount, then both usage rates and fixed charges should be reduced, but usage rates for RZ-2 residential and commercial, and RZ-4 commercial should not be scaled back if they remain lower than the usage rates in RZ-1. Moreover, Mr. Rea noted that he did not object to recommendations that any reductions in water service revenue requirements be "applied ratably" across customer classes. PAWC 10-R at 40. However, Mr. Rea submitted its opposition to the alternative scale back proposals of I&E, the OCA, the OSBA, and PAWLUG, that pursuant to Act 11, any reductions in revenue requirements for wastewater service be applied to the Act 11 reallocation amount first. Mr. Rea countered that this approach would result in a revenue requirement reduction to water service, and wastewater rates would only be reduced due to a reduction in wastewater revenue if that reduction was greater than a proposed Act 11 reallocation amount. PAWC St. 10-R at 40-41.

In summary, PAWC submitted that in the event that the Commission approves a lower revenue requirement, its scale back proposal is designed to maintain, as proposed: (1) the same relative percentages to the total of water service revenue requirement, wastewater service revenue requirement, and Act 11 reallocation amounts; and (2) the levels of rates for water service and wastewater service relative to each other. Accordingly, PAWC submitted that its proposal results in a just and reasonable outcome for all customer classes. PAWC St. 10-R at 41.

Regarding water operations, I&E averred that the Company's proposed rates would be reduced, or scaled back, to produce the revenue requirement allowed by the Commission if the Commission approves a revenue requirement that is less than the Company's requested increase and adopts I&E's proposed customer charges. I&E noted

that the first step in any scale back is to determine the revenue requirements and scale backs of the wastewater operations. According to I&E, to determine the amount of revenue requirement that must be allocated to water operations under Act 11, the wastewater operations revenue requirement must be set first. I&E continued that once the wastewater to water allocation is determined, then the full water operations revenue requirement will be established, and those rates can be scaled back. As such, I&E recommended that any scale back be netted against the subsidy the Commission determines for the wastewater operations. I&E M.B. at 86-87; I&E St. 4 at 41-42.

I&E also recommended that if the Commission grants an increase less than the fully requested increase for Water operations, then the usage rates and customer charges be decreased to produce the revenue level the Commission approves. According to I&E, any reduction in any of the ratemaking inputs by the Commission would reduce the inputs used in the customer cost analysis that was used to determine the \$20.00 per month customer charge, which is based upon the direct customer cost. Further, I&E noted that the Commission recently reaffirmed its commitment to including the customer charge in the scale back of rates. I&E M.B. at 87 (citing *PGW 2023* at 157, 166). Moreover, I&E recommended that the usage rates for RZ-2 residential and commercial, and RZ-4 commercial, not be scaled back as long as they remain lower than the usage rates in RZ-1. I&E St. 4-SR at 31 (citing I&E St. 4 at 44); I&E M.B. at 87.

Concerning wastewater operations, I&E also recommended that if the Commission approves less than the full increase for the wastewater SSS operations, then any subsidy from water customers should be eliminated first to prevent water customers from subsidizing any of the SSS operations. I&E provided that the scale back should start with reducing the residential usage rate for RZ-1, RZ-2, and RZ-5, to achieve the desired level of increase, together with a reduction in the non-residential usage rate proportional to the percentage increase proposed for each rate under the full increase, which will keep the total increase in the residential class and non-residential class

relatively proportional. I&E M.B. at 87-88. I&E further provided that the Special Commercial rate of \$2.350 per hundred gallons for Cleveland-Cliffs and Victory Brewing should be scaled back based upon a 67.9% increase, and the Special Commercial flat monthly charges should be similarly scaled back. I&E M.B. at 88 (citing I&E Exh. 3, Sch. 3 at 1, lines 11, 13-16, 18). However, I&E averred that the following should not be scaled back: (1) the non-residential flat rate of \$150.00 per month, as it is below the average bill for a non-residential customer; (2) the special customer charge of \$465.50 per month, as the increase is only 10.0%; (3) the usage rates for Caln, West Brandywine, the VA, and St. Lawrence, because the rates are below the corresponding usage rate in RZ-1; and (4) the customer charge and usage rate paid by Rainbow Washhouse, where the usage rate that I&E proposed is below the present commercial usage rate. I&E M.B. at 88 (citing I&E Exh. 3, Sch. 3 at 1, lines 19-21, 35-38).

I&E also recommended that the following not be scaled back: (1) the RZ-7 and RZ-9 general usage rates, as they are below the RZ-1 usage rate; (2) the flat charge for RZ-8 residential and commercial can be made the same as the corresponding flat charge in RZ-1, but the flat rate charges for Butler Township of \$40.00 per month and for RZ-9 of \$75.00 should not be scaled back because they are below the \$132.00 per month flat rate proposed by I&E in RZ-1; and (3) the Bulk rates for the YBCs and in Royersford, as the revenue received from these classes is far below the cost to provide service to these classes. I&E M.B. at 88-89 (citing I&E Exh. 3, Sch. 3 at 2, lines 1-21).

With respect to CSS wastewater operations, I&E recommended that the customer charges not be scaled back for CSS wastewater operations. I&E averred that in RZ-4, the charge decreased and, therefore, no further decrease is appropriate. Regarding Residential flat rate customers, I&E recommended that the residential flat rate be adjusted downward based upon the final average residential RZ-1 bill established when rates are scaled back. I&E M.B. at 89 (citing I&E Exh. 3 Sch 3 at 1, lines 4-5; I&E St. 3-SR at 27). I&E noted that the scale back should begin with RZ-3, RZ-4,

and RZ-6 residential, reducing the usage rate to achieve the desired level of increase together with a reduction in the non-residential usage rate proportional to the percentage increase that I&E proposed for each rate under the full increase, which will keep the total increase in the residential class and non-residential class relatively proportional. I&E added that the Bulk rates in RZ-6 should not be scaled back because they are not being increased. I&E M.B. at 89 (citing I&E Exh. 3, Sch. 17, lines 2, 5, 22-24).

Regarding water service, the OCA proposed revenue increases for each class at the Company's claimed revenue requirement based on the OCA's COSS, which should be scaled back proportionately to reflect the actual water revenue increase (including revenues reallocated to water service under Act 11) authorized by the Commission in this proceeding. The OCA noted that it accepted the Company's proposed COSS for the direct cost of wastewater service and recommended that any scale back to the revenue increases for each class should be made consistent with the Company's allocation proposal. OCA M.B. at 82 (citing OCA St. 4-SR at 16-17, Table 4-SR).

The OCA submitted that the amount reallocated under Act 11 should be substantially reduced from what the Company proposed. However, the OCA pointed out that it does not recommend that any reduction in the wastewater requirement be applied first to the Act 11 reallocation, as that may not provide an adequate level of relief to wastewater customers. Accordingly, the OCA recommended that although the specific amount of revenues shifted under Act 11 should be determined by the Commission based on the authorized wastewater revenue requirement, an Act 11 reallocation that results in comparable percentage increases for water and wastewater customers would be in the public interest. OCA M.B. at 82-83 (citing OCA St. 4-SR at 17-18, 35; OCA St. 4 at 25-27).

The OSBA recommended that if the Commission approves a lower increase than that requested by the Company, the decrease be applied primarily to water rates. The OSBA also recommended that if the Commission approves a lower revenue requirement increase associated with the Company's wastewater systems than proposed by the Company, then the incremental revenue requirement reduction should not reduce the Company's proposed wastewater rates, so long as the cost-based wastewater revenue requirement is greater than the Company's proposed wastewater rates. The OSBA noted that this means that generally, a lower revenue requirement will reduce Act 11 revenues and the Company's proposed water rates. OSBA M.B. at 21-22 (citing OSBA St. 1 at 36-37).

Regarding water rates at a lower revenue requirement, the OSBA recommended scaling back the revenue allocation to each customer class in proportion to each class's share of the total non-Act 11 revenues. OSBA M.B. at 22 (citing OSBA Sch. KCH-12 at 1). The OSBA also recommended that each water class recover its allocated share of any approved Act 11 subsidy, averring that it: (1) fixes the admitted errors in the Company's originally-filed Water COSS; (2) employs more reasonable and accurate maximum day and hour allocators; and (3) will recover the Act 11 subsidy allocated to each water class. OSBA M.B. at 22.

PAWLUG submitted that with the exception of modifying PAWC's proposed maximum hour demand ratio for the residential customer class, the Commission should accept the Company's revised COSS. PAWLUG averred that the Company's proposal to allocate \$71.1 million of the wastewater revenue requirement to water customers pursuant to Act 11 should be modified to adopt PAWLUG's revised allocation method and apply any approved scale back of the wastewater revenue requirement to offset the total \$71.1 million allocation. PAWLUG submitted that its proposal to increase the industrial customer charge is consistent with the recommendation of its witness, Ms. LaConte, and should be approved.

PAWLUG also averred that to the extent the Commission approves a lower water revenue requirement than that proposed by the Company, a proportional scale back should be implemented. PAWLUG added that the Commission should scale back only the volumetric rates for the Company's industrial and municipal customer classes for the portion attributable to industrial and municipal customers due to the high proportion of total class revenues recovered through the respective volumetric rates. PAWLUG M.B. at 28 (citing PAWLUG St. 1 at 29-30). PAWLUG noted that although applying any scale back to volumetric rates for both the industrial and municipal classes remains appropriate in conjunction with the Company's proposed increase to the industrial customer charge, it becomes particularly necessary in the event the Commission denies PAWLUG's proposal to increase the industrial customer charge. PAWLUG M.B. at 28.

Victory Brewing submitted that it accepts the Company's scale back proposal. Victory Brewing M.B. at 8 (citing PAWC St. 10 at 45-46).

2. Recommended Decision

The ALJs recommended that the Commission adopt the Company's position on the scale back of rates. R.D. at 271. The ALJs found that the Company's witness, Mr. Rea, explained PAWC's position on the scale back of rates as follows:

[I]n the event that the Commission approves a revenue requirement that is less than that proposed by the Company, the Company proposes to reduce the revenue requirements for water service and wastewater service, and the proposed amount of reallocation from wastewater to water under Act 11 to be proportional so that the same relative percentages to the total of water service revenue requirement, wastewater service revenue requirement, and Act 11 reallocation amounts be maintained at proposed levels. [PAWC] believes that the levels of rates for water service and wastewater service relative to each other should be maintained as proposed in the

event that a lower revenue requirement is approved by the Commission in this case.

R.D. at 271 (citing PAWC St. 10-R at 37). The ALJs noted that adopting PAWC's proposal, to proportionately reduce the water and wastewater revenue requirements and the proposed amount of reallocation from wastewater to water under Act 11, would be an equitable scale back while still allowing some rate relief for wastewater customers pursuant to Act 11. R.D. at 272.

3. Exceptions and Replies

a. I&E Exception No. 5 and Replies

In its Exception No. 5, I&E argues that the ALJs failed to explain why PAWC's approach should be adopted and ignores the precedent set in *Aqua 2022*, where the Commission explained that a scale back of water rates should first reduce the Act 11 subsidy. I&E Exc. at 11 (citing *Aqua 2022* at 226). I&E contends that its customer cost analysis, customer charge, and scale back proposals should be adopted because they are based on sound Commission ratemaking policies and precedent. I&E Exc. at 11.

I&E reiterates that the first step in any scale back is to determine the revenue requirements and scale backs of the wastewater operations. I&E continues that to determine the amount of revenue requirement that must be allocated to Water operations under Act 11, the wastewater operations revenue requirement must be set first. I&E Exc. at 11-12. However, I&E disagrees with the revenue requirements recommended by the ALJs for both water and wastewater operations. I&E repeats that once the wastewater to water allocation is determined, the full water operations revenue requirement will be established, at which time those rates can be scaled back. Therefore,

I&E maintains that any scale back be netted against the subsidy the Commission determines for the wastewater operations. I&E Exc. at 12.

I&E also repeats that for water operations, the usage rates and customer charges should be decreased to produce the revenue level the Commission approves. I&E maintains that any reduction in any of the ratemaking inputs by the Commission would reduce the inputs used in the customer cost analysis that was used to determine the \$20.00 per month customer charge, which is based on the direct customer cost. Further, I&E again notes that the Commission recently reaffirmed its commitment to including the customer charge in the scale back of rates. I&E Exc. at 12 (citing *PGW 2023* at 157, 166).

Regarding wastewater SSS operations, I&E repeats that any subsidy from water customers should be eliminated first to prevent water customers from subsidizing any of the SSS operations. I&E asserts that the scale back should start with reducing the residential usage rate for RZ-1, RZ-2, and RZ-5, to achieve the desired level of increase and a reduction in the non-residential usage rate proportional to the percentage increase proposed for each rate under the full increase. I&E Exc. at 12. I&E illustrates that if the general residential usage rate is scaled back 50%, the residential usage rate would increase 15.05% ($30.1\% \times 50.0\%$). Further, I&E states that an increase in the general non-residential usage rate of approximately 24.9% ($49.8\% \times 50.0\%$) will maintain a proportionate total increase in the residential class and non-residential class. Further, I&E again provides that the Special Commercial rate of \$2.350 per hundred gallons for Cleveland-Cliffs and Victory Brewing should be scaled back based upon a 67.9% increase, and the Special Commercial flat monthly charges should be similarly scaled back. I&E Exc. at 12-13 (citing I&E Exh. 3, Sch. 3 at 1, lines 11, 13-16, 18). Moreover, I&E again avers that the following should not be scaled back: (1) the non-residential flat rate of \$150.00 per month, because it is below the average bill for a non-residential customer; (2) the special customer charge of \$465.50 per month, because the increase is

only 10.0%; (3) the usage rates for Caln, West Brandywine, the VA, and St. Lawrence, as the rates are below the corresponding usage rate in RZ-1; and (4) the customer charge and usage rate paid by Rainbow Washhouse, where the usage rate that I&E proposed is below the present commercial usage rate. I&E Exc. at 13 (citing I&E Exh. 3, Sch. 3 at 1, lines 19-21, 35-38).

I&E also repeats that the following should not be scaled back: (1) the general usage rates in RZ-7 and RZ-9, because they are below the RZ-1 usage rate; (2) the flat charge for RZ-8 residential and commercial can be made the same as the corresponding flat charge in RZ-1, but the flat rate charges for Butler Township of \$40.00 per month and for RZ-9 of \$75.00 should not be scaled back because they are below the \$132.00 per month flat rate proposed by I&E In RZ-1; and (3) the Bulk rates for the YBCs and in Royersford, because the revenue received from these classes is far below the cost to provide service to these classes. I&E Exc. at 13 (citing I&E Exh. 3, Sch. 3 at 2, lines 1-21).

Regarding CSS wastewater operations, I&E reiterates its recommendation that the customer charges should not be scaled back, noting that in RZ-4, the charge decreased and, therefore, no further decrease is appropriate. I&E Exc. at 14. Further, I&E repeats its recommendation that for residential flat rate customers in CSS operations, the residential flat rate be adjusted downward based upon the final average residential RZ-1 bill established when rates are scaled back. I&E maintains that the scale back should begin with RZ-3, RZ-4, and RZ-6 residential, reducing the usage rate to achieve the desired level of increase together with a reduction in the non-residential usage rate proportional to the percentage increase that I&E proposed for each rate under the full increase. I&E illustrates that if the general residential usage rate is scaled back 50%, which would result in the general residential usage rate increasing by 11.7% ($23.4\% \times 50\%$), the increase in the general non-residential usage rate should be approximately 24.7% ($49.4\% \times 50.32$), which will keep the total increase in the

residential class and non-residential class relatively proportional. Moreover, I&E again avers that the Bulk rates in RZ-6 should not be scaled back because they are not being increased. I&E Exc. at 14 (citing I&E Exh. 3, Sch. 17, lines 2, 5, 22-24).

I&E repeats that its scale back recommendation is based on sound rate making principles and Commission precedent that a scale back should first be applied to the Act 11 subsidy. Therefore, I&E asks that the Commission grant this exception and approve the I&E recommended scale back in determining the rate design for PAWC water and wastewater rates. I&E Exc. at 14.

In its Replies, PAWC counters that the scale back of rates should be considered in the broader context of revenue allocation, which in turn, must consider ratemaking policy and gradualism. As such, PAWC submits that the Commission should adopt the ALJs' determination that the Company's proposed scale back of rates is reasonable. Further, PAWC notes that the ALJs considered and rejected I&E's scale back proposals. Moreover, PAWC notes that the Company's system, rates, and proposed rates differ from the circumstances in *Aqua 2022* and, therefore, the Commission should not reach the same result here. Furthermore, PAWC points out that the ALJs recognized that the Company's proposal will still allow for some rate relief for wastewater customers under Act 11, which is consistent with Commission policy and the principle of gradualism. PAWC R. Exc. at 18 (citing R.D. at 271-72).

In its Replies, the OCA maintains that the Commission should adopt an Act 11 reallocation that results in comparable percentage increases for water and wastewater customers. OCA R. Exc. at 20 (citing R.D. at 271-72; OCA R.B. at 56; OCA M.B. at 82-83). The OCA disagrees with I&E's recommendation that "essentially zero relief should be provided to wastewater customers through an Act 11 assignment." OCA R. Exc. at 20 (citing OCA M.B. at 73-74). Therefore, the OCA disagrees with I&E's position on scale back (*i.e.*, that any reduction in the wastewater requirement should be

applied first to the Act 11 reallocation), arguing that this approach may not provide a sufficient level of relief to wastewater customers. OCA R. Exc. at 20 (citing OCA M.B. at 74; I&E Exc. at 11). Further, the OCA avers that the ALJs properly adopted the OCA's proposal for allocation of the Act 11 subsidy, which is to provide some rate relief for the Company's wastewater customers while still moving wastewater SSS and CSS wastewater rates closer to their cost-of-service while not burdening the water customers. OCA R. Exc. at 20-21 (citing R.D. at 227). Moreover, the OCA maintains that although the specific amount of revenues shifted under Act 11 should be determined by the Commission based on the authorized wastewater revenue requirement, an Act 11 reallocation (after scale back) that results in comparable percentage increases for water and wastewater customers would be in the public interest. OCA R. Exc. at 21 (citing OCA R.B. at 47-51; OCA M.B. at 71-74).

b. OCA Exception No. 17 and Replies

In its Exception No. 17, the OCA disagrees with the ALJs' recommendation to the extent that it is construed to mean that the ALJs' recommended adoption of the \$20 water customer charge and the \$15 wastewater customer charge will not be scaled back or reduced based on the overall revenue requirement authorized by the Commission. OCA Exc. at 29-30 (citing R.D. at 271-72). The OCA notes that the Company's direct customer charge analyses for both water and wastewater were calculated at the Company's filed-for revenue requirement increase and pre-tax rate of return. OCA Exc. at 30 (citing PAWC Exh. 12-B, Sch. RS1 j., Responses at 2). The OCA continues that Commission adjustments to the allowed revenue requirement, including pre-tax rate of return, impact those calculations and should be flowed through to reduce the indicated customer charges. OCA Exc. at 30 (citing; OCA St. 4-SR at 14; OCA St. 4 at 36). Similarly, the OCA notes that I&E's recommendation for the \$15 wastewater customer charge was made at PAWC's requested revenue requirement and they should be flowed

through where adjustments to that revenue requirement impact I&E's analysis and calculation. OCA Exc. at 30 (citing OCA St. 4-R at 6).

In its Replies, the PAWC argues that the Commission should approve the ALJs' recommendation regarding the Company's customer charges and proposed scale back for the reasons set forth in their Recommended Decision. PAWC R. Exc. at 19 (citing R.D. at 227-36; 265-75).

4. Disposition

As previously noted, the ALJs found that adopting PAWC's proposal to proportionately reduce the water and wastewater revenue requirements, including the proposed amount of reallocation from wastewater to water under Act 11, would be an equitable scale back while still allowing for some rate relief for wastewater customers under Act 11. R.D. at 271. As discussed above, we agree with the OCA that an Act 11 reallocation that results in comparable percentage increases for water and wastewater customers would be in the public interest. Indeed, as noted by the OCA, the ALJs recommended that the Commission adopt the OCA's proposal to allocate the Act 11 subsidy, which is to provide some rate relief for the Company's wastewater customers while still moving wastewater SSS and CSS rates closer to their cost-of-service without placing a burden on the water customers. OCA R. Exc. at 20-21 (citing R.D. at 227). We concur with the ALJs on this reasoning. However, regarding the issue of how any scale back should be implemented, we disagree with the ALJs' endorsement of the Company's proposal that the Act 11 allocation should be maintained on a proportional basis to the amount of the scale back granted. Rather, we agree with I&E to the extent that a scale back should reduce the Act 11 subsidy first, consistent with the Commission's decision in *Aqua 2022*. I&E Exc. at 11 (citing *Aqua 2022* at 226).

We shall also address I&E's and the OCA's arguments regarding the scale back of the customer charge. Upon review, the Recommended Decision did not address the scale back of the water customer charge and the wastewater customer charge. Notwithstanding, we agree with I&E that customer charges are based upon direct customer costs, meaning any reduction in any of the ratemaking inputs would reduce the inputs used in the customer cost analysis that was used to determine the monthly customer charge. Indeed, as noted by I&E, the Commission included the customer charge in the scale back of rates in *PGW 2023*. I&E Exc. at 12 (citing *PGW 2023* at 157, 166); *see also*, I&E St. 4 at 43-44. Therefore, we agree with I&E's reasoning that any scale back be netted against the subsidy that the Commission determines for the wastewater operations. We are in further agreement with I&E that, regarding water operations, both usage rates and customer charges shall be scaled back proportional to the increase granted.¹¹⁵ Accordingly, we shall grant I&E's Exception No. 5. In addition, we shall grant the OCA's Exception No. 17, to the extent that a clarification is warranted regarding the scale back applicability to PAWC's residential customer charges.

XI. Alternative Ratemaking Requests

PAWC provided that Section 1330 of the Code, 66 Pa.C.S. § 1330 authorizes public utilities to propose alternative rate mechanisms. PAWC St. 8-R at 8.

¹¹⁵ Regarding Wastewater operations, the residential customer charge should be excluded from any scale back, given the minimal increase of \$0.70 per month and rate decreases for certain wastewater rate zones (RZ-4, RZ-7, and RZ-9). As discussed, *supra*, I&E stated that the following should not be scaled back: (1) the non-residential flat rate of \$150.00 per month; (2) the special customer charge of \$465.50 per month; (3) the usage rates for Caln, West Brandywine, the VA, and St. Lawrence; (4) the customer charge and usage rate paid by Rainbow Washhouse; (5) the general usage rates in RZ-7 and RZ-9; (6) the flat rate charges for Butler Township of \$40.00 per month and for RZ-9 of \$75.00; and (7) the Bulk rates for the YBCs and in Royersford. I&E Exc. at 13-14.

Accordingly, in this proceeding, PAWC proposed the RDM and the ECIC, as discussed below.

A. Revenue Decoupling Mechanism

1. Positions of the Parties

PAWC stated that decoupling mechanisms like the RDM are authorized by 66 Pa.C.S. § 1330(b)(2), and that the recovery of fixed costs is a concern for PAWC because 81% of its water and wastewater revenues are collected under volumetric rates and over 95% of its costs are fixed, diminishing PAWC's ability to recover approved costs if water sales are less than anticipated. PAWC cited declining use among certain customers, seasonal weather conditions, and unexpected external events as factors that could result in reduced sales. PAWC M.B. at 69. Furthermore, PAWC argued that its continued non-revenue producing investments for the benefit of customers, along with variability in usage, causes revenues to remain outside of the Company's control. *Id.* at 70.

In requesting approval of the RDM, PAWC stated that the mechanism will compare revenues collected under Commission-approved rates with revenues that would have been collected through Straight Fixed Variable (SFV) pricing. PAWC described that if actual revenues are higher than would have been collected under the RDM formula, the difference is credited to customers in the following year. Conversely, if actual revenues are lower than would have been collected under the RDM formula, the difference will be collected from customers in the following year. PAWC contended that the RDM does not shift risk to or away from customers, as both PAWC and customers continue to share revenue risk because the RDM can result in either a credit or surcharge to customers depending on PAWC's actual results compared to the SFV price components. Also,

PAWC submitted that the RDM does not guarantee recovery of PAWC's authorized return. PAWC M.B. at 70.

PAWC argued that the RDM should not be subject to an earnings test and cap because it would decrease the utility of the RDM and undermine the revenue requirement authorized by the Commission in this proceeding. In addition, PAWC averred that while mechanisms such as declining use adjustment, the use of the FPFTY, and the DSIC are available, they do not address the issue that the RDM is intended to solve, which is revenue volatility resulting from declining consumption and other events that impact forecasted usage. PAWC further stated that the RDM will not discourage conservation or compromise affordability. Further, PAWC argued that the RDM should not be limited to residential customers because revenue volatility is not constrained to the residential class. Finally, PAWC contended that the RDM would not cause rate instability or confusion, but, rather, it would smooth out revenues over a longer term for the benefit of customers and PAWC. PAWC disagreed with the position of the OCA, *infra*, that the RDM does not satisfy the fourteen factors of the Commission's Policy Statement regarding alternative ratemaking at 52 Pa. Code § 69.3302. PAWC M.B. at 71-73.

I&E, the OCA, the OSBA, CAUSE-PA, PAWLUG, Cleveland Cliffs, and Victory Brewing opposed the RDM.

I&E argued that PAWC did not establish a need for revenue stabilization, especially given that it has simultaneously proposed a declining usage adjustment. I&E stated that between the frequent base rate cases filed by PAWC, the FPFTY, and the DSIC, PAWC has not demonstrated a need for further revenue stabilization measures. Also, I&E averred that it does not appear likely that the RDM will lessen the frequency that PAWC files base rate cases. Moreover, I&E argued that PAWC has no history of an inability to attract capital. I&E M.B. at 90-95.

In addition, I&E submitted that in order for the RDM to be approved it should have some benefit to customers; however, the proposed RDM may harm customers. In this regard, I&E contended that the RDM would devalue conservation efforts of customers that can afford efficiency measures and harm customers who cannot afford such measures by assessing an additional charge on all customers. Specifically, I&E submitted that customers who take measures to reduce their water consumption will be forced to share some of their bill savings with PAWC. I&E averred that the RDM would likely cause rate confusion because another surcharge will be added to PAWC's customer bills, and based on how the credit or surcharge is calculated, a customer will be unable to predict whether they will receive a credit or a surcharge. I&E M.B. at 96-98.

The OCA argued that PAWC did not demonstrate a need for the RPM, or that it is just and reasonable. The OCA stated that by proposing the RDM, PAWC improperly seeks to shift risk of under-recovery from the Company to consumers. The OCA averred that the RDM fails to meet the requirements under 66 Pa.C.S. § 1330, violates sound ratemaking principles, and poses a risk to the consumers in the form of unknown rate increases outside of the rate case process. OCA M.B. at 83.

The OCA stated that it is unclear how the RDM will enhance the safety, security, reliability, and availability of infrastructure since PAWC is already meeting its responsibilities under 66 Pa.C.S. § 1501. Accordingly, the OCA insisted that the RDM is not needed. OCA M.B. at 84-85. Also, the OCA averred that the RDM is inconsistent with "efficient consumption of utility service." *Id.* at 84 (citing 66 Pa.C.S. § 1330(a)(2)). The OCA submitted that, in order to benefit from the RDM, PAWC's customers would have to reduce their consumption by more than the reduction in usage by all other customers. Furthermore, the OCA argued that the RDM will not provide for rate stability. *Id.* at 84-85.

In addition, the OCA argued that the RDM will harm customers unless PAWC's ROE is adjusted downward to reflect the shifting of risk from the Company to consumers. The OCA stated that the RDM would produce guaranteed revenue recovery for PAWC where no guarantee has existed in the past, wholly shifting the risk onto consumers without any benefit. To that end, the OCA averred that PAWC's FPFTY consumption projections in this proceeding already reflect declining per-customer water usage, resulting in investors benefitting from the reduction in regulatory lag associated with use of the FPFTY. Moreover, the OCA contended that the RDM will harm low-income customers by transferring costs from higher income customers to lower-income customers. The OCA further claimed that the RDM does not meet the fourteen factors of the Commission's Policy Statement at 52 Pa. Code § 69.3302(a)(1)-(14). OCA M.B. at 86-88.

The OSBA raised a concern that if a large business went out of business or moved, the remaining small businesses would have to pick up the revenue shortfall calculated by the RDM. OSBA M.B. at 23.

CAUSE-PA opposed PAWC's RDM proposal because it would prejudice and disadvantage residential customers who practice conservation to lower their bills and disproportionately impact low-income customers. Namely, CAUSE-PA contended that the RDM would detract from savings that may be achieved through customers' conservation efforts, and customers would be disincentivized from practicing conservation. Furthermore, CAUSE-PA argued that the RDM does not contain adequate consumer protections, specifically because PAWC's low-income customers would have to bear additional costs from the RDM without any mitigation, which would exacerbate increases in unaffordability. CAUSE-PA also averred that the RDM may be difficult for customers to understand. CAUSE-PA also argued that there is no evidence to suggest that implementation of the RDM will lessen the severity or frequency of future rate increases. To the extent the Commission would approve the RDM, CAUSE-PA

submitted that the Company's BDP customers should be exempt from RDM charges. CAUSE-PA M.B. at 30-33.

PAWLUG argued that PAWC's proposed RDM disadvantages customers by creating additional administrative burdens by creating a new annual regulatory filing subject to comments and potential hearings, eroding conservation incentives, and exposing customers to interclass subsidization and conflicting with cost causation by applying a uniform surcharge to all non-residential customers. To the extent the Commission approved the RDM, PAWLUG proposed that Industrial and Municipal customers should be exempt from it. Also, PAWLUG recommended that, at a minimum, the Commission should condition any approval of the RDM on heightened protections, including the implementation of an earnings test and an asymmetrical 3% cap on a surcharge. PAWLUG M.B. at 28-30.

Cleveland Cliffs argued that the implementation of another revenue recovery tracker is unnecessary since PAWC already utilizes a Commission-approved DSIC and has the opportunity to include forecasted costs and investments through the use of an FPFTY, both of which serve to reduce regulatory lag. Furthermore, Cleveland Cliffs averred that a RDM should not include the Industrial Class in the tracker because PAWC failed in its burden to support the implementation of an RDM for industrial water users. Cleveland Cliffs submits that industrial customers have a natural incentive to implement cost-effective investments in efficient use and are unsuitable customers for an RDM tracker. Additionally, Cleveland Cliffs stated that the proposed RDM presents significant problems with interclass allocations of lost revenues because any revenue shortfall would be collected from all customers, even if one customer class was responsible for the decline, which is unreasonable. Also, Cleveland Cliffs noted that if a single industrial customer left PAWC's system, the loss in revenues from that customer would be confined to the rest of the Industrial customers and would have to be picked up by those customers. In Cleveland Cliffs' view, industrial customers should not be placed

in such a risky and potentially damaging position by the operation of an RDM. Cleveland Cliffs M.B. at 7-9.

Victory Brewing agreed that the RDM should be rejected. However, if the proposal is accepted by the Commission, Victory Brewing agreed with the recommendation of Cleveland Cliffs to exclude the Industrial class from the RDM. Victory Brewing M.B. at 9-10.

2. Recommended Decision

The ALJs concluded that approval of PAWC's proposed RDM is not in the public interest. The ALJs found that the RDM will negate consumer conservation efforts, and customers who take measures to conserve water usage will end up giving some of their monetary savings back to PAWC. In addition, the ALJs determined that PAWC has not demonstrated a need for a further revenue stabilization measure since it is already compensated for revenue shortfalls through Act 11, the FPFTY, its DSIC, and frequent rate case filings. Furthermore, the ALJs found that the RDM is not a just and reasonable alternative distribution ratemaking mechanism because it would not provide rate stability to customer bills because the design of the RDM uses adjustments to customers' bills to maintain revenue levels. The ALJs also concluded that the RDM's impact on the frequency of rate case filings is unknown. Finally, the ALJs determined that the RDM would be difficult for customers to understand. Therefore, the ALJs recommended that the RDM be rejected. R.D. at 292-93.

3. PAWC Exception No. 6.2 and Replies

In its Exception No. 6.2, PAWC argues that the ALJs erred by recommending that the Commission reject the proposed RDM. PAWC requests approval to establish a RDM to reduce revenue volatility resulting from declining consumption and

other unanticipated events that can impact forecasted usage. PAWC summarizes the ALJs' recommendation on this matter and states that it addressed each of the concerns raised by the ALJs, as well as the fourteen factors set forth in the Commission's Policy Statement on distribution rate considerations at 52 Pa. Code § 69.3302, in its Main Brief, Reply Brief, and the testimony of its witness, Mr. Rea. PAWC Exc. at 23-24.

Furthermore, PAWC contends that the ALJs did "not meaningfully address the substantial record evidence provided by the Company, which demonstrates that the RDM will not negatively impact conservation efforts since the RDM will not remove any incentive (financial or otherwise) to reduce water consumption; ratemaking tools such as Section 1311(c), the FPFTY, and DSIC do not adequately address revenue volatility; and low-income customers will not be negatively impacted by the RDM." PAWC also argues that the ALJs did not reach findings of fact in support of almost all of their bases for rejecting the RDM. PAWC states that the Commission should find that the RDM is a just and reasonable ratemaking mechanism that will mutually benefit the Company and customers and should be approved. PAWC Exc. at 25.

In reply, I&E argues that the ALJs did not err in recommending denial of the RDM. I&E notes that the way for a water customer to reduce their bill is through conservation efforts; however, the RDM will force customers who take measures to reduce their water consumption to share some of their bill savings with PAWC. Also, I&E avers that revenue stabilization removes the risk of not recovering the full amount of revenue requirement allowed by the Commission due to changes in usage, and PAWC does not need further revenue stabilization measures due to the frequent base rate cases filed by the Company, the FPFTY, and the DSIC. I&E states that PAWC's exception does not demonstrate that the ALJs were incorrect in their reasons for recommending denial of the RDM. I&E R. Exc. at 12-13.

The OCA, in its reply to PAWC's Exception No. 6.2, also argues that the ALJs properly considered and rejected the RDM. In addition to agreeing with the reasoning of the ALJs in rejecting the RDM, the OCA contends that the RDM would resemble a natural unregulated monopoly by shifting risks of declining consumption entirely away from PAWC, which is compensated for risk, to captive ratepayers who would receive no compensation and lose a means to reduce their bill. Further, the OCA avers that the RDM would cause costs to be transferred from higher-income customers to lower-income customers because water usage reduction actions are disproportionately taken by higher-income households. OCA R. Exc. at 21-22.

CAUSE-PA also contends, in its reply, that the Commission should uphold the Recommended Decision's conclusion that the RDM is not just and reasonable and should be rejected. CAUSE-PA remains of the opinion that the proposed RDM should be rejected because it unreasonably prejudices and disadvantages residential customers who practice conservation to lower their monthly bills and will disproportionately impact low-income customers. CAUSE-PA states that the RDM would detract from savings that may be achieved through customers' conservation efforts and would hamper the ability of low-income customers to practice conservation and achieve bill savings. CAUSE-PA also argues that the RDM lacks adequate consumer protections, since PAWC's low-income customers would bear additional costs from the RDM making additional increases unaffordable. Furthermore, CAUSE-PA states that the RDM will not be understandable to consumers due to its highly complex design. Finally, CAUSE-PA notes that there is no indication that implementation of the RDM would impact the frequency of PAWC rate filings. CAUSE-PA R. Exc. at 7-9.

In reply to PAWC's Exception No. 6.2, PAWLUG agrees with the ALJs recommendation that the Commission deny the proposed RDM. PAWLUG contends that PAWC's characterization of the RDM as "commonplace" is misleading; rather, PAWLUG submits that the RDM is extraordinary and broad in scope. PAWLUG argues

that the costs to be recovered through the RDM are not extraordinary, unanticipated, or nonrecurring. Also, PAWLUG states that the RDM would conflict with cost causation principles by applying a uniform surcharge to all non-residential customers, which would impact interclass cost shifting between the various non-residential customer classes. Finally, PAWLUG restates its request that if the Commission approves the RDM, it should exempt Industrial and Municipal customers from the charge, implement certain customer protections, including an earnings test and an asymmetrical cap on any surcharge, and apply a downward adjustment to PAWC's ROE to recognize the operational risk mitigation resulting from approval of the RDM. PAWLUG R. Exc. 4-5.

4. Disposition

Upon review, we agree with the ALJs that approval of PAWC's proposed RDM is not in the public interest. First, PAWC did not establish a need for the RDM as an additional revenue stabilization mechanism. Revenue stabilization mechanisms are implemented to remove the risk of non-recovery of the full amount of any permitted revenue requirement. However, PAWC already utilizes frequent base rate cases, the FPFTY, and the DSIC to address revenue shortfalls. Specifically, the impact of the RDM on the frequency of base rate case filings is unknown and may not lessen the need and frequency of base rate cases. Therefore, PAWC has not proven that the RDM is needed.

In addition, we find that the RDM does not benefit customers. In fact, it appears that the RDM will hinder customer conservation efforts and could cause customers who take measures to reduce their water consumption to share some of their bill savings with PAWC. We agree that charging customers an additional charge through the RDM may act as a disincentive from conservation practices by customers because it will diminish the value of any savings achieved from such conservation efforts.

Furthermore, the RDM is not a just and reasonable alternative distribution ratemaking mechanism. As proposed, the RDM would produce guaranteed rate recovery where no guarantee existed in the past and shift the risk of recovery entirely onto customers without any benefit. Without adequate consumer protections, low-income customers will be placed at risk of bearing additional costs from the RDM, and this potential increase in unaffordability would expose these customers to a greater risk of arrears and termination of service. Moreover, the RDM will likely be confusing and difficult to understand for consumers due to its complex design in determining whether the RDM is a credit or charge. This additional surcharge on customer bills, along with the quarterly rate changes that occur under PAWC's DSIC, would only add to that complexity and confusion.

Therefore, we conclude that it is not in the public interest to approve the proposed RDM, which would provide an additional type of revenue stabilization to PAWC at the risk of eroding customers' conservation savings, which is the only way for water customers to affect a reduction to their water bill. With the PAWC's frequency of filing base rate cases, along with its use of the FPFTY and the DSIC, we further find that PAWC has not demonstrated a need for the proposed RDM. For these reasons, as well as the RDM's negative impact on consumer conservation efforts and its resulting confusion, as discussed above, we shall reject PAWC's proposed RDM. Accordingly, we will deny PAWC Exception No. 6.2.

B. Environmental Compliance Investment Charge

1. Positions of the Parties

PAWC has also proposed a rate adjustment clause to recover, between rate cases, the costs to comply with environmental regulations. PAWC St. 8 at 21. The costs in the ECIC must be consistent with the projects and activities set forth in an annual

environmental compliance plan (ECP) that is subject to Commission review.

PAWC St. 8 at 22. PAWC proposes a review process for the ECP similar to the process followed by the Commission when reviewing the electric distribution companies' (EDC) energy efficiency and conservation (EE&C) plans. PAWC St. 8 at 26 (additional citations omitted).

The ECIC will include the fixed costs of the ECP capital investments placed in service after the end of the FPFTY in this case. The fixed costs will be captured quarterly. The ECIC will be updated quarterly, with supporting data filed with the Commission and served upon I&E, Audits, the OCA and the OSBA at least ten days prior to the effective date. The ECIC will be applied to the total amount billed to each customer for service, excluding amounts billed for public fire protection service, the State Tax Adjustment Surcharge (STAS), and the DSIC. The ECIC will be applied equally to all customer classes. PAWC St. 8 at 29.

PAWC provided that its environmental compliance requirements are continuously evolving and the need for and timing of measures to comply with these evolving regulatory requirements are outside the Company's control. According to PAWC, the proposed ECIC will provide a reasonable mechanism to support full and timely rate recognition of PAWC's costs to comply with new and updated environmental mandates. Additionally, the ECIC will mitigate customer exposure to less frequent but more significant rate increases in a base rate case. PAWC R.B. at 62. PAWC explains that costs that are recoverable through the ECIC must be consistent with the set of projects and activities set forth in an annual ECP that will be subject to Commission review and approval. PAWC M.B. at 73 (citing PAWC St. 8 at 25-26).

PAWC cites to the state and federal regulations concerning per- and polyfluoroalkyl substances (PFAS) as an example of rapidly changing environmental mandates. As PAWC witness, Mr. Aiton, explained, on March 14, 2023, the United

States Environmental Protection Agency (USEPA) issued proposed drinking water regulations for six PFAS that will establish maximum contaminant levels (MCLs), maximum contaminant level goals (MCLGs), and monitoring, public notice and treatment requirements. PAWC M.B. at 74 (citing PAWC St. 3 at 5-9). The USEPA is expected to finalize those PFAS standards before the end of 2024 and public water systems will then have three years to comply. PAWC M.B. at 74 (citing PAWC St. 3 at 6-7). The PADEP has promulgated state drinking water standards establishing strict MCLs and MCLGs for two PFAS with compliance monitoring requirements effective January 1, 2024. PAWC estimated compliance costs for the federal and state PFAS requirements in the range of \$200 million before the end of 2027. *Id.*

I&E opposed the ECIC for several reasons: (1) the ECIC will be filed outside the parameters of a base rate case; (2) the ECIC will affect efficiency incentives; (3) the Company has not projected any data related to the ECIC; and (4) the ECIC would be premature, as the final regulations have not been formulated, the Commission has not had the opportunity to react to the PFAS issue on a utility-wide basis, and federal and state funding opportunities may become available in the future. I&E M.B. at 98-101 (citing PAWC St. 8, Exh. JCS-1 at 1; I&E St. 1 at 35). I&E reasoned that while it does not dispute that a utility should generally be able to recover costs associated with environmental compliance, an open-ended surcharge such as the ECIC is not the proper way to do so while so many unknowns regarding the ECIC remain. I&E R.B. at 41.

The OCA argued that PAWC has failed to demonstrate by a preponderance of evidence that the ECIC will “enhance the safety, security, reliability or availability of utility infrastructure.” OCA M.B. at 88 (citing 66 Pa.C.S. § 1330(a)(2)). While PAWC sought to model the ECIC on the DSIC/LTIIP, the OCA contended that the similarities are superficial. The OCA maintains that the DSIC/LTIIP is “aimed at accelerating the replacement of aging underground infrastructure above and beyond what is required under the law,” while the ECIC is aimed at shifting the risk of recovery of sizable and

wide-ranging environmental capital investments from the Company to its customers. The OCA argued that these environmental capital costs have traditionally been part of the Company's normal business risk of complying with environmental laws. OCA M.B. at 88-89 (citing OCA St. 1 at 49-50) (emphasis in original). According to the OCA, the Company has shown that it can meet its requirements in Section 1501 of providing adequate, safe and reasonable service and facilities without any additional incentive or inducement and has therefore failed to show that the ECIC would "enhance the safety, security, or availability of utility infrastructure." OCA M.B. at 89 (emphasis in original).

The OCA argued that the Company has the responsibility and expertise to make decisions regarding environmental compliance infrastructure needs and the ECIC is unnecessary. The OCA provided that the Company needs to remain agile in making decisions on infrastructure capital spending between rate cases and should not endeavor to make the Commission a super board of directors by initiating the ECIC review process between rate cases. OCA R.B. at 58-59. Finally, the OCA averred that if the Commission approved the ECIC, the Company's risk profile would be lowered, and this lower risk would need to be reflected in the approved cost of equity for the Company. OCA R.B. at 59 (citing OCA St. 3 at 19).

The OSBA alleged that the ECIC is the "textbook example of single-issue ratemaking." The OSBA argued that "PAWC has shown a predilection for entering into costly expenditures – the acquisition of [BASA] being a prime example." OSBA M.B. at 23. The OSBA maintained that single-issue ratemaking is not sound regulatory practice. While a traditional rate case allows all parties to balance the expenses of an issue such as the ECIC with possible savings created by a Company's environmental compliance projects, considering the ECIC in isolation would not. OSBA St. 1 at 46.

CAUSE-PA noted that it is impossible to determine the reasonableness of the ECIC, if the ECIC will operate equitably, or if it is in the public interest because of

the lack of details in PAWC's proposal. CAUSE-PA M.B. at 34-35 (citing CAUSE-PA St. 1 at 1-19). CAUSE-PA provided that the ECIC would negatively affect low-income customers – contrary to Section 69.3302(a)(7) and Section 69.3302(a)(8). Additionally, CAUSE-PA contended that the proposed ECIC fails to include appropriate consumer protections for financially vulnerable low-income customers pursuant to Section 69.3302(a)(12). Finally, CAUSE-PA averred that BDP participants will inequitably face heightened bills due to the ECIC and non-BDP low-income customers will face the full impact of ECIC charges. CAUSE-PA M.B. at 38.

PAWLUG contended that while PAWC claims that mechanisms like the ECIC are common, this claim inappropriately conflates the ECIC with a DSIC. PAWLUG M.B. at 30 (citing PAWLUG St. 1 at 16). PAWLUG noted that PAWC has failed to identify any pending environmental costs that would apply to the ECIC. According to PAWLUG, the ECIC is speculative single-issue ratemaking and should not be approved. PAWLUG M.B. at 30. PAWLUG opposed the ECIC, but if it is approved, recommended a 3% cap on total annual revenue recovered through the ECIC. PAWLUG M.B. at 31 (citing PAWLUG St. 1 at 17).

Victory Brewing affirmed the OCA statement regarding the ECIC which noted that PAWC proposes to shift the risk of recovery for a wide range of capital investments and other costs fully onto customers. Victory Brewing also agreed with the OCA statement that PAWC does not need the ECIC as compliance with environmental laws is part of the Company's obligation to provide adequate, safe and reasonable service and facilities under Section 1501. Victory Brewing M.B. at 10-11 (citing OCA St. 1 at 48-51). Victory Brewing agreed with I&E's witness, Ms. Okum, who testified that the Commission would not have the ability to review the ECIC in the context of total impact to ratepayers and with respect to other expenses if the ECIC is modified between rate cases. Victory Brewing M.B. at 11 (citing I&E St. 1 at 34-35). Victory Brewing also noted that PAWLUG, witness Ms. LaConte, provided that PAWC claimed that the

proposed ECIC has become commonplace in utility regulation, but none of the water utilities in its proxy group have such a mechanism. Victory Brewing M.B. at 11 (citing PAWLUG St. 1 at 16).

2. Recommended Decision

The ALJs recommended that the Commission reject the Company's proposed ECIC. The ALJs noted that PAWC advised that its proposed ECIC will provide a mechanism for adjusting PAWC's rates between base rate cases to allow for changes to costs to comply with new and updated environmental regulations as they occur. The ALJs provided that since PAWC would file the proposed environmental compliance plan between rate cases, the Commission will not be able to assess the impact that the ECIC, along with other expenses, will have on PAWC's ratepayers. The ALJs reasoned that the only way to have a full opportunity to review the plan is within the confines of a rate case. The ALJs concluded that PAWC's ECIC proposal is single-issue ratemaking. The ALJs provided that the Commonwealth Court has held that single-issue ratemaking is prohibited if it addresses a matter normally considered in a base rate case. R.D. at 307 (citing *Pa. Industrial Energy Coalition v. Pa. PUC*, 653 A.2d 1336 (Pa. Cmwlth. 1995)).

Additionally, the ALJs determined that it is impossible to evaluate the impact of this proposed charge due to the limited data available. As such, it is impossible to determine the impact of this charge on low-income customers as suggested by the Commission's policy statement on distribution rate considerations. R.D. at 307 (citing 52 Pa. Code § 69.3302(a)(7)). The ALJs concluded that it would be premature to implement a rider recovery mechanism for just one company before any universal Commission action can occur and before any potential government funding has been established to address the problem. R.D. at 307.

3. PAWC Exception No. 6.1 and Replies

In its Exception No. 6.1, PAWC contends that the ALJs erred by recommending that the Commission reject the proposed ECIC. PAWC argues that it faces “environmental compliance costs to the tune of \$200 million by 2027...” PAWC Exc. at 21 (citing PAWC St. 3 at 5-7) (additional citations omitted). PAWC maintains that the ECIC is consistent with the policy declaration incorporated into Section 1330, and the ECIC will “provide PAWC a reasonable opportunity to recover the capital costs and expenses incurred after June 30, 2025 to meet the challenges of providing high-quality water and wastewater service.” PAWC Exc. at 21.

PAWC contends that the ECIC is not single-issue ratemaking, rather it is an automatic adjustment clause authorized by Section 1330(b)(2). Additionally, PAWC’s proposed ECP process provides a reasonable procedure to examine the prudence and reasonableness of the ECIC charges outside of a base rate case. PAWC Exc. at 22.

According to PAWC, if the ECIC is approved, the Commission and interested parties will have ample opportunity to evaluate and challenge PAWC’s proposed investments to comply with environmental mandates before they occur. PAWC avers that this constitutes full and fair ratemaking review. PAWC Exc. at 22 (citing PAWC St. 8-R at 11).

PAWC provides that the Code requires utilities to propose alternative rate mechanisms as part of a base rate case, thus the ECIC proposal is not premature as the ALJs stated. In addition, PAWC notes that PAWC Exhibit JCS-1 provides PAWC’s analysis of the fourteen factors in the Commission’s alternative ratemaking policy statement which means that the Commission has all the information necessary to evaluate the ECIC. PAWC Exc. at 23 (citing 52 Pa. Code § 69.3302).

PAWC contends that BDP participants will receive a discount on ECIC costs so that the impact of PAWC's environmental compliance costs on low-income customers will be the same regardless of whether those costs are recovered through base rates or an alternative ratemaking mechanism. PAWC Exc. at 23.

In Replies to PAWC Exc. No. 6.1, I&E avers that the proposed environmental compliance plan would be filed outside the parameters of a base rate case, disrupting the Commission's ability to review the potential expenses of the plan in context with the other expenses that may be increasing or decreasing between rate cases, which constitutes single-issue ratemaking. I&E R. Exc. at 10.

Further, I&E disagrees with PAWC's argument that the ECIC will not impact efficiency incentives. I&E R. Exc. at 10 (citing PAWC St. 8, Exh. JCS-1 at 1). I&E maintains that changing environmental regulations requiring the Company to make investments or increase spending does not mean the Company should be guaranteed recovery of all environmental compliance projects it undertakes. I&E contends that the ECIC would take away the incentive for the Company to investigate possible alternative options for environmental compliance if cost recovery was guaranteed. Additionally, the Company has not provided cost information for the ECIC, which makes evaluation of the ECIC impossible. I&E R. Exc. at 10-11.

I&E reasons that environmental compliance has always been a normal part of PAWC's expenditures and will continue to be so with or without approval of the ECIC. The new and impending regulations will be faced by water and wastewater utilities nationwide and therefore I&E asserts that a surcharge for one company at this time before potential funding could be identified would be premature. I&E does not dispute that a utility should be able to recover costs associated with environmental compliance, but an open-ended surcharge like the ECIC is not the proper vehicle. I&E R. Exc. at 11-12.

The OCA provides that the ALJs properly found that the ECIC would not allow the Commission to assess the impacts of the ECIC along with other expenses on PAWC ratepayers. OCA R. Exc. at 21 (citing R.D. at 307). The OCA states that the ALJs properly concluded that the ECIC would represent single-issue ratemaking which is prohibited if it addresses a matter normally considered in a base rate case. OCA R. Exc. at 21 (citing R.D. at 307; OCA M.B. at 84-85). According to the OCA, the ECIC attempts to inappropriately shift the risk of recovery of wide-ranging environmental capital investments from the company, who is compensated for risk, to captive ratepayers who under the proposal would be forced to bear the business risk for no compensation. OCA R. Exc. at 22 (OCA M.B. at 89).

The OCA disagrees with PAWC's assertion that the ECIC would allow for "ample opportunity to proactively evaluate and challenge PAWC's proposed investments and measures to comply." OCA R. Exc. at 22 (citing PAWC Exc. at 22). The OCA responds to PAWC's argument by noting that the only way to have a full opportunity to review the plan is within the confines of a rate case. The OCA avers that under PAWC's proposal, quarterly updates would take effect on only ten days' notice. The OCA provides that statutory advocates and consumers have limited resources and cannot realistically be expected to review recurring ECIC plan filings with the same degree of scrutiny as in a base rate case. OCA R. Exc. at 23 (citing OCA St. 4-SR at 28; OCA M.B. at 91).

CAUSE-PA contends that the proposed ECIC fails on several of the factors in 52 Pa. Code § 69.3302 including: the effect on low-income customers and customer assistance programs, impact on energy efficiency programming, alignment with cost causation principals, and the prevention of improper cost shifting. CAUSE-PA R. Exc. at 3-4 (citing 52 Pa. Code § 69.3302(a); CAUSE-PA M.B. at 34).

Based on the information available, CAUSE-PA argues, it is impossible to determine what costs will be included in the ECIC or how those costs will be calculated and allocated across PAWC's customer base. Without this key information, CAUSE-PA asserts, it is impossible to assess the reasonableness and justness of the ECIC, whether the ECIC will operate equitably and consistent with cost causation principles, or whether the ECIC will reduce the need for more frequent or severe base rate filings as PAWC contends. CAUSE-PA R. Exc. at 4.

Next, CAUSE-PA expresses its concerns regarding the filing process for PAWC's proposed environmental compliance plan. While the proposed process would include the filing of answers and comments, CAUSE-PA notes that there is no ability to conduct discovery or otherwise assess the prudence of the plan, the reasonableness of and justness of the expenditures necessitated by the plan, or the reasonableness and justness of the resulting charge on consumers. CAUSE-PA R. Exc. at 4 (citing CAUSE-PA M.B. at 34; PAWC St. 8 at 25-26). Additionally, CAUSE-PA notes that it is unclear what kind of public notice would be provided to permit impacted customers to meaningfully participate in the truncated ECP review process proposed by PAWC. CAUSE-PA R. Exc. at 4-5.

According to CAUSE-PA, the proposed ECIC would improperly and unjustly shift the burden of mitigating PFAS and meeting environmental standards to low-income customers, their households, and their communities. CAUSE-PA R. Exc. at 5 (citing CAUSE-PA M.B. at 35-36). CAUSE-PA provides that the vast majority of PAWC's low-income customers are not enrolled in the BDP and would face the full financial impacts of ECIC charges. CAUSE-PA R. Exc. at 5 (citing CAUSE-PA M.B. at 37-38).

PAWLUG avers that the ALJs correctly denied PAWC's proposed ECIC. PAWLUG argues that PAWC's attempts to characterize its proposed alternative

ratemaking mechanisms including the RDM and ECIC as “commonplace” is misleading. PAWLUG R. Exc. at 4 (citing PAWC Exc. at 20). PAWLUG provides that the mechanisms are quite extraordinary and broad in scope. PAWLUG R. Exc. at 4 (citing PAWLUG M.B. at 10-12, 29-30). According to PAWLUG, PAWC misconstrues Section 1330 of the Code, 66 Pa.C.S. § 1330 as authorizing the implementation of these mechanisms, when the statute merely authorizes the Commission to consider approval of such mechanisms. PAWLUG R. Exc. at 4.

4. Disposition

Regarding the ECIC, we find the ALJs’ recommendation reasonable to reject PAWC’s proposal to institute an ECIC as an alternative rate mechanism. We agree with the ALJs, the only way to assess the impact of the ECIC, along with other expenses, is to review the costs within a rate case. The proposed review process outside of a base rate case for the ECIC would make the ECIC single-issue ratemaking.

There is insufficient information to evaluate the proposed ECIC. PAWC has provided only a rough estimate “to the tune of \$200 million dollars” of potential costs. PAWC Exc. at 21. The record does not show whether PAWC facilities are currently compliant or non-compliant with the PFAS MCLGs or MCLs. Infrastructure costs for treatment of waters with potential compliance needs cannot be determined until PAWC has evaluated current PFAS levels and monitored PFAS levels over time in its treated waters and wastewaters.

The impact on low-income customers cannot be determined, which is contrary to the Commission’s policy statement. 52 Pa. Code § 69.3302(a)(7). At this time, we cannot determine what financial assistance will be available from the state and federal government to assist water and wastewater utilities in complying with the new

PFA's regulations. Without detailed cost estimates and evaluation of potential funding sources, we agree with I&E that the ECIC proposal is premature. I&E M.B. at 98-101.

We agree with the OCA's concerns regarding the proposed ECP review process. The ten-day review time for ECP quarterly updates is not sufficient for a meaningful review of the potential impact on consumers.

We disagree with PAWC's likening of the ECIC to the DSIC. The ECIC is not the same as a DSIC. The DSIC recovers costs to accelerate infrastructure replacement that otherwise would take years to complete. The ECIC is to recover the cost of environmental compliance, which is part of the cost of doing business for PAWC. We agree with the OCA that PAWC does not need a mechanism like a DSIC to achieve its environmental compliance goals. It is unreasonable to shift the risk for environmental compliance to consumers. PAWC is being compensated for that risk while customers are not. *See*, OCA R. Exc. at 22.

PAWC avers that mechanisms like the proposed ECIC are commonplace in utility regulation, but we note that none of the water utilities in the proxy group have an environmental cost recovery mechanism. PAWLUG St. 1 at 16 (citing PAWC St. 13 at 51).

We note CAUSE-PA's concerns of the potential impacts of the ECIC on low-income customers and their communities. The discount on ECIC costs for BDP customers that PAWC cites is not adequate to protect low-income customers, especially those not participating in BDP. Low-income customers should not have to pay proportionally higher for environmental compliance costs impacting their communities disproportionately. CAUSE-PA M.B. at 38. For all the reasons above, we shall deny PAWC's Exception No. 6.1.

XII. Low-Income Customer Assistance

A. Affordability Analysis

1. Positions of the Parties

PAWC argued that its witness, Mr. Rea, prepared: (1) an Enterprise-Level Analysis of affordability that considered the affordability of service at a high-level over a multi-year period; and (2) a Community-Level Analysis that focused on affordability of service at the individual customer level under current and proposed rates and current economic conditions. PAWC M.B. at 76 (citing PAWC St. 10 at 5; PAWC St. 10-R at 3-4). Mr. Rea concluded that the Company's water and wastewater service has been and is expected to continue to be affordable for most of its residential customers while also noting the presence of groups of customers for whom affordability of service may be challenging. PAWC M.B. at 76-77 (citing PAWC St. 10 at 22). Specifically, Mr. Rea noted that PAWC's proposed rates are affordable not only because the bill-to-income (BTI) ratio at median household income (MHI) falls below the 2% level, but also because the Company's proposed rate design (including the BDP) provides almost every residential customer the opportunity to obtain "Basic Water Service" and wastewater service at affordable levels. PAWC M.B. at 77 (citing PAWC St. 10-R at 9).

In response to the argument of the OCA's witness, Mr. Colton, that PAWC's witness, Mr. Rea, should not have relied upon MHI data from homeowners (MHI-HO) in his Enterprise-Level Analysis due to the increasing limitation of home ownership to households with higher incomes, the Company argued that MHI is a widely recognized, readily available, and appropriate measure of household income since most PAWC customers are homeowners. PAWC M.B. at 77-78 (citing OCA St. 5 at 10-11; PAWC St. 10-R at 10-12). Further, the Company contended that the multi-year focus of the Enterprise-Level analysis is proper as it focused on customer bills over time, which

account for rates and usage, rather than rates alone. PAWC M.B. at 78-79 (citing PAWC St. 10-R at 13-14).

In response to the critique of the OCA's witness, Mr. Colton, that PAWC's Community-Level analysis does not consider each individual customer to determine affordability for that particular customer, PAWC's witness, Mr. Rea, explained that his analysis looks at data at the customer level, but the Company cannot assess the affordability of each individual customer. PAWC M.B. at 79-80 (citing PAWC St. 10-R at 18-19). Additionally, the Company maintained that its estimate of 40 gallons of water per household member is representative of PAWC customer actual water usage. PAWC M.B. at 80 (citing PAWC St. 10-R at 19-20, 24). Lastly, PAWC asserted that the unavoidable truth is that there will always be customers for whom affordability of service may be challenging, but for the large majority of residential customers, water and wastewater service is affordable and will continue to be affordable under the Company's proposed rates. PAWC M.B. at 80. According to PAWC, it addressed the issue of affordability for lower income customers in a reasonable manner by proposing an expansion to its BDP in this case and noted that it does not oppose the OCA's and CAUSE-PA's proposals to further increase discount levels for existing income tiers. *Id.*; PAWC R.B. at 66-67 (citing PAWC St. 10-R at 31).

I&E contended that PAWC's affordability analysis is flawed and should not be used to establish wastewater rates. I&E M.B. at 102 (citing I&E Statement No. 3 at 13-14). In support of its position, I&E argued that the primary objective should not be making the average bills of water and wastewater customers comparable due to the significant difference in operating costs between water and wastewater systems. According to I&E, cost causation should be the primary factor in determining rates. I&E M.B. at 101. Second, I&E argued that PAWC's analysis disregards the fact that water customers that do not receive wastewater service from PAWC will incur their own wastewater costs that may not be comparable to their PAWC water rates while

subsidizing PAWC wastewater customers to provide them comparable rates. Lastly, I&E asserted that PAWC's analysis further disregards the benefits that the Company claims could or have accrued to customers in acquired systems. *Id.* at 102.

The OCA argued that the Commission has previously considered rate affordability when setting rates. OCA M.B. at 95 (citing *Columbia 2021* at 46-47). The OCA expressed general agreement with PAWC that in determining whether rates are affordable for PAWC's customers, a consumer's water/wastewater burden, or the proportion of income dedicated to paying the consumer's bill for water and wastewater service, or the BTI ratio should not exceed 2%. OCA M.B. at 95 (citing PAWC St. 10 at 4-23; OCA St. 5 at 7-39). The OCA disagreed with the Company on the affordability analysis used to determine those customers that have a water burden exceeding the affordable 2% BTI Ratio. OCA M.B. at 95. According to the OCA, this disagreement is important because the affordability analysis used to identify and determine the number of customers that have water burdens exceeding 2% BTI supports the development and design of low-income customer assistance programs. The OCA argued that PAWC did not meet its burden of proof in showing, with substantial evidence, that its affordability analysis will lead to affordable and just and reasonable rates. *Id.* at 95-96.

In turn, the OCA recommended, at a high level, the following affordability analysis:

Enterprise level: First, reject Mr. Rea's recommendations to measure affordability using Median Household Income (MHI) and the Median Household Income of Homeowners (MHI-HO). Second, examine BTI Ratios at the average income in the First Quintile and Second Quintile given a constant usage over the years. Third, determine what income would be needed in order to achieve a BTI Ratio of 2.0% each year and examine the number of zip codes within the PAWC service territory that have those incomes at the average Q1 and average Q2 income levels. OCA St. 5 at 7-22.

Community level: First, reject the limitation of any “affordability analysis” to use of a minimal “Basic Water Service.” Second, do not examine affordability only for the PAWC population as whole. Third, measure affordability at different income levels. Finally, do not consider only the breadth of affordability (*i.e.*, the number of customers with BTI Ratios exceeding 2% of income), but also consider the depth of affordability (*i.e.*, recognizing that a substantial number of the customers with unaffordable bills, do not merely have a BTI Ratio “over 2%,” but have a BTI Ratio of over 20%). OCA St. 22-39; OCA St. 5SR at 8-9.

OCA M.B. at 96 (emphasis in original).

CAUSE-PA asserted that its witness, Mr. Harry Geller’s, analyses of the affordability of PAWC’s rates determined that low-income customers face excessive and unaffordable water/wastewater burdens, which depending on household size and usage, often exceeds 20% of household income. CAUSE-PA M.B. at 40 (citing CAUSE-PA St. 1 at 27-28; CAUSE-PA St. 1, Exh. 1). Further, CAUSE-PA argued that based on the computations presented in CAUSE-PA Exhibit 1, attached to the direct testimony of its witness, Mr. Geller, low-income customers devote significant portions of their incomes each month to basic water/wastewater services. CAUSE-PA M.B. at 40 (citing CAUSE-PA St. 1 at 27-28). CAUSE-PA explained that CAUSE-PA Exhibit 1 offers insight into the water and wastewater burdens faced by low-income customers at current and proposed rates. CAUSE-PA further explained that a utility bill burden is a recognized metric used to determine the affordability of utility service and includes the percentage of income required to cover the cost of the bill. CAUSE-PA M.B. at 40 (citing CAUSE-PA St. 1 at 27). Therefore, CAUSE-PA concluded that PAWC’s low-income customers are already struggling to afford and stay connected to water/wastewater services and the Company’s proposed rate increases would worsen existing levels of unaffordability for such customers. CAUSE-PA M.B. at 43

In response to PAWC's affordability analyses, Mr. Geller expressed concerns that such analyses obscured critical affordability challenges experienced by PAWC's low-income customers, which, he contended, is neither just, reasonable, nor in the public interest. CAUSE-PA M.B. at 47 (citing CAUSE-PA St. 1 at 38). CAUSE-PA proffered that its Exhibit 1 demonstrates that the breadth and depth of unaffordability for PAWC's low-income customers are excessive at current and proposed rates, particularly when varied usage levels are considered. CAUSE-PA M.B. at 46-47 (citing CAUSE-PA St. 1 at 38). Moreover, CAUSE-PA argued that it is not in the public interest "to shunt the significant numbers of low-income customers aside by concluding that unaffordability for these customers is unavoidable and therefore acceptable." CAUSE-PA R.B. at 16. According to CAUSE-PA, PAWC failed to meet its burden of showing that its rates, both as existing and as proposed, are just, reasonable, and in the public interest. As such, CAUSE-PA requested that the Commission reject PAWC's present rate increase request and require the Company to modify its programs, policies, and procedures to guarantee that PAWC's low-income customers can afford and maintain PAWC's services. *Id.* at 16-17.

2. Recommended Decision

In the Recommended Decision, the ALJs found PAWC's Enterprise-Level Analysis and Community-Level Analysis to be reasonable methods to determine customer affordability. Regarding the Company's Enterprise-Level Analysis, the ALJs agreed that the multi-year focus on customer bills over time is proper because it accounts for rates and usage, which are connected. The ALJs further noted PAWC's consideration of a substantial level of income information and BTI ratios for customers at different levels of household income by increment of the federal poverty level (FPL). As for the Community-Level Analysis, the ALJs expressed agreement with PAWC that the Company cannot assess the affordability of every customer and found the 40-gallon-per-household member metric to be reasonable. R.D. at 315.

Lastly, the ALJs acknowledged the extent of which the public input hearing testimony largely concerned unaffordability of service. The ALJs reasoned that irrespective of any adopted affordability analysis, there will always be customers who will struggle with their bills. The ALJs concluded that such customers will have to utilize PAWC's low-income assistance programs. R.D. at 316.

3. OCA Exception No. 18 and Replies

In its Exception No. 18, the OCA argues that the ALJs erred by not recommending that the Commission adopt the OCA's adjustments to PAWC's affordability analysis. OCA Exc. at 30 (citing R.D. at 315-16; OCA M.B. at 95-96; OCA R.B. at 60). In support, the OCA reiterates the same arguments and recommendation made in its Main Brief, *supra*. OCA Exc. at 30-31; *see*, OCA M.B. at 95-96.

In reply, PAWC agrees with the ALJs that the OCA's proposed modifications to the Company's affordability analysis should be rejected, and with the ALJs' conclusion that PAWC's analysis represents a reasonable way to measure customer affordability. PAWC R. Exc. at 21 (citing R.D. at 315). PAWC argues that the OCA, in its Exception No. 18, simply reiterates the same arguments considered and rejected by the ALJs. PAWC R. Exc. at 22 (citing OCA Exc. at 30-31). In response to the OCA's argument that PAWC's witness, Mr. Rea, did not credibly respond to the recommended affordability analysis of the OCA's witness, Mr. Colton, PAWC asserts that the OCA disregarded the voluminous testimony and data of its own witness, Mr. Rea. PAWC R. Exc. at 22.

4. Disposition

As a preliminary matter, we note, as argued by the OCA, that we have previously considered rate affordability when setting just and reasonable rates. *See*, OCA M.B. at 95 (citing *Columbia 2021* at 48). Most recently, in *Columbia Water 2024*, we considered the principles of cost causation in tandem with second considerations of gradualism and affordability. Here again, we acknowledge that there are several important factors or principles that must be considered and weighed when designing a rate recovery proposal, including the concept of affordability. However, while affordability is permitted to be considered, it is but one of several factors to be considered and weighed by the Commission in determining a utility's rates. The rate increase reflects the business challenges the Company currently faces, including required investments in the repair/replacement or improvement of its distribution systems, including acquired troubled water utilities' distribution system; and the high costs associated with maintaining a distribution system necessary to provide safe and reliable water and wastewater service within the Commonwealth.

Based on our review of the OCA's Exceptions on this issue, we are not persuaded by its arguments that the ALJs erred in their conclusion that PAWC's analyses are reasonable methods to determine customer affordability. Regarding PAWC's Enterprise-Level Analysis, we agree with the Company that focusing on customer bills over time is appropriate as those bills account for rates and usage, which are connected. Furthermore, PAWC considered a large degree of income information and BTI ratios for customers at varying household income levels by increment of the FPL. With respect to the Company's Community-Level Analysis, PAWC's witness, Mr. Rea, testified that the Company cannot assess the affordability of each individual customer in its service territory. We find this testimony persuasive and agree with PAWC that the issue of affordability should be viewed from the perspective of the broader customer base. Additionally, we note the Company's argument that, as a means of addressing the issue of

affordability for lower income customers, it proposed to add a fourth tier of eligibility to expand the offerings of its BDP to customers whose household incomes are between 151% and 200% of the FPL.

Finally, it is important to note that we share the concern regarding the affordability of utility rates expressed by the witnesses that testified at the public input hearings held in this proceeding. We are aware of the difficulties experienced by those living on fixed or low-incomes in paying their bills for all types of utility service. The testimony from the public input hearings presented an overarching theme which described residential ratepayers who live on fixed incomes or minimum wages and cannot afford the proposed increase.

However, we must also recognize that even the most efficient least-cost water service may not be affordable to many people on fixed or low-incomes. This is why we regard low-income customer assistance programs as vital and agree with the ALJs that low-income customers should avail themselves of such programs. Through the testimony of PAWC's witness, Ms. Everette, the Company described its low-income customer assistance programs, including its H2O program, which offers bill discounts for water and wastewater service, hardship grants, and water conservation assistance, an AMP to assist low-income customers with arrearages, a budget billing plan, and installment agreements. *See*, PAWC St. 1 at 12-16. The Company also noted that it has used funding from the LIHWAP program¹¹⁶ to provide bill assistance for qualifying,

¹¹⁶ Separately, we note that the Commission has proactively taken steps to help ameliorate the impact of water rate increases on the most vulnerable. In December of 2023, we wrote to the members of the Pennsylvania Congressional Delegation urging the members to continue funding LIHWAP for FY 2024 (FY24) and to create a mechanism to *permanently* fund a low-income program like LIHWAP for water customers. Highlighting the essentialness of water utility service and the program's success, we encouraged those members of the General Assembly to support continued funding for LIHWAP in FY24, including appropriations requests, to assure continued critical federal water assistance to help low-income customers pay for water service.

low-income customers. *See*, PAWC St. 1 at 13-14. Additionally, we note that our BCS is available to assist any customer who is having medical problems or difficulty in arranging reasonable payment agreements which consider a customer's inability to pay.

Moreover, we strongly encourage PAWC to collaborate with BCS to consider the feasibility of implementing other measures which would promote the affordability of water service. The Company and BCS are further encouraged to consider, *inter alia*, combination programs that provide water audits, conservation treatments, education, and payment assistance in exchange for regular payments. We emphasize that this approach is in the best interest of both the shareholders and ratepayers as affordable bills will maximize revenues for the Company and will enable ratepayers to continue to receive an essential service.

Accordingly, the OCA's Exception No. 18 on the issue of PAWC's affordability analysis is denied, and the ALJs' recommendation regarding this issue is adopted.

B. H2O Bill Discount Program Design

1. Positions of the Parties

The Company submitted that its existing BDP provides substantial billing discounts to PAWC customers with annual household incomes falling between 0% and 150% of the FPL. PAWC M.B. at 81 (citing PAWC St. 10 at 23; PAWC St. 10-R at 28). According to PAWC, the current BDP has three-tiers, with the lowest-income customers receiving the highest percentage discounts. This is shown in Table 25, as follows:

Table 25: PAWC'S Current BDP Program Design

<i>BDP Discount Levels</i>	Water Service Charge Discount	Water Service Volumetric Discount	Wastewater Total Bill Discount
<i>0% - 50% FPL</i>	80%	80%	80%
<i>51% - 100% FPL</i>	65%	50%	55%
<i>101% - 150% FPL</i>	40%	25%	30%

PAWC M.B. at 81.

PAWC proposed to keep, without modification, the three existing BDP tiers and to add a fourth tier expanding the program to include customers whose annual household income falls between 151% and 200% of the FPL. This proposed fourth tier of eligibility offered a discount of 30% on the 5/8" meter charge and 15% on the volumetric rate for water service, with wastewater customers receiving a 20% discount on the total wastewater bill. PAWC M.B. at 81. The expanded BDP is an attempt by PAWC to address affordability issues for customers with annual household income between 151% and 200% of the FPL, with PAWC's analysis finding a majority of customers in this income range would have water and/or wastewater service bills greater than 2% of household income. *Id.* at 81-82 (citing PAWC St. 10 at 23-26; PAWC St. 10-R at 28-29).

Responding to suggestions from the OCA and CAUSE-PA, PAWC noted it does not oppose higher discount percentages for the existing three tiers and the proposed fourth tier. PAWC noted the proposed changes and higher discount percentages would provide greater affordability for PAWC customers at the lowest end of the income scale. PAWC M.B. at 82. PAWC stated it would defer to the Commission as to the appropriate level of customer assistance discounts. *Id.* (citing PAWC St. 10-R at 31).

The OCA supported PAWC’s proposal to add a fourth BDP eligibility tier for customers whose annual household incomes fall between 151% and 200% of the FPL. OCA M.B. at 97 (citing OCA St. 5 at 49-50). The OCA argued for increased percentage discounts in each eligibility tier and noted the evidence from the OCA and CAUSE-PA showed the need for such increases. OCA M.B. at 98. As a basis for its proposed modifications, the OCA noted the existing BDP did not adequately address customer affordability, averring that: (1) fewer than 10% of customers with an affordable bill have income less than 200% of [the FPL]; (2) 84% of customers with income less than 50% of [the FPL] exceed the 2% burden level; and (3) 80% of customers with income between 50% and 100% of [the FPL], and 82% of customers with income between 100% and 150% of [the FPL], exceed the 2% burden level. Similar impacts arise for PAWC wastewater customers as well. OCA R.B. at 61 (citing OCA St. 5 at 40-41, 45).

As shown in Table 26 below, the OCA proposed the following BDP tiers and percentage discounts:

Table 26: The OCA’s proposed BDP Program Design

	Water Service Charge Discount	Water Service Volumetric Discount	Wastewater Total Bill Discount
Tier 1 (0-50% FPL)	90%	80%	85%
Tier 2 (51-100% FPL)	75%	65%	73%
Tier 3 (101-150% FPL)	60%	40%	55%
Tier 4 (151-200% FPL)	30%	20%	37%

OCA M.B. at 97. The OCA suggested these changes to the BDP program would generate more reasonably affordable bill-to-income ratios for PAWC customers and would result in more affordable rates than existing levels. *Id.* at 97-98 (citing PAWC St. 10-R at 29; OCA St. 5 at 46-48; CAUSE-PA St. 1 at 45-46).

CAUSE-PA made two recommendations regarding PAWC’s BDP:

(1) increased discounts within existing BDP tiers to increase affordability; and (2) a

requirement that PAWC transition the BDP to a percentage of income program (PIP). CAUSE-PA M.B. at 49-51. As summarized in Table 27 below, CAUSE-PA made the following recommendations regarding BDP discount levels:

Table 27: CAUSE-PA's Recommended BDP Discount Levels

	Water		Wastewater	
	Fixed Charge	Volumetric Charge	Fixed Charge	Volumetric Charge
Tier 1 (0-50% FPL)	90%	80%	85%	85%
Tier 2 (51-100% FPL)	75%	65%	73%	73%
Tier 3 (101-150% FPL)	60%	40%	55%	55%

CAUSE-PA M.B. at 49. CAUSE-PA argued its proposed amendments to the BDP would result in “marked improvements to affordability and reductions in water/wastewater burdens, ensuring a greater number of participants will receive a consistently affordable rate.” *Id.*

Next, CAUSE-PA outlined its request that PAWC be required to transition the BDP to a PIP. CAUSE-PA's proposal would require PAWC to file a Petition within six (6) months of a Final Order in this proceeding to pursue a PIP designed to achieve a combined water/wastewater billing burden not exceeding 4% of a BDP participating customer's annual household income. CAUSE-PA averred that a PIP structure is “the optimal way to achieve consistent, equitable, and targeted levels of affordability” by calculating rates based on a customer's verified income level. CAUSE-PA M.B. at 50.

2. Recommended Decision

The ALJs recommended that the Commission approve multiple proposed changes to PAWC's BDP, but ultimately recommended that the Commission reject CAUSE-PA's request that the BDP be converted to a PIP. R.D. at 320.

As to PAWC's proposal to add a fourth eligibility tier to the BDP, the ALJs noted "we are in favor of additional measures to assist PAWC's customers afford their bills." The Recommended Decision also reflected the fact that no Party opposed the proposed expansion of the BDP; therefore, finding the proposal reasonable, the ALJs recommended that the Commission approve PAWC's proposal. R.D. at 320.

The ALJs also found the increases in discount percentages proposed by the OCA and CAUSE-PA to be reasonable, particularly considering the lack of opposition by PAWC. The ALJs recommended approving the proposed increases, with the increases taking effect no later than the effective date of rates resulting from PAWC's next general rate case filed with the Commission, with this time providing the Commission an opportunity to evaluate the financial impacts of customer assistance program changes. R.D. at 320-21.

Finally, the ALJs considered CAUSE-PA's recommendation that PAWC transition its BDP to a PIP structure. The ALJs considered PAWC's opposition to such a change, alongside the facts that the Company's billing system is not configured to allow for a PIP structure and that PAWC does not currently have verified income data for most BDP participants. Based on the lack of feasibility for this proposal and approved alterations to the BDP, the ALJs recommended the Commission reject CAUSE-PA's proposal that PAWC transition the BDP to a PIP structure. R.D. at 321.

3. OCA Exception No. 19¹¹⁷

In its Exception No. 19, the OCA states that it agrees with the ALJs' recommendation regarding the increased tiered discount percentages of the BDP.

¹¹⁷ None of the Parties filed Reply Exceptions to the OCA's Exception No. 19 regarding this issue.

However, the OCA objects to the effective date recommended by the ALJs for PAWC to implement the changes. OCA Exc. at 32.

The OCA argues that “[n]o party advocated for the timeline that the ALJs selected for implementation.” Additionally, the OCA believes the timeline established by the ALJs is uncertain because it places the implementation schedule in PAWC’s control as PAWC can decide when to file its next rate case. OCA Exc. at 32.

The OCA requests the Commission reject the “uncertain timeline” of the Recommended Decision and require the increased tiered discount percentages of the BDP be implemented at the same time as the addition of the fourth tier, or, in the alternative, within one-year after the effective date of the rates set in this case. OCA Exc. at 32.

4. Disposition

During this proceeding, the OCA and CAUSE-PA made proposals related to PAWC’s BDP/H2O programs. Many of these proposals were made to address the affordability concerns summarized above. PAWC did not contest many of the proposed changes and the ALJs recommended that the Commission grant many of the proposed changes.

Given the concerns regarding affordability of rates and the lack of objection from PAWC, we find it appropriate to adopt the recommendations proposed by the OCA and CAUSE-PA regarding the addition of a fourth tier for customers at 151% to 200% of the FPL and increased discount percentages in already existing tiers. In our view, these changes will help PAWC’s low-income customers who may struggle with affordability given the increase in rates.

We likewise shall adopt the ALJs' recommendation to reject CAUSE-PA's proposal that PAWC convert its BDP to a PIP program. In doing so, we note the evidence provided by PAWC that such a change would not be reasonable given the Company's current billing software is not configured for a PIP, and PAWC does not currently have verified income information for most BDP participants.

Turning to the OCA's Exception No. 19, we are persuaded by the OCA's arguments. Namely, we shall impose a deadline of one year from the effective date of rates set in this case for the Company to implement these changes. We are of the opinion that the timeline recommended by the ALJs is uncertain and, given the importance of these changes to PAWC's customers and affordability, we find the one-year deadline to be more appropriate. We also note the lack of objection to this proposed timeline by PAWC in either its Exceptions or Reply Exceptions. Accordingly, we shall modify the ALJs' recommendation and shall grant the OCA's Exception No. 19.

C. Hardship Fund

1. Positions of the Parties

PAWC explained, by way of background, that its H2O program provides hardship grants for qualifying customers with annual household incomes at or below 200% of the FPL and that have made a payment of at least \$50 over the last 90 days. The Company further explained that a customer may receive a hardship grant equal to their total account balance at the time of issuance of the grant, up to the maximum annual grant amount of \$500 for water and wastewater service, respectively. PAWC M.B. at 83. PAWC noted that its hardship grants are funded through an annual shareholder donation as well as employee and customer donations. *Id.* (citing PAWC St. 9 at 13-14; PAWC St. 14-R at 15-16). PAWC stated that upon closing the Commission-approved BASA acquisition, it will expand eligibility to customers with household incomes at or below

250% of the FPL and contribute \$3.5 million to the Hardship Fund in addition to its annual contribution of \$750,000. PAWC M.B. at 83 (citing PAWC St. 9 at 17-18). The Company clarified that its Hardship Fund administrator, DEF, is working on a software enhancement that is expected to deploy at the beginning of the 2024-2025 program year. PAWC noted that once the enhancement is effective, customers will be able to apply for multiple hardship grants during a program year. PAWC R.B. at 69.

Lastly, PAWC contended that aside from the proposal regarding multiple customer grants per year, which the Company is already working to implement, the proposed operational modifications should be rejected. In support, PAWC contended that its existing statewide funds for water and wastewater are properly designed to ensure that the Hardship Fund dollars reach as many low-income customers across the Company's service territory as possible. Second, PAWC argued that a good-faith payment requirement is necessary to ensure that eligible customers are making a genuine effort to pay their bills. Further, PAWC stated that it is premature to raise the annual Hardship Funds grant amount to \$600 for water and wastewater due to the Company's AMP implementation and proposed expansion of BDP. PAWC M.B. at 84. Moreover, the Company asserted that while it does not support expanding eligibility of the Hardship Fund to customers with incomes above 200% of the FPL, when the BASA acquisition closes, the Company has already agreed as part of the settlement in *BASA* to increase the Hardship Fund eligibility threshold to 250% of the FPL. *Id.* (citing PAWC St. 14-R at 15-16).

I&E noted at the outset that its recommendations regarding the Company's low-income customer programs generally relate to how such programs are funded. Specifically, I&E maintained that should funding for the Hardship Fund be increased, as recommended by CAUSE-PA's witness, Mr. Geller, then PAWC shareholders, and not its ratepayers, should be responsible for funding these programs. I&E M.B. at 101-03.

The OCA recommended that the maximum income eligibility for PAWC's hardship grants be increased to 250% of the FPL and that the rules of the Company's program be amended to provide for multiple distributions to a customer in a year up to the existing maximum of \$500 per year. OCA M.B. at 98 (citing OCA St. 5 at 64-66). Additionally, the OCA argued that although the Company agreed to "work with its [Customer Assistance Advisory Group (CAAG)] members to develop a solution to allow an eligible customer to receive multiple Hardship Fund grant awards each year, up to the maximum grant amount of \$500 for water and \$500 for wastewater," as a condition to the rate case settlement in *PAWC 2022*, a solution has not been achieved. OCA M.B. at 98-99 (citing OCA St. 5 at 64). Therefore, the OCA contended that PAWC should be required to develop a method for allowing multiple Hardship Grants up to the maximum allowed amount. OCA M.B. at 99 (citing OCA St. 5 at 64).

Similarly, CAUSE-PA argued that PAWC's Hardship Fund is undersubscribed compared to need among low-income customers. CAUSE-PA M.B. at 52. CAUSE-PA expressed its concerns that the average arrearage level of recipients of hardship funding exceeds the maximum Hardship Fund grant limit of \$500 and that the Hardship Fund requires an upfront payment of \$50. *Id.* at 53 (citing CAUSE-PA St. 1 at 50-51). CAUSE-PA acknowledged that the settlement in *BASA* comprises certain increases to the Hardship Fund but argued that these commitments predate the instant proceeding and do not contemplate the additional need resulting from any increase in rates. CAUSE-PA M.B. at 54. CAUSE-PA's witness, Mr. Geller, stated that income-eligible customers face burdens affording water and wastewater service, and he testified that PAWC's water and wastewater burden levels for income-eligible customers leave economically vulnerable Pennsylvania families with insufficient funds to pay for housing, energy, food, medicine, childcare, and other basic needs. CAUSE-PA St. 1 at 27-28; CAUSE-PA Exh. 1.

Therefore, CAUSE-PA recommended that PAWC increase annual hardship funding by an additional \$1 million over existing funding levels. CAUSE-PA M.B. at 54 (citing CAUSE-PA St. 1 at 52). CAUSE-PA further recommended elimination of the good faith payment arguing that it poses a significant barrier to obtaining Hardship Fund assistance. CAUSE-PA M.B. at 54-55 (citing CAUSE-PA St. 1 at 53). Lastly, CAUSE-PA recommended that the Company increase the maximum amount of its Hardship Fund grant from \$500 to \$600 for water and wastewater, respectively. CAUSE-PA M.B. at 55.

CEO recommended that PAWC increase its funding for the hardship grant program and distribute its hardship funds based upon the percentage of low-income customers within the service region or county. Specifically, CEO proposed that, should a rate increase be granted in this proceeding, the Company increase its contribution to the Hardship Fund by \$300,000. CEO St. 1 at 6-7.

2. Recommended Decision

In the Recommended Decision, the ALJs noted PAWC's indication that the Company was already working to implement multiple customer grants per year, as proposed by the OCA and CAUSE-PA, and that the Company did not reject this proposal. Therefore, the ALJs recommended the adoption of the proposal for the allowance of multiple customer grants per year to take effect no later than the effective date of rates resulting from PAWC's next general rate increase filed with the Commission. The Recommended Decision further recommended that the multiple grants be up to the existing \$500 maximum and declined the \$600 maximum that CAUSE-PA proposed. R.D. at 327.

Regarding the proposed modifications to the eligibility requirements for the Hardship Fund, the ALJs recommended the Commission adopt the OCA's proposal to

raise the income threshold from 200% to 250% of the FPL and CAUSE-PA's proposal to remove the \$50 good faith payment required to receive a Hardship Fund grant. The ALJs reasoned that such changes would open up Hardship Fund assistance to financially stressed customers with somewhat higher household income or with less favorable payment history. The ALJs concluded that both proposals should take effect "no later than the effective date of rates resulting from PAWC's next general rate increase filed with the Commission." R.D. at 327-28.

3. Exceptions and Replies

a. PAWC Exception No. 10 and Replies

In its Exception No. 10, PAWC contends that the Commission should reject the proposed modifications to Hardship Fund eligibility to preserve the Fund's focus on supporting customers with lower incomes and good faith payment behavior. The Company explains that the funds for hardship grants are not unlimited as they are drawn from an annual shareholder donation and employee and customer donations and could be depleted before the end of the program year if the proposed modifications are adopted. PAWC Exc. at 29. According to PAWC, it is reasonable and proper to dedicate funds to lower-income customers and customers that are making a genuine effort to pay their bills. *Id.* (citing PAWC St. 14-R at 15-16). Furthermore, the Company notes that although it separately agreed to raise the FPL threshold to 250% of the FPL as part of the settlement in *BASA*, this adjustment was coupled with increased shareholder funding. PAWC Exc. at 29 (citing Tr. at 2024).

In Reply to PAWC's Exception No. 10, the OCA agrees with the ALJs' recommendation to increase the hardship grant eligibility to include incomes up to 250% of the FPL and eliminate the \$50 upfront payment requirement. In response to PAWC's argument that the recommended modifications could deplete the hardship grant before

the end of the program year, the OCA contends that such argument is not supported by the record which reflects that the hardship grant program has been undersubscribed. Accordingly, the OCA argues that the Commission should adopt the ALJs' recommended modifications pertaining to the Hardship Fund. OCA R. Exc. at 23-24.

Similarly, in its Reply, CAUSE-PA argues that the Commission should reject PAWC's Exception No. 10 and adopt the ALJs' recommendation to modify the Company's Hardship Fund so that low-income customers will be eligible for a Hardship Fund grant, regardless of whether they are able to make an upfront payment. In support, CAUSE-PA argues that the Company's Hardship Fund is significantly undersubscribed and that upfront payment requirements do not test a customer's good faith but rather pose significant barriers to receiving Hardship Fund assistance. Lastly, CAUSE-PA urges the Commission to require the Company to make efforts to identify additional sources of funding to support grant assistance. CAUSE-PA R. Exc. at 10-11, 13.

b. OCA Exception No. 20¹¹⁸

In its Exception No. 20, the OCA argues that the timeline set forth by the Recommended Decision, for implementation of the proposals, is uncertain as it places the entire schedule within the Company's discretion in terms of determining when to file for its next rate case. OCA Exc. at 33. In the alternative, the OCA proposes a timeline of one year after the effective date of the rates set in this case in light of DEF's work to develop software allowing for multiple hardship grants. *Id.* (citing R.D. at 322, n.1124). According to the OCA, this software is expected to deploy at the beginning of the 2024-2025 grant year, which is within one year of the effective date of the rates set in this case. OCA Exc. at 33.

¹¹⁸ None of the Parties filed Reply Exceptions to the OCA's Exception No. 20 regarding this issue.

4. Disposition

We have previously noted the issue of affordability raised in the public input testimony in this proceeding and thereby emphasized the importance of low-income customer assistance programs, including hardship funds, encouraging low-income customers to avail themselves of such programs. As a preliminary matter, we find compelling the arguments of the OCA and CAUSE-PA that the Company's Hardship Fund is undersubscribed. We specifically note CAUSE-PA's argument that from January through November 2023, 9,658 confirmed low-income customers were terminated for nonpayment, yet only 3,443 customers received a Hardship Fund grant. CAUSE-PA M.B. at 53 (citing CAUSE-PA St. 1 at 50, Table 14). We agree with CAUSE-PA that the significant number of confirmed low-income customers terminated for nonpayment compared to the number of issued Hardship Fund grants marks a need for increased access to Hardship Fund grants for struggling, low-income customers.

With this in mind, we find that PAWC's upfront \$50 payment requirement to receive a Hardship Fund grant contravenes the purpose of a hardship fund, which is to provide financial assistance to low-income, payment-troubled customers to help them pay their utility bills. We agree with CAUSE-PA that this upfront, payment requirement could pose a barrier to obtaining needed grant funding to low-income customers that are already payment-troubled. As such, we concur with the Recommended Decision that such requirement should be eliminated.

Regarding the OCA's proposal to expand Hardship Fund eligibility to 250% of the FPL, we agree with the ALJs that increased eligibility may help those whom the OCA identifies as having a fragile income, especially when facing an unforeseen circumstance. Further, we note that, with respect to PAWC's BDP, the Company has proposed to expand that program's offerings to customers whose household incomes are between 151% and 200% of the FPL. Therefore, while customers whose household

incomes that are between 201% and 250% of the FPL will be ineligible for the Company's BDP, adoption of the proposed expansion of eligibility to the Hardship Fund will provide those customers, as identified by the OCA as having a fragile income, with an alternative means of assistance of which to avail themselves. Accordingly, we will adopt the ALJs' recommendation of expanding Hardship Fund eligibility to 250% of the FPL.

Next, the OCA opposes the Recommended Decision's timeline for implementation of the modifications to PAWC's Hardship Fund, which is no later than the effective date of rates resulting from PAWC's next general rate increase. We agree with the OCA that its proposal of one (1) year after the effective date of the rates set in this proceeding is a more suitable timeline as it provides more certainty regarding the date of implementation of the modifications to the Hardship Fund and coincides with DEF's software deployment to allow for multiple hardship grants. Additionally, the OCA's proposed timeline will logically result in the faster implementation of the necessary modifications to this program which we have previously exhorted eligible, low-income customers to utilize. Moreover, we note that none of the other Parties opposed the OCA's proposed timeline.

Lastly, as PAWC has raised a concern that the proposed modifications to its Hardship Fund could deplete its resources, we encourage the Company to take steps to identify additional funding sources to support grant assistance, as suggested by CAUSE-PA. On the other hand, in light of the issue of undersubscription to this program and the supporting statistics, as presented by the OCA and CAUSE-PA, we believe that the Company should conduct outreach efforts to ensure as many eligible, low-income customers as possible receive this funding. To that end, we find it appropriate to strongly encourage the Company to set a target donation of an additional \$1 million into its Hardship Fund. This voluntary payment would be in addition to the Company's annual Hardship Fund contribution of \$750,000. These additional dollars, if donated, will serve

to make water and wastewater service more affordable for income-eligible customers in most need of assistance.

Accordingly, PAWC's Exception No. 10 is denied and the ALJs' recommended modifications to the Company's Hardship Fund are adopted with the exception of the recommended timeline for implementation of such modifications. In that regard, we will grant the OCA's Exception No. 20 with respect to the timeline of implementation of the approved modifications and require PAWC to implement the adopted modifications to its Hardship Fund within one (1) year after the effective date of the rates set in this case. In addition to encouraging the Company to set a target donation of an additional \$1 million into its Hardship Fund, we direct PAWC to explain, in its next base rate proceeding, the efforts it has taken to provide Hardship Fund assistance to as many eligible, low-income customers as possible.

D. Conservation Assistance

1. Positions of the Parties

PAWC argued that CAUSE-PA's Conservation Assistance proposal, *infra*, attempts to impose a low-income usage reduction program (LIURP) construct on the Company, similar to LIURPs established only for EDCs and natural gas distribution companies NGDCs. PAWC noted that imposition of a LIURP-type program in this proceeding would require the Company to "hire additional staff and manage costs associated with repairing and replacing the leaking lines and infrastructure of low-income customers." These costs, considered alongside the lack of a legal requirement for PAWC to have a LIURP, form the basis for the Company's request that the Commission reject CAUSE-PA's Conservation Assistance proposal. PAWC M.B. at 85-86.

I&E noted two issues with the Conservation Assistance proposal made by CAUSE-PA: (1) the proposal does not specify a funding source; and (2) no cap or budget for the program is included in the proposal. I&E argued that since the program “will focus on water conservation inside individual customers homes and assistance with repairing and replacing service lines on individual customers property” it would be inappropriate to require all ratepayers to fund this program. Therefore, I&E requested that, should the Commission approve CAUSE-PA’s Conservation Assistance proposal, the program be funded by PAWC’s shareholders rather than ratepayers. I&E M.B. at 103 (citing I&E St. 1-R at 4).

The OCA requested that the Commission order PAWC to “develop a plan to utilize U.S. Department of Energy’s Weatherization Assistance Program and the natural gas and/or electric [LIURP] agencies as partners to develop and deliver water conservation investments” to its customers. In support of this request, the OCA averred that PAWC’s “failure” to address water conservation needs of low-income customers has the effect of forcing these customers to fund water conservation investments themselves, often in addition to water bill burdens of 6% to nearly 80% of the BTI ratio. OCA M.B. at 99.

CAUSE-PA recommended that the Commission require PAWC to “develop and implement a comprehensive low-income water conservation and leak repair program” no later than six (6) months after a Final Order in this proceeding. CAUSE-PA M.B. at 60. CAUSE-PA argued that PAWC currently offers limited water conservation assistance to low-income customers participating in the H2O programs. This assistance includes water conservation kits containing self-installed basic water-saving devices, a leak detection kit, conservation tips and materials, and a water use calculator. CAUSE-PA submitted this limited assistance was insufficient, hampering the ability of low-income customers to reduce high usage and address repairs and leaks and exacerbating unnecessarily high universal service program (USP) costs. *Id.* at 58.

CAUSE-PA's proposal called for conservation assistance to include comprehensive conservation measures, *i.e.*, basic plumbing and service line repair and replacement, with no out-of-pocket or up-front costs for the measures or installation. CAUSE-PA M.B. at 60. The proposal also recommended "annual reporting parameters of water savings and reductions to costs of low-income assistance programs resulting from this program. *Id.* (citing CAUSE-PA St. 1 at 63-64). CAUSE-PA proposed the conservation assistance program set a maximum eligibility cap at 200% of FPL, with a specific target on high usage, low-income customers enrolled in PAWC's BDP. CAUSE-PA M.B. at 60-61.

CAUSE-PA echoed and built upon the suggestions made by the OCA, *supra*, recommending that PAWC "coordinate the delivery of services" with similar programs provided by electric and natural gas utilities in PAWC's service area, and argued that such partnerships "will help to coordinate conservation and repair efforts." CAUSE-PA M.B. at 61.

In response to PAWC's objections to the proposal, CAUSE-PA stated, "[t]he lack of an explicit statutory *requirement* to operate a conservation program does not preclude the Commission from ordering PAWC to implement this important program." CAUSE-PA M.B. at 62 (emphasis in original). CAUSE-PA argued the critical assistance the program offers to low-income customers would also have positive impacts on all ratepayers by reducing uncollectible costs associated with terminations. CAUSE-PA also averred the Commission "has long recognized" that conservation is an essential component of universal service plans, as conservation programs are part of "holistic services" to address unaffordability through bill assistance, debt management, and conservation. CAUSE-PA M.B. at 62-63.

Finally, CAUSE-PA addressed I&E's proposal that costs for such a program, if approved, should be funded by shareholders rather than ratepayers.

CAUSE-PA is not opposed to I&E's proposal but argued that costs for the program could be properly recovered via rates. CAUSE-PA also demurred, stating it is not necessary for the Commission to determine the proper method of cost-recovery in this proceeding. CAUSE-PA M.B. at 63.

2. Recommended Decision

The ALJs recommended that the Commission reject CAUSE-PA's proposal that PAWC be required to design and implement a comprehensive conservation and line repair and replacement plan. R.D. at 334.

While finding that "such a program would certainly be beneficial to PAWC's ratepayers," the ALJs agreed with PAWC that LIURPs (and similar programs) are currently only required under Pennsylvania law for EDCs and NGDCs. R.D. at 334, *see also*, 52 Pa. Code § 58.1. Without statutory authority mandating LIURPs for water companies, the ALJs concluded that it "would be inappropriate to impose such a requirement on PAWC alone." R.D. at 334.

3. CAUSE-PA Exception No. 1 and Replies

CAUSE-PA argues, in its Exception No. 1, that the ALJs erred "as a matter of law and sound public policy" in their conclusion that PAWC should not be ordered by the Commission to establish a comprehensive water conservation program for low-income customers. CAUSE-PA Exc. at 5. CAUSE-PA repeats the arguments outlined in its briefs and submitted testimony, stating the proposal would provide "critical assistance to low-income customers with usage beyond their control, would help to control USP costs, and would reduce uncollectible costs as a result of terminations which affect all ratepayers." CAUSE-PA Exc. at 10 (citing CAUSE-PA St. 1 at 62-63). While CAUSE-PA acknowledges "that there is currently no statutory or regulatory requirement

directing jurisdictional water and wastewater utilities to maintain LIURPS,” it also insists that this does not preclude the Commission from ordering PAWC to implement the program. CAUSE-PA compares its proposal to LIURP programs for EDCs and NGDCs, which CAUSE-PA avers were developed and implemented “years before promulgation of the Commission’s LIURP regulations.” CAUSE-PA Exc. at 9-10.

CAUSE-PA also restates its request that PAWC be ordered by the Commission to work with its CAAG to develop a comprehensive assistance program no later than six (6) months after the final order in this proceeding. CAUSE-PA Exc. at 11-12.

In reply, PAWC requests that the Commission adopt the reasoning of the ALJs in the Recommended Decision, averring “[t]he ALJs properly found that statutory and regulatory obligations related to ... low-income conservation assistance apply to electric and natural gas distribution utilities only.” PAWC echoes the reasoning of the ALJs, arguing that absent statutory or regulatory obligations, “it would not be appropriate to single out PAWC and mandate the implementation of a Comprehensive Conservation Program...” PAWC R. Exc. at 24-25.

4. Disposition

We agree with the reasoning of the ALJs in the Recommended Decision and shall reject the positions of the OCA and CAUSE-PA that the Company be directed to develop the conservation programs proposed above. In the absence of a regulation that mandates a LIURP for water companies, similar to the regulation that exists for EDCs and NGDCs, we find it inappropriate for the Commission to impose such an obligation on PAWC alone. Therefore, we shall deny Exception No. 1 filed by CAUSE-PA.

E. Low-Income Customer Outreach, Screening, and Intake**1. Positions of the Parties**

PAWC contended that it utilizes a robust, multi-prong approach to apprise customers of the benefits of its H2O Programs, which include direct customer communication (*i.e.*, bill inserts, social media), participation in PUC consumer education events, and DEF outreach (*i.e.*, public service announcements). PAWC M.B. at 86 (citing PAWC St. 9 at 14-16; PAWC St. 14-R at 7). The Company explained that when accessing its customer portal, customers are presented with information on bill assistance self-service options and a link to information on the Company's H2O Programs, along with instructions on how to apply. PAWC M.B. at 86 (citing PAWC St. 9-R at 11). According to the Company, from December 2020 to November 2023, PAWC increased participation in its BDP by over 30%. PAWC M.B. at 86 (citing PAWC St. 14-R at 8).

In response to the recommendations of the OCA and CAUSE-PA, PAWC agreed that low-income customers should be enrolled in its H2O program as early as possible and explained that when a customer calls seeking payment assistance, the Company's customer care agents (CCAs) are trained to direct customers to call DEF to enroll. PAWC M.B. at 87 (citing PAWC St. 9-R at 11). According to the Company, it complies with the requirements of Chapter 14 of the Code and Chapter 56 of the Commission's Regulations regarding payment arrangements and service terminations, and also places a 30-day collections and termination lock on the account of any customer that mentions they are working with an agency for payment assistance. PAWC M.B. at 87-88 (citing PAWC St. 14-R at 11). On the other hand, PAWC argued that it should not decide on behalf of the customer whether to apply for the H2O program or enter a separate payment arrangement as proposed by the OCA and CAUSE-PA. PAWC M.B. at 88.

The OCA argued that PAWC's low-income customer outreach and intake for its BDP and AMP programs are inadequate. OCA M.B. at 99 (citing OCA St. 5 at 54-63). In support, the OCA asserted that from November 2021 to October 2023, PAWC enrolled 17.7% of the 60,660 confirmed low-income customers and that from January 2021 to October 2023, the Company's disconnection count of confirmed low-income customers was 35,488. OCA M.B. at 99-100 (citing OCA St. 5 at 57). Therefore, the OCA made the following recommendations for PAWC to implement to provide adequate service:

1. The company should be required to make personal contact with any confirmed low-income customer facing termination of service for nonpayment and these customers should be informed of and given the right to enroll in the BDP and the AMP as an alternative to disconnection. Termination of these customers should be frozen until this contact takes place.
2. Moving forward, customers enrolled in the BDP should also be informed of the AMP and enrolled in it as well if they choose.
3. Customers should be informed of AMP and BDP and directed to enroll, where doing so would be more favorable to a customer and only offer a payment arrangement if the customer rejects the BDP and AMP after being informed of the programs' benefits.
4. The company should be required to make regular reports to Low Income Advocacy Groups (LIAG) regarding its steps towards utilizing speech patterns and linguistic analysis to review call center calls.

OCA M.B. at 100 (citing OCA St. 5 at 54-63). The OCA asserted that these recommendations should be implemented by the Company as a part of any authorized rate increase to ensure adequate service is being provided to customers. OCA M.B. at 100 (citing 66 Pa.C.S. §§ 523, 1501, 1505; *Pa. PUC v. Pa. Gas & Water Co.*,

74 PUR4th 238, 244-45 (Pa. PUC 1986) (*PG&W 1986*); *Pa. PUC v. Philadelphia Gas Works*, 2000 Pa. PUC LEXIS 876, *41-44 (Opinion and Order entered November 22, 2000) (*PGW 2000*).

Similarly, CAUSE-PA argued that PAWC's USPs, including reduced rates available through the Company's BDP, are not reasonably accessible to the Company's low-income customers. CAUSE-PA M.B. at 63 (citing CAUSE-PA St. 1 at 54). In support, CAUSE-PA contended that as of November 2023, only 25% of PAWC's estimated low-income customers and 40% of its confirmed low-income customers were enrolled in BDP. Moreover, CAUSE-PA asserted that while 9,658 confirmed low-income customers were terminated for nonpayment in 2023, only 3,443 Hardship Fund grants were issued during that time. *Id.* According to CAUSE-PA, the Company does not have adequate systems in place to ensure that customers are being timely referred and assisted to enroll in BDP and the Hardship Fund assistance, consistent with Sections 1303 and 1410.1 of the Code and undersubscription of PAWC's low-income assistance programs contravenes those Sections of the Code. CAUSE-PA M.B. at 64-65.

Therefore, CAUSE-PA recommended several modifications so that low-income customers can enroll in available USPs more easily and before such customers accrue unmanageable debts. CAUSE-PA M.B. at 65 (citing CAUSE-PA St. 1 at 56). First, CAUSE-PA proposed that PAWC begin screening all new and moving customers for income level and eligibility at the time their service is established and periodically thereafter during non-emergency calls. CAUSE-PA M.B. at 65 (citing CAUSE-PA St. 1 at 57). Next, CAUSE-PA recommended that the Company develop call scripting and checklists for its Customer Service Representatives (CSRs) to assist in screening customers for eligibility and refer low-income customers to available assistance programs, including BDP and the Hardship Fund, before being placed on a payment arrangement. Further, CAUSE-PA recommended that the Company should be required to refer low-income customers to available assistance programs, including the

Company's BDP and Hardship Fund, before placing such customers on a payment arrangement. CAUSE-PA M.B. at 66.

2. Recommended Decision

In the Recommended Decision, the ALJs noted a public utility's responsibility, when contacted by a customer to make a payment agreement, to provide information about its USPs and to refer the customer to the USP administrator to determine eligibility for enrollment in the program. R.D. at 340-41 (citing 66 Pa.C.S. § 1410.1). The ALJs found that PAWC is following these guidelines since PAWC CCAs are trained to direct customers to call DEF to enroll. The ALJs held that PAWC is meeting its obligations by informing callers about the availability of the Company's customer assistance programs. Accordingly, the ALJs recommended that the proposals of the OCA and CAUSE-PA regarding low-income customer outreach be rejected. R.D. at 341.

3. OCA Exception No. 21, CAUSE-PA Exception No. 3, and Replies

In its Exception No. 21, the OCA argues that while PAWC may be adhering to statutory standards, the OCA's witness, Mr. Colton, presented concerning statistics regarding a low level of low-income customer level enrollment in the Company's BDP. OCA Exc. at 34. In support, the OCA reiterates the same arguments and recommendation made in its Main Brief. *Id.*; see, OCA M.B. at 99-100. As such, the OCA asserts that the Commission should consider this evidence of low enrollment and adopt the OCA's recommendations. OCA Exc. at 34 (citing R.D. at 341; OCA M.B. at 99-100; OCA R.B. at 63).

CAUSE-PA argues in its Exception No. 3 that the ALJs made factual and legal errors in its determination that PAWC's existing screening and intake processes are

adequate and consistent with statutory standards. According to CAUSE-PA, the undersubscription in PAWC's low-income assistance programs limits the ability of the Company's low-income customers to access affordable services prior to accruing unmanageable arrears and facing termination. CAUSE-PA Exc. at 20. In support, CAUSE-PA contends that Section 1303 of the Code requires that PAWC ensure customers are enrolled in the most advantageous rate, including rates available through the Company's BDP. *Id.* (citing CAUSE-PA M.B. at 63-64). Similarly, CAUSE-PA contends that under Section 1410.1 of the Code, the Company is required to refer customers to available USPs, including its BDP and Hardship Fund, before placing customers on a payment arrangement. CAUSE-PA maintains its position that the undersubscription in PAWC's low-income assistance programs contravenes Sections 1303 and 1410.1 of the Code. CAUSE-PA Exc. at 20-21.¹¹⁹

In further support, CAUSE-PA reiterates the same arguments and recommendation made in its Main Brief. CAUSE-PA Exc. at 21-23; *see*, CAUSE-PA M.B. at 63-69. Additionally, CAUSE-PA disagrees with PAWC's argument that its recommendation regarding screening and intake would deprive customers of the choice of whether to enroll in USPs and expresses its concern that low-income customers are not being adequately referred to assistance programs. CAUSE-PA Exc. at 24.

In its Reply, PAWC agrees with the ALJs that the Company's low-income customer outreach, intake, and screening are appropriate and consistent with statutory

¹¹⁹ We further note that in its reply to the Company's Exception No. 11, discussed in Section VII.F, *infra*, CAUSE-PA argues that the ALJs' recommendation that the Commission reject CAUSE-PA's proposed modifications to PAWC's screening and intake procedures should not preclude implementation of CAUSE-PA's recommendations to the Company's data collection and reporting. CAUSE-PA R. Exc. at 17. CAUSE-PA notes that while its recommendations regarding screening and intake are aimed at addressing the methods by which PAWC increase enrollment in its USPs, the data collection and reporting recommendations are intended to improve Commission oversight of the Company's USPs. *Id.*

standards. PAWC R. Exc. at 22. The Company reiterates that it offered evidence of its robust, multi-prong approach to inform customers about the benefits of its H2O program. *Id.* at 22-23 (citing PAWC St. 9 at 14-16; PAWC St. 9-R at 11; PAWC St. 14-R at 7). By way of its Reply, PAWC states its desire to address CAUSE-PA's "mischaracterization" of Section 1410.1 of the Code, and CAUSE-PA's allegation that the Company is in violation of Sections 1303 and 1410.1 of the Code. PAWC R. Exc. at 23. According to the Company, CAUSE-PA has misinterpreted Section 1410.1 to prohibit the establishment of a payment arrangement until the customer has completed the referral process and in response, the Company argues that the plain language of Section 1410.1 provides no such prohibition. *Id.* (citing CAUSE-PA Exc. at 20). In response to CAUSE-PA's argument that PAWC's H2O program offerings are undersubscribed and thus, in violation of Sections 1303 and 1410.1 of the Code, the Company argues that neither statute refers to customer enrollment or participation in assistance programs or requires a subscription level. PAWC R. Exc. at 23-24 (citing 66 Pa.C.S. § 1303; CAUSE-PA Exc. at 20). Accordingly, PAWC argues that the ALJs properly examined these processes in making their determination that the Company is following 66 Pa.C.S. §§ 1303 and 1410.1 and requests that the Commission reject the Exceptions of the OCA and CAUSE-PA with respect to this issue. PAWC R. Exc. at 24 (citing R.D. at 340-41).

4. Disposition

As a preliminary matter, we note, again, the concerns expressed by the OCA and CAUSE-PA that PAWC's customer assistance programs are undersubscribed. The OCA and CAUSE-PA each made proposals to address this issue. The focus of the OCA's recommendations is to ensure that customers are receiving adequate service consistent with 66 Pa.C.S. §§ 523, 1501, and 1505 by increasing customer outreach and intake for the Company's BDP and AMP programs. *See*, OCA M.B. at 99-100. CAUSE-PA asserted that its proposals are targeted at ensuring that PAWC's customers are properly referred and assisted to enroll in the Company's USPs, consistent with

Sections 1303 and 1410.1 of the Code, 66 Pa.C.S. §§ 1303, 1410.1. *See*, CAUSE-PA M.B. at 65; CAUSE-PA Exc. at 18-24. As of November 2023, 25% of PAWC's estimated low-income customers and 40% of its confirmed low-income customers were enrolled in BDP. *See*, CAUSE-PA M.B. at 63 (citing CAUSE-PA St. 1 at 54). Such statistics highlight that additional outreach efforts are appropriate.

Accordingly, we agree with a number of the recommendations made by the OCA and CAUSE-PA to address low-income customer outreach. First, we believe PAWC should develop call scripting and checklists for its CSRs to assist in screening customers for eligibility and refer low-income customers to available assistance programs, including BDP and the Hardship Fund, before placing customers on a payment arrangement. *See*, CAUSE-PA St. 1 at 58.

Second, PAWC should make personal contact with any confirmed low-income customer facing termination of service for nonpayment, and these customers should be informed of and given the opportunity to enroll in the BDP and the AMP as an alternative to disconnection. *See* OCA St. 5 at 59. Further, moving forward, customers enrolled in the BDP should also be informed of the AMP and enrolled in it as well if they are eligible and so choose. OCA M.B. at 100.

We shall direct PAWC to implement the above recommendations no later than one year after the effective dates of rates in this proceeding. Lastly, while PAWC noted that its outreach efforts increased participation in its BDP by over 30%, we strongly encourage PAWC to continue taking steps to increase its outreach efforts for all low-income customer assistance programs.

Based on the above discussion, we shall modify the ALJs' recommendation and grant the OCA's Exception No. 21 and CAUSE-PA's Exception No. 3.

F. Data Collection, Reporting, and Monitoring of Low-Income Programs

1. Positions of the Parties

PAWC requested that the Commission reject the below proposals of CAUSE-PA's witness, Mr. Geller, regarding data collection and reporting recommendations. In support of its request, PAWC noted "significant strides in reaching out to customers without formalizing outreach/enrollment benchmarks or quantitative goals." PAWC stated its outreach strategy had resulted in a 30% increase in BDP participation between December 2020 and November 2023. PAWC M.B. at 88.

PAWC also pointed to the proposed changes to its low-income programs. PAWC believed it would be unreasonable to establish benchmarks when enrollment levels may fluctuate based upon new income verification requirements for low-income programs and increased bill discounts. PAWC M.B. at 88-89.

PAWC averred that it already has processes in place to regularly share information with the CAAG via quarterly meetings to discuss methods for enhancing low-income customer outreach. These communications include obtaining feedback on outreach materials. PAWC M.B. at 89.

Finally, PAWC objected to the OCA's below recommendation that it utilize customer satisfaction surveys targeting low-income and at-risk customers. PAWC characterized such recommendations as redundant given PAWC's ongoing transaction surveys and trend tracking. PAWC R.B. at 71-72.

The OCA requested that PAWC be required by the Commission to introduce customer satisfaction surveys targeting the following: (1) customers seeking to enroll in low-income customer billing assistance programs; (2) customers seeking to

enroll in deferred payment arrangements; (3) customers experiencing difficulties or an inability to pay bills timely and fully; and (4) customers responding to disconnection of service for non-payment. OCA M.B. at 101. The OCA stated the compilation of information from these surveys can be used to improve customer satisfaction and collections outcomes, with the knock-on outcome of allowing PAWC to “improve its management control of costs and revenues, improve the stability of its earnings, and thus control the need for future rate relief.” *Id.* (citing OCA St. 5 at 123-24).

CAUSE-PA asked the Commission to order improvements to PAWC’s low-income program data collection and reporting to ensure access and enrollment in such programs by eligible customers. CAUSE-PA M.B. at 69. According to CAUSE-PA, PAWC’s low-income assistance programs are undersubscribed, with approximately “75% of PAWC’s estimated low-income customers, and roughly 60% of households *known* to be eligible” not enrolled. CAUSE-PA M.B. at 69 (citing CAUSE-PA St. 1 at 47) (emphasis in original). CAUSE-PA made three assertions and recommendations to address the undersubscription in PAWC’s low-income assistance programs.

First, CAUSE-PA argued that the Company should be required to update its estimated low-income customer count on an annual basis, working with the Commission’s BCS to ensure any method used is appropriate and accurate. CAUSE-PA M.B. at 69 (citing CAUSE-PA St. 1 at 47-48). Second, CAUSE-PA submitted that the Commission should require PAWC to establish target enrollment benchmarks, with CAUSE-PA recommending enrollment targets of “20% per year of PAWC’s estimated low-income customer counts, until the Company reaches at least 75% enrollment of this estimated group.” CAUSE-PA M.B. at 69 (citing CAUSE-PA St. 1 at 48). Finally, CAUSE-PA recommended the Commission require PAWC to “establish quantitative and qualitative goals related to affirmative customer outreach,” including contacts via phone, mail, and electronic communications via text or email (with customer consent). In tracking implementation of these recommendations, CAUSE-PA also claimed that PAWC

should expand membership of its CAAG to include more diverse community voices. CAUSE-PA M.B. at 70.

2. Recommended Decision

As to the OCA's proposed customer service satisfaction surveys, the ALJs agreed with PAWC that such surveys would be unnecessary and redundant given the Company's existing transaction surveys. Accordingly, the ALJs recommended the Commission reject OCA's proposal. R.D. at 345.

Conversely, the ALJs found that CAUSE-PA's recommendations are made "to better ensure that low-income customers can enroll in the BDP and other available universal service programs." Citing to testimony provided at public input hearings regarding billing affordability, the ALJs stated "ensuring that low-income customers can enroll in these programs is of great importance." Therefore, the ALJs recommended that the Commission adopt CAUSE-PA's data collection and reporting proposals. R.D. at 345-46.

3. Exceptions and Replies

a. PAWC Exception No. 11 and Replies

In its Exception No. 11, PAWC contends that the ALJs "improperly [recommended that the Commission adopt] unreasonable and unnecessary low-income data collection and reporting requirements" as proposed by CAUSE-PA. PAWC argues that the ALJs failed to "explain why enrollment benchmarks or outreach goals are necessary or appropriate" in light of their recommendation that the Commission reject other proposals to modify customer outreach strategies. PAWC also points to upcoming changes in how low-income assistance programs will be operated and possible

fluctuations in enrollment, as well as the meetings and consultation already occurring between PAWC and the CAAG. For these reasons, the Company requests the Commission reject the ALJs' recommendations concerning low-income data collection and reporting. PAWC Exc. at 29-31.

In reply to PAWC's Exception No. 11, CAUSE-PA requests that the Commission reject this exception. CAUSE-PA R. Exc. at 13. CAUSE-PA further asks the Commission to affirm the improvements to PAWC's USP data collection and reporting ordered in the Recommended Decision. CAUSE-PA provides four reasons in support of its reply: (1) the proposed improvements will provide important metrics for measuring success; (2) the recommended improvements will enhance the upcoming changes PAWC plans to implement to its USPs; (3) the changes CAUSE-PA proposed to PAWC's engagement with its CAAG are designed to build upon the existing relationship, not as a critique; and (4) rejection of additional screening and intake proposals made by CAUSE-PA does not preclude implementation of the improved data collection and reporting proposals. *Id.* at 15-17.

b. OCA Exception No. 22 and Replies

In its Exception No. 22, the OCA takes issue with the ALJs' recommendation that the Commission reject the OCA's proposal that PAWC conduct targeted customer satisfaction survey of low-income customers. The OCA notes that it recommended the surveys "with the objective of improving customer satisfaction and collections outcomes" to benefit PAWC's control of costs and revenues. The OCA requests the Commission grant its Exception and approve its customer satisfaction survey proposal. OCA Exc. at 35.

In response to the OCA's Exception No. 22, PAWC reiterates it currently utilizes transaction surveys "immediately after all phone and customer portal

interactions” and works to identify trends from the customer feedback received. PAWC therefore asks the Commission to reject the OCA’s Exception No. 22 and adopt the ALJs’ reasoning as to the redundancy of the customer satisfaction surveys proposed by the OCA. PAWC R. Exc. at 22.

4. Disposition

At the outset, we note that we shall deny the OCA’s Exception No. 22 regarding customer satisfaction surveys. As the record evidence shows, PAWC conducts transaction surveys of its customers that accomplish the goals extolled by the OCA. We find these transaction surveys, coupled with PAWC’s tracking of trends in the surveys, to be sufficient; therefore, we reject the OCA’s proposal.

With respect to PAWC’s Exception No. 11, CAUSE-PA has made several suggested recommendations with the stated goal of improving PAWC’s low-income programs and gathering information to track efficacy of the programs. As the ALJs noted in the Recommended Decision, much of the public input testimony referenced concerns over affordability of rates. Based on this testimony, we agree with the ALJs that ensuring that low-income customers can enroll in these programs is of great importance. We find the recommendations from CAUSE-PA to be important in increasing affordability, enhancing the changes PAWC plans to make to low-income assistance programs, and providing metrics for program success. Therefore, we shall reject PAWC’s Exception No. 11, and adopt the reasoning of the ALJs granting CAUSE-PA’s proposed modifications. Although no Party suggested, nor did the Recommended Decision prescribe, a deadline for the implementation of these changes, we shall order PAWC to file a plan outlining how it proposes to implement CAUSE-PA’s recommendations on this matter no later than one year after the effective dates of rates in this proceeding.

G. Comprehensive Written Universal Service Plan

1. Positions of the Parties

PAWC objected to the recommendations from the OCA and CAUSE-PA, *infra*, that it develop a written universal service plan and file the plan with the Commission's BCS. Specifically, PAWC argued the universal service plan policy recommendations advanced by the OCA and CAUSE-PA are attempts to impose a universal service framework on PAWC, similar to such requirements imposed on EDCs and NGDCs. PAWC M.B. at 89-90.

PAWC emphasized arguments in its Main Brief regarding universal service programming, including the lack of required universal service requirements and no cost mechanism for recovery of costs associated with universal service. PAWC also noted the costs, resources, and time associated with developing and maintaining a universal service plan. PAWC M.B. at 89-90. Furthermore, PAWC stated the Commission "should not mandate the development and implementation of a universal service plan in the absence of any universal service requirement (and corresponding full and timely cost recovery) for water and wastewater utilities under Pennsylvania law." *Id.* at 90 (citing PAWC St. 14-R at 12-13).

I&E stated that "only electric and natural gas utilities are required to develop universal service plans." I&E M.B. at 104 (citing 52 Pa. Code § 69.261). Based on this, I&E recommended that rather than imposing the requirement for a universal service plan on PAWC alone, if the Commission believes universal service plans are appropriate for water and wastewater utilities, it should provide "statewide guidance for all water and wastewater utilities as it has done in the gas and electric industries." I&E M.B. at 104-05. In addition, I&E argued that low-income benefits of a universal service plan "flow through base rates," and even if periodic reports were filed by PAWC

regarding its universal service plan, there would be no ability to make changes to base rates. *Id.* (citing I&E St. 1-R at 5-6).

The OCA recommended PAWC be required to develop a comprehensive written universal plan. OCA M.B. at 101. In support, the OCA argued such a plan should be “an element of fundamental prudent and adequate program planning and management of its low-income customer assistance programs.” *Id.* (citing OCA St. 5 at 67-72; OCA St. 5-SR at 30-31).

Similarly, CAUSE-PA requested the Commission require PAWC file a “comprehensive Universal Service Plan for periodic Commission review and approval.” CAUSE-PA argued that the lack of a written, comprehensive plan “leaves a substantial gap for customers and utility advocates and makes it difficult for the Commission to properly oversee PAWC’s administration of Commission-approved universal service programming.” In addition to the requirement that PAWC file a comprehensive Universal Service Plan, CAUSE-PA advanced an argument that the Company be required to include a detailed customer education and outreach plan, with measurable goals and metrics, within the plan. CAUSE-PA M.B. at 72-73.

CAUSE-PA countered PAWC’s argument regarding the lack of a statutory or regulatory obligation to file a universal service plan and opined that the plan is necessary “to assess whether PAWC’s low-income assistance programs are being administered in accordance with PAWC’s and the Commission’s requirements.” CAUSE-PA believed this to be especially true given PAWC’s explanation regarding increased staffing needs to implement a universal service plan. CAUSE-PA M.B. at 74.

2. Recommended Decision

In the Recommended Decision, the ALJs referred back to their previous discussion regarding comprehensive conservation and line repair programs and LIURPs for water companies, which was presented in Section XII.D, *supra*. Conducting a similar analysis, the ALJs recommended that the Commission reject the proposals of the OCA and CAUSE-PA that PAWC be required to file a comprehensive universal service plan with the Commission. Specifically, the ALJs noted there is no requirement that water and wastewater utilities develop universal service plans. The ALJs found that imposing such an obligation on PAWC alone would be inappropriate and that if the Commission found a universal service plan to be appropriate for water and wastewater utilities, it should implement such a change on a statewide basis. R.D. at 350.

3. OCA Exception No. 23, CAUSE-PA Exception No. 2 and Replies

The OCA, in its Exception No. 23, argues that “the need to prepare and file such a plan is based on the need for efficient and adequate service to low-income customers and planning of expenditures for related programs.” The OCA notes the merit of requiring PAWC to file a comprehensive plan in this proceeding, while also encouraging the Commission to consider statewide action requiring the filing of universal service plans for water and wastewater utilities. OCA Exc. at 36.

CAUSE-PA, in Exception No. 2, takes issue with the ALJs’ recommendation that the Commission reject its proposal requiring PAWC to file a comprehensive written universal service plan. CAUSE-PA restates many of the arguments outlined in its briefs and testimony. In addition, PAWC stresses its position that a “[l]ack of statutory or regulatory mandate does not preclude the Commission from making important enhancements in the context of this proceeding which will improve access and affordability of services...” Moreover, in refuting PAWC’s assertion that

designing and implementing a universal service plan would require additional time and resources, CAUSE-PA counters that such a plan is “essential” for providing access and determining whether low-income assistance programs are administered in accordance with requirements. CAUSE-PA Exc. at 12-18.

CAUSE-PA also disputes I&E’s assertion that it would be inappropriate to require PAWC to submit a universal service plan given that the benefits for low-income assistance programs flow through base rates. CAUSE-PA argues that “the existence of a unified universal service plan would not divorce universal service issues from a rate case” and would instead allow for a “more detailed periodic policy review” of USP issues. CAUSE-PA further requests that the Commission order PAWC to file a universal service plan with a Petition for Commission Review within one year of the final order in this case and include a customer education and outreach plan as part of the filing. CAUSE-PA Exc. at 17-18.

In reply to the OCA’s Exception No. 23 and CAUSE-PA’s Exception No. 2 regarding the proposed filing of a comprehensive written universal service plan, PAWC states that the ALJs properly found “that statutory and regulatory obligations related to [universal service plans] ... apply to electric and natural gas distribution utilities only.” Absent statutory or regulatory mandates to the contrary, PAWC echoes the ALJs in arguing that mandating a universal service plan filing on PAWC would not be appropriate. PAWC R. Exc. at 24-25.

4. Disposition

We agree with the reasoning of the ALJs in the Recommended Decision and shall reject the requests for a written universal service plan as proposed by CAUSE-PA and the OCA. Universal Service Plans are required, pursuant to Commission Regulations, for EDCs and NGDCs. *See*, 52 Pa. Code § 54.71-54.78 and 62.1-62.8. To

the contrary, there is no similar statutory or regulatory authority that requires water companies to file such a universal service plan. Therefore, we will not impose such an obligation on PAWC in this proceeding. We also note the Commission has approved enhanced low-income assistance programs and increased collection of data associated with those programs in this proceeding. These steps are expected to address many of the concerns raised by the OCA and CAUSE-PA. Accordingly, we shall deny the OCA's Exception No. 23 and CAUSE-PA's Exception No. 2.

H. Administration of PAWC's Low-Income Assistance Programs

1. Positions of the Parties

PAWC contended that the recommendations, *infra*, of CAUSE-PA's witness, Mr. Geller, regarding PAWC exercising greater oversight of its low-income program administrator, DEF, are unnecessary due to the Company's current processes and would result in substantial new administrative costs. PAWC M.B. at 90 (citing CAUSE-PA St. 1 at 64-67). PAWC explained that it meets regularly with DEF regarding administration, has access to all necessary information, and that DEF provides the Company with standard periodic reports on application and grant activities. PAWC M.B. at 91. Further, the Company contended that the third-party auditing proposed by CAUSE-PA is required for EDCs and NGDCs under Pennsylvania law, not water and wastewater utilities. *Id.* (citing 52 Pa. Code §§ 54.76 and 62.6). Therefore, PAWC contended that the Commission should reject the OCA's proposals with respect to this issue. PAWC M.B. at 91.

The OCA expressed that it is generally supportive of Mr. Geller's testimony regarding his recommendations for the administration of PAWC's low-income assistance programs. OCA M.B. at 101.

CAUSE-PA expressed concern that PAWC does not appear to have systems in place to regularly monitor DEF's administration of its programs to ensure that standards are being met so that eligible customers can easily enroll in available assistance programs. CAUSE-PA M.B. at 75 (citing CAUSE-PA St. 1 at 65). Similarly, CAUSE-PA asserted that the Company does not have formal policies, assessments, or audits of DEF's administration of its low-income assistance programs. CAUSE-PA M.B. at 75. Thus, CAUSE-PA proposed that PAWC be required to implement systematic and regular processes for monitoring, screening, and oversight related to its low-income assistance programs with clear metrics for auditing DEF's administration of its programs to be implemented within six months of the entry date of the final order entered in this proceeding. *Id.* at 77.

Additionally, CAUSE-PA proposed that the Company be required to conduct and submit periodic third-party evaluations to the Commission on its low-income assistance programs, consistent with the six-year program evaluation period required of EDCs and NGDCs, with the first evaluation due a year from the entry date of the final order entered in this proceeding. CAUSE-PA M.B. at 78 (citing 52 Pa. Code §§ 54.76 and 62.6). Lastly, CAUSE-PA disagreed with PAWC that any increased costs resulting from enhanced oversight would require a rider recovery mechanism. CAUSE-PA M.B. at 79 (citing CAUSE-PA St. 1-SR at 21). According to CAUSE-PA, DEF's administration of the Company's USPs is already recovered through rates and any costs related to appropriate oversight should be recovered in the same manner as other program costs. CAUSE-PA M.B. at 79-80.

2. Recommended Decision

In the Recommended Decision, the ALJs agreed with PAWC that the recommendations advanced by CAUSE-PA's witness, Mr. Geller, are unnecessary. The ALJs noted the Company's assertion that it meets regularly with DEF regarding

administration and that DEF provides the Company with standard periodic reports. The Recommended Decision further noted PAWC's argument that while such third-party auditing is required by law for EDCs and NGDCs as part of their universal service obligations, it is not required for water and wastewater utilities. Therefore, the ALJs recommended that the Commission reject CAUSE-PA's recommendations for the administration of PAWC's low-income assistance programs. R.D. at 354.

3. Disposition

No Exceptions have been filed to this determination. Finding the ALJs' recommendation to be reasonable, appropriate, and in accordance with the record evidence, it is adopted.

XIII. Service Quality and Customer Service Issues

A. Customer Service Performance

1. Positions of the Parties

PAWC explained that its CSO supports the customer service needs of PAWC and the other AWK utility subsidiaries and provides customers with convenient access to information and responsive, personal service to drive high satisfaction ratings. PAWC M.B. at 92 (citing to PAWC St. 9 at 7-8). Noting the opinion of the OCA's witness, Ms. Alexander, that CSO performance has been poor since 2019, the Company argued that Ms. Alexander's evaluation is narrowly and erroneously centered on wait times and call abandonment rather than the overall customer experience. PAWC M.B. at 93 (citing OCA St. 6 at 19-25; OCA Exh. BA-3). The Company emphasized the testimony of its own witness, Ms. Deborah Degillio, that first contact resolution is the highest driver of customer service that impacts overall satisfaction. PAWC M.B. at 93

(citing PAWC St. 9 at 7-8). Further, the Company argued that Ms. Alexander compared the CSO's performance with data reported to BCS by electric and gas utilities that do not use the same metrics for call center performance as PAWC. PAWC M.B. at 94.

According to PAWC, Ms. Alexander's recommendations of additional management oversight of CSO call handling are unfounded, as the performance levels of the CSO and third-party call handling agencies are already monitored daily. *Id.* (citing PAWC St. 9-R at 6-8).

Regarding the OCA's witness, Ms. Alexander's, recommendation requiring, *inter alia*, a "professionally conducted root-cause analysis of complaint trends," PAWC's witness, Ms. Tawana Dean, explained that Ms. Alexander's concerns were without merit due to the Company's robust complaint analysis process. PAWC M.B. at 96 (citing OCA St. 5 at 11-18, 44). In response to the public input hearing testimony that a few PAWC customers either did not receive paper bills for December 2023 or received mailed bills late, the Company asserted that it agreed to credit a late fee charge to any Scranton area customer who did not have any late fees in the last quarter of 2023. PAWC M.B. at 96-97 (citing Tr. at 1976). PAWC further contended that it determined that this issue was caused by postal service delays and not due to the action or in-action of PAWC. PAWC M.B. at 96 (citing PAWC St. 9-R at 18). In response to Ms. Alexander's recommendation that PAWC document, *inter alia*, the frequency of inconsistent billing periods, PAWC argued that there is no basis for the Commission to require additional reporting and documentation because the Company's billing periods are consistent with Commission regulations. PAWC M.B. at 97 (citing OCA St. 6 Supp at 2; OCA St. 6-SR at 26).

The OCA argued that PAWC's call center performance is inadequate due to high call-answer times, high call abandonment rate, and high complaint rates. OCA M.B. at 102 (citing OCA St. 6 at 11-12, 19-24). The OCA asserted that as a result, the Commission should disallow certain call center expenses and reject the Company's

managerial performance adder. OCA M.B. at 102. According to the OCA, the Company's inadequate call center performance was a subject of the Commission's *2023 Management Audit* that documented poor call center performance and found that the Company experienced a sustained decline in call handling performance since 2019. *Id.* at 103 (citing *2023 Management Audit*). The OCA contended that in response, PAWC stated that it would "strive" to achieve a performance of answering 80% of the calls within 60 seconds by the end of 2024. OCA M.B. at 103.

Therefore, OCA's witness, Ms. Alexander, recommended that the Company be required to, *inter alia*, adopt specific performance standards, have a professionally conducted root cause analysis of all customer complaint data, and provide managerial oversight to the Service Company's CSO's call center performance. OCA M.B. at 104. The OCA further referenced the Commission's Order releasing the *2023 Management Audit* where the Commission directed that PAWC file a new or amended affiliated interest agreement (AIA) that reflects the current company structure and the intercompany transactions taking place between PAWC and the Service Company. *Id.* (citing OCA St. 6 at 17). In addition, the OCA recommended that any new or amended AIA should contain arms-length contractual language granting PAWC contractual protection to perform audits of the Service Company's CSO performance based on defined metrics. OCA M.B. at 104. Lastly, the OCA contended that the Commission should require these recommendations be carried out by PAWC as a part of any authorized rate increase to ensure that consumers are receiving adequate service. *Id.* at 102, 105 (citing 66 Pa.C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44).

CAUSE-PA noted that aside from the issues concerning DEF's administration of PAWC's low-income assistance programs and, in turn, the services provided to low-income customers, it did not take a position with respect to other

customer service performance issues in the context of this proceeding. CAUSE-PA M.B. at 80.

2. Recommended Decision

In the Recommended Decision, the ALJs highlighted that out of the 217 witnesses that offered testimony at the public input hearings in this proceeding, only a handful of witnesses raised customer service issues and that the majority of testimony concerned affordability and water quality. R.D. at 363. The ALJs recognized that PAWC is required by Section 1501 of the Code to provide its customers with adequate and reasonable service but is not required to provide perfect service. *Id.* at 364 (citing 66 Pa.C.S. § 1501). Further, the ALJs found that the testimony of the several customers regarding the issues they experienced when contacting PAWC to report issues did not warrant requiring the Company to modify its call handling procedures. Additionally, the Recommended Decision found that the Company's daily monitoring of the CSO and third-party call handling agencies constitutes sufficient oversight. Therefore, the ALJs recommended that the OCA's proposal be rejected. Regarding the customers that did not receive paper bills for December 2023 and were assessed late fees by PAWC, the ALJs found PAWC's response in crediting the late fees to the customers' accounts to be reasonable, while also noting that this issue arose due to a postal service delay and not due to any action or in-action of PAWC. R.D. at 364.

3. OCA Exception No. 24 and Replies

In its Exception No. 24, the OCA argues that the ALJs erred in recommending that the Commission reject the OCA's proposed measures to improve customer service performance. According to the OCA, the ALJs did not afford enough weight to the OCA's witness, Ms. Alexander's, opinion on customer call handling and focused too much on the lack of public input testimony on customer service issues. In

support, the OCA argues that when consumers are faced with yet another rate increase that threatens affordability, they are unlikely to utilize their limited time permitted for testimony to discuss customer service when they are concerned about affordability and service quality. OCA Exc. at 37-38. Further, the OCA contends that the lack of public input testimony on customer service issues is not determinative where the OCA, as the statutory advocate representing the interest of consumers in this proceeding, provided extensive evidence of the customer service issues by way of its witness, Ms. Alexander. *Id.* (citing OCA St. 6 at 21-23).

In its Reply, PAWC agrees with the ALJs' recommendation that the Commission reject the OCA's proposed service-related conditions and conclusion that the Company provides adequate and reasonable service. According to the Company, the OCA's evaluation of PAWC's customer service narrowly focuses on and misapplies two (2) call handling metrics presented in BCS' annual customer service reports for electric and gas utilities. PAWC R. Exc. at 14-15. PAWC further agrees with the Recommended Decision's finding that the additional managerial oversight proposed by the OCA is unnecessary because the performance levels of the CSO and third-party call handling agencies are already monitored daily. *Id.* at 15 (citing to R.D. at 364).

4. Disposition

Upon consideration of the record, and the arguments of the Parties, we find that there is no basis to condition PAWC's rate increase upon the imposition of the customer service performance standards proposed by the OCA. Importantly, we conclude the present rate case is not akin to the above PG&W case cited by the OCA in support of its position. In that case, the utility's service deficiencies were demonstrated to be so serious as to constitute the failure to provide safe and adequate service in violation of Section 1501 of the Code. To the contrary, in the present case there is no such finding.

Nevertheless, because we have encouraged those struggling to pay their utility bills to avail themselves of PAWC's customer assistance programs, we must stress the importance of call center performance as this is the primary contact point for customer inquiry into these programs and we believe it is best practice to ensure that call centers maintain baseline performance.

As referenced by the OCA, the *2023 Management Audit* noted a sustained decline in PAWC's call handling performance since 2019. Audits explained that the decline in call handling performance was measured against the metrics used for NGDCs and EDCs, including percentage of calls answered within thirty (30) seconds and call abandonment rate. Audits noted that while regulated water and wastewater utilities, like PAWC, are not subjected to the quality of service reporting requirements required of NGDCs and EDCs, these metrics are just as relevant to water and wastewater utilities. *2023 Management Audit* at 81. In addition, it is important to note Audits' finding that the Company did start to make improvements in its call handling performance after 2021. However, these performance levels were still worse than historical performance levels. *Id.* at 83. Accordingly, the *2023 Management Audit* called upon PAWC to "[i]mprove customer service performance at minimum to pre-pandemic levels." *Id.* at 84.

In response to the *2023 Management Audit*, PAWC stated that its customer service performance improved significantly in 2023 and that it would strive to achieve a performance of answering 80% of the calls within 60 seconds or less by December 31, 2024. *PAWC Implementation Plan in Response to the 2022-23 Focused Management and Operations Audit*, Docket No. D-2022-3035217 (*Implementation Plan*) at 38. The Company did not explain in its *Implementation Plan* how it intends to address its call abandonment rate.

We believe it is critical that PAWC not be stagnant in attempts to improve and maintain customer call center performance. For these reasons, we will require

PAWC to prepare and submit plans, within six (6) months of the entry date of the Final Order entered in this matter, demonstrating how it intends to continue to improve its percentage of calls answered in sixty (60) seconds or less and its call abandonment rate. We find this requirement to be a minimal burden on PAWC, especially considering the fact that customer call center performance has improved, albeit not to pre-pandemic levels.

Accordingly, the OCA's Exception No. 24, regarding the imposition of customer service performance standards, is denied and the recommendation of the ALJs on this issue is adopted, as modified, consistent with our above discussion. In addition, PAWC is directed to file a report detailing its plans on improving its percentage of calls answered and call abandonment rate within six (6) months of the entry date of the Final Order entered in this proceeding.

B. Tenant Issues and Protections

1. Positions of the Parties

PAWC asked the Commission to reject the tracking and reporting proposals advanced by CAUSE-PA, outlined below. The Company opined that it already fully complies with the Discontinuance of Services to Lease Premises Act (DSLPA) and its procedures are not incompatible with the Utility Services Tenants Rights Act (USTRA). PAWC also asserted that the DSLPA "places the obligation on the landlord ratepayer to notify the utility whether the premises being served are for rental purposes." PAWC M.B. at 98.

PAWC also averred that the Company implements additional measures to determine whether service addresses should be coded as landlord-ratepayer or tenant occupied. PAWC relies on information from landlords, as well as tenants and field

service representatives to ensure properties are coded correctly. When delinquent, these accounts go through the 37-day notice process prior to service termination as required by DSLPA and USTRA with notice including directions on how to contact PAWC to continue service. PAWC represents that these processes are the same for termination or disconnection requests made by municipal sewer providers. PAWC M.B. at 98.

CAUSE-PA raised concerns regarding whether PAWC has adequate policies and procedures to monitor DSLPA compliance. CAUSE-PA M.B. at 83. According to CAUSE-PA, DSLPA compliance should require PAWC to track and report certain metrics, including: (1) the types of notices provided to tenant occupied accounts before termination for landlord/owner nonpayment; (2) when and how notices are provided; (3) whether tenants asserted their rights to continued service; (4) the number of accounts incorrectly coded as non-tenant accounts; (5) the number of notices of termination or disconnection sent to accounts improperly coded as non-tenant and if the account was terminated or disconnected while coded as non-tenant; and (6) the amount of partial payments made by tenants seeking to continue services pursuant to the DSLPA. *Id.* at 85.

CAUSE-PA's main concern stemmed from a lack of clarity given "PAWC indicates that it does not track and cannot report on the number of tenant-occupied accounts that received notice of an involuntary termination or voluntary disconnection pursuant to DSLPA." CAUSE-PA similarly points to the Company's admission that it does not track issues related to identification and coding of tenant accounts, nor does it regularly track partial payments made by tenants seeking to exercise their DSLPA rights. CAUSE-PA recommended several changes to PAWC's DSLPA policies and procedures, including reporting of the above proposed data quarterly to PAWC's Customer Assistance Advisory Group and inclusion of the data in PAWC's next rate case. CAUSE-PA M.B. at 83-85.

2. Recommended Decision

In the Recommended Decision the ALJs dismissed CAUSE-PA's concerns and found that the Company had "adequate policies and procedures in place to monitor its compliance with DSLPA." The ALJs noted that PAWC: (1) relied on information provided by landlords, tenants, and field service representatives to assist in determining whether properties are reasonably likely to be occupied by tenants and correctly coded; (2) provides the required notice prior to any service termination; and (3) utilizes the same processes prior to service termination at the request of municipal sewer providers. The ALJs found the steps taken by PAWC to determine whether a service address should be coded as landlord-ratepayer or tenant occupied to be sufficient and rejected CAUSE-PA's proposals. R.D. at 369.

3. Disposition

Since none of the Parties excepted to this determination, and finding the ALJs recommendation to be reasonable, appropriate, and in accordance with the record evidence, we agree with the ALJs' recommendation to reject CAUSE-PA's proposal and find that PAWC has sufficient policies to ensure compliance with the DSLPA.

C. Water Services Act and Section 12.1(H) of Water Tariff

1. Positions of the Parties

PAWC averred that its current policies and procedures regarding service termination at the request of a non-Company wastewater provider comply with the Water Services Act (WSA) and address several of the issues raised by the OCA and CAUSE-PA, *infra*. PAWC noted that prior to terminating service under the WSA, a ten-day termination notice must be mailed or posted at the property, and if the person

liable for the unpaid charges delivers a written statement under oath to the municipal wastewater provider raising a just defense, the water service is not to be shut off until judicial investigation is conducted. PAWC also has processes in place to verify a municipal sewer provider has complied with the WSA, including certification from a responsible municipal official and a confirmation that the municipality has not received a medical certification for the relevant premise. PAWC M.B. at 99-100.

PAWC disagreed with the below proposals from the OCA and CAUSE-PA as either inconsistent with the WSA (recommendation that PAWC post their own notice) or unnecessary in light of PAWC's existing verification process (requiring proof of mailing and posting of the termination notice). PAWC M.B. at 100. PAWC also contested proposed modifications to the Company's proposed Tariff Section 12.8. PAWC stated the proposed changes are without supporting statute or regulation and "unreasonably restrictive," with several content requests for termination notices provided by wastewater providers with whom the Company has shut-off agreements. PAWC argues the Commission should not require these requests as: (1) the termination notices provided at shut-off are not required by statute or regulation and are instead provided voluntarily; and (2) PAWC has not been able to consult with the non-Company wastewater providers with whom it has shut-off agreements to ascertain whether the changes are feasible. *Id.* at 100-01.

The Company also responded to the OCA's below proposal to limit Tariff Section 12.8 to municipal entities covered by the WSA and non-Company wastewater providers with a "Commission-approved agreement." PAWC averred that its Joint Services Agreement with Aqua was not approved by the Commission; rather, the Commission directed the parties to seek approval of tariff changes related to the provisions affecting customers. PAWC argued the OCA's proposal shows a misunderstanding of the Joint Services Agreement and its recommendations are

incompatible with the Joint Services Agreement. The Company asked for all the OCA's proposed changes to Tariff Section 12.8 to be rejected. PAWC R.B. at 77-78.

The OCA recommended the Commission adopt the revised Tariff Section 12.8 language because the language, as proposed by PAWC, "posed the risk of harming consumers and creating additional confusion regarding the process." OCA M.B. at 105. The proposed modifications were as follows, with strikeouts representing the OCA's recommended deletions and underlined text representing recommended language:

12.8 Termination by Company for Non-Payment of Wastewater Service to a Non-Company Wastewater Provider

~~The Company may also terminate service in accordance with the terms of any agreement between the Company and a non-Company wastewater provider for non-payment of wastewater service when due upon prior notice by the non-Company wastewater provider.~~ The Company may terminate a customer's water service due to the customer's non-payment of charges owed to a non-Company wastewater provider, provided that: (1) the Company has an effective agreement with the non-Company wastewater provider pursuant to the Water Services Act or Act of April 14, 2006, codified at 53 P.S. §§ 3102.501 – 3102.507, or a Commission-approved agreement with the non-Company wastewater provider; and (2) the customer received prior notice from the non-Company wastewater provider of the past due amounts owed to the non-Company wastewater provider.

Following the issuance of termination notice by the non-Company wastewater provider, the Company will not ~~move forward with termination of~~ terminate the customer's water service upon notification to the Company by the non-Company wastewater provider that the customer does either of the following: (1) disputes the termination for non-payment; or (2) if the customer produces a medical certification.

Upon termination, the Company will post the termination notice at the customer's premises. The Company's termination

notice shall provide the following information in conspicuous format and plain language: (1) a statement that PAWC terminated the customer's water service due to the customer's non-payment of non-Company wastewater charges; (2) a statement that the termination of service is not the result of customer's non-payment of water charges owed to PAWC; (3) the name and contact number of the non-Company wastewater provider; (4) the contact information for the Company; and (5) a citation to Section 12.8 of PAWC's Water Tariff and the weblink for accessing the Company's tariff webpage.

OCA St. 6-SR at 18-19. The OCA asked the Commission to adopt the proposed language “to ensure that consumers are receiving reasonable service.” OCA M.B. at 106.

CAUSE-PA expressed concern that PAWC's current procedures and processes for terminating water service on the request of a non-Company wastewater utility “does not adequately protect tenants.” CAUSE-PA asserted that PAWC, as the entity performing service termination, “has an affirmative duty to confirm that the [Water Services] Act has been followed prior to terminating services based on a request of a sewer utility, and should not rely on sewer authorities to monitor their own compliance...” CAUSE-PA M.B. at 87-88.

To ensure that PAWC complies with the WSA and the USTRA, CAUSE-PA recommended the following policy and procedure reforms: (1) PAWC should be required to obtain actual proof of mailing and proof of posting of notice before terminating service at the request of a non-Company wastewater utility; (2) PAWC should consult with its CAAG to revise its policies and procedures to ensure compliance with the WSA and update training materials to reflect revisions; (3) PAWC should review policies and procedures to ensure that tenants are not required to rely on the wastewater utility to act on their behalf to maintain service. CAUSE-PA M.B. at 89-90.

2. Recommended Decision

The ALJs agreed with the OCA that its proposed tariff language should be adopted. The ALJs found the revisions proposed by the OCA “will remove possible confusion” from the original language filed by PAWC. In addition to providing further protections for consumers, the ALJs held the language will “allow the company to uphold its Joint Services Agreement with Aqua PA.” In recommending the Commission adopt the OCA’s proposed tariff language, the ALJs made a revision to the language and noted the term “a Commission-approved agreement” should be replaced with “an effective agreement” to recognize the Commission does not approve agreements under the WSA or Section 12.1 of PAWC’s Water Tariff. R.D. at 374.

Conversely, the ALJs recommended the Commission reject the proposals made by CAUSE-PA regarding revised policies and procedures ensuring compliance with the WSA. After finding “that PAWC’s process described by the Commission is sufficient to verify that the sewer provider has complied with all of its obligations under the WSA,” the ALJs found CAUSE-PA’s recommendations to be unnecessary. R.D. at 375.

3. PAWC Exception No. 12 and Replies

In its Exception No. 12, the Company takes issue with the ALJs’ recommendation that the Commission adopt the tariff language proposed by the OCA. PAWC notes that the specific language requires “that notices provided upon termination under Tariff Section 12.8 (Section 12.8 Notices) include, among other things, contact information for the Company and the name and contact number of the non-Company wastewater provider.” PAWC Exc. at 31-32.

PAWC accepts the recommendation that the notices provide Company contact information, but it objects to the required inclusion of the name and contact

information for the non-Company wastewater provider. Noting that the Company currently has shut-off agreements with more than 120 non-Company wastewater providers, the Company believes customers are adequately protected by receiving PAWC contact information. PAWC believes the inclusion of contact information for over 120 non-Company wastewater providers would be unduly burdensome. PAWC Exc. at 32.

In reply to PAWC's Exception No. 12, the OCA requests the Commission adopt the ALJs' recommendations regarding Section 12.8 termination notices and require inclusion of the name and contact number for the non-Company wastewater provider. Noting PAWC's "less than exemplary call center performance," the OCA argues it would create an additional burden on customers to have to contact PAWC to inquire regarding the non-Company termination notice. The OCA requests the Commission adopt the recommendation of the ALJs and the OCA's proposed tariff language given that PAWC has not shown inclusion of the additional contact information will create an undue burden and will also aide the Company in upholding its Joint Services Agreement with Aqua. OCA R. Exc. at 24-25.

4. Disposition

We concur with the reasoning outlined in the Recommended Decision and believe the proposed tariff language, as modified by the ALJs' recommendation, is appropriate. The proposed language provides greater clarity to customers, increases customer protection, and also allows PAWC to uphold its Joint Service Agreement with Aqua. In addition, we find the steps taken by PAWC to ensure compliance with the WSA by non-Company wastewater utilities to be sufficient, and, therefore, reject the proposals made by CAUSE-PA.

In concurring with the ALJs, we shall reject Exception No. 12 filed by PAWC. We find the inclusion of non-Company wastewater utility contact information on

termination notices to not be onerous and believe it provides greater clarity to customers. We agree with the OCA that not including the information creates additional burdens on customers who must call PAWC regarding the termination notice and PAWC's call center which must provide contact information for non-Company wastewater utilities.

D. American Water Resources

1. Positions of the Parties

PAWC averred that its relationship with AWR adheres to all Commission regulations and has remained unchanged for over twenty (20) years. PAWC M.B. at 102. Although AWR, parent company of PAWC, sold its interest in AWR in December 2021, ending an affiliate relationship between AWR and PAWC, the relationship between AWR and PAWC remains essentially the same based on a Utility Agreement executed by AWR and PAWC at the time of sale. *Id.* (citing CONFIDENTIAL OCA Exhibit BA-8).

The Company explains that AWR offers optional water line and sewer line protection plans to PAWC customers, with the customer paying a monthly fee that, for convenience, can be either directly billed by AWR or included on the customer's PAWC bill. If the customer experiences an issue, AWR will send a contractor for repairs under the warranty program with minimal up-front cost to the customer. PAWC M.B. at 101.

PAWC insisted its relationship with AWR is standard industry practice and points to the fact that AWR offers similar services to residential water and sewer utility customers "in 42 other states and the District of Columbia." PAWC M.B. at 102 (citing PAWC St. 9-R at 16). PAWC also pointed out that Commission regulations recognize the practice of utilities billing for "charges other than basic service," including "line repair programs and appliance warranty programs." PAWC M.B. at 102 (citing 52 Pa. Code § 56.13). PAWC stated that, consistent with Commission regulations, if a customer opts

to purchase the AWR services, the charges for these services will be included on the PAWC bill, with customer payments first applied to the PAWC portion of the bill. Notably, a failure to pay for AWR's services does not result in a service termination request by PAWC. PAWC M.B. at 102.

PAWC responded to the OCA's contention, *infra*, that PAWC including AWR charges on its bill discriminates against other providers by noting "no other person has sought to include its non-basic products and services on PAWC's bills." PAWC averred its Utility Agreement with AWR does not preclude the Company from offering similar on-bill services to another entity and, since no other entity has sought such access, PAWC is not providing any preference or advantage to AWR. PAWC M.B. at 104.

PAWC also objected to the OCA's request that the Company have some oversight of AWR's pricing, noting that "non-basic products and services are beyond the scope of the Code and not subject to Commission jurisdiction." PAWC passes through AWR's contract pricing as a separate line item and does not terminate customers in the event of non-payment of AWR charges. PAWC M.B. at 105.

Regarding AWR's usage of PAWC's name and logo, PAWC asserted that such agreements are a standard industry practice and has been ongoing for over twenty (20) years. PAWC argued that no investigation was needed as this practice was not misleading based on disclosures "on all marketing materials explaining that AWR is not affiliated with PAWC, its products and services are optional, and AWR's prices are not determined by PAWC." PAWC M.B. at 105-06.

PAWC also addressed concerns raised by the OCA regarding PAWC's relationship with AWR and monitoring conducted by PAWC. *See*, OCA R.B. at 70-72 (Confidential). PAWC argued each of these concerns is unfounded as it is done pursuant to a PUC-approved Service Agreement. PAWC M.B. at 106 (Confidential).

Finally, PAWC objected to the OCA's proposal to "impute" AWR revenues and asserted it was "unreasonable and inconsistent with proper ratemaking" to order PAWC to suspend AWR services but act as if the Company were still receiving revenues from that service. PAWC M.B. at 107.

The OCA advanced that PAWC is "engaging in deceptive and discriminatory billing and marketing practices for non-utility 'protection services.'" The OCA believes this relationship is to the detriment of consumer interests and enabled by: (1) a written billing and marketing agreement between AWR and PAWC; and (2) a licensing agreement between AWK and its ex-subsiary, AWR, both of which were entered into at or around the time AWK sold off AWR on or around December 9, 2021. As noted in Section VI.C, *supra*, the OCA recommended the Commission investigate the relationship between PAWC and AWR and suspend new customer enrollments pending such investigation. OCA M.B. at 106. As part of the investigation, the OCA recommended the Commission investigate whether the Utility Agreement approved by the Commission in 1989 is still reasonable. *Id.* at 74-75.

The OCA further expanded on its arguments, countering PAWC's assertion that PAWC and AWR's relationship has not changed by noting AWK's sale of its interest in AWR in December of 2021 and the two agreements noted in its Main Brief. OCA R.B. at 70. The OCA also refers to specific portions of the agreements for the assertion that there should be an investigation of the relationship between PAWC and AWR. *Id.* 70-72 (Confidential).

The OCA also argued the "exclusive marketing and billing arrangement" between PAWC and AWR is discriminatory to other providers of similar services in PAWC's service territory and may result in consumers paying more for such services. OCA buttressed this assertion by noting that "AWR stands to benefit from the false impression given to PAWC's customer" by being included on PAWC bills as a line-item

and AWR's use of the Company's name and logo. OCA contested PAWC's argument that its arrangement with AWR is similar to those of other Pennsylvania utilities by noting that the example cited by PAWC is for non-basic utility services that are not included on bills by the utility. OCA R.B. at 72-74.

Lastly, the OCA addressed PAWC's argument regarding revenues from AWR. The OCA restated its position, set forth in Section VI.C, *supra*, that given the uncertainty of a possible investigation and that the revenue PAWC collected from AWR is "fully substantiated and benefits consumers," it should remain included in the revenue requirement for the FPFTY. OCA R.B. at 75 (citing OCA St. 2-SR at 50).

2. Recommended Decision

The ALJs recommended that the Commission reject the OCA's assertion that PAWC's relationship with AWR has resulted in discriminatory billing and marketing practices. The ALJs pointed to the voluntary nature of AWR's services, including the fact that PAWC customers could elect to have the charges appear on their bill or to be billed separately and would not be terminated by PAWC for failure to pay AWR charges. Also compelling to the ALJs were the disclosures included on all marketing materials explaining that AWR is not affiliated with PAWC, the services and products are optional, and PAWC does not determine AWR's pricing. R.D. at 381.

The ALJs also held that PAWC's relationship with AWR has remained unchanged for over 20 years and that the Utility Agreement between the parties provides the business relationship is not exclusive, and there has also not been a request by another entity seeking access to PAWC's bills. R.D. at 382.

Finally, the ALJs agreed with PAWC that the prices of non-basic products and services are beyond the scope of Commission jurisdiction and, therefore, PAWC

should not be required to have monitoring responsibility over AWR's charges. Accordingly, the ALJs recommended the Commission reject the OCA's request for an investigation of the program. R.D. at 382.

3. OCA Exception Nos. 2 and 25 and Replies

The OCA raised two Exceptions to the Recommended Decision regarding PAWC's relationship with AWR. These Exceptions are discussed below.

In Exception No. 2, the OCA argues the ALJs erred in Finding of Fact No. 176, which states, as follows:

Although [AWK] sold its interest in AWR in December 2021, which ended the affiliate relationship between AWR and PAWC, the day-to-day relationship between PAWC and AWR remains the essentially the same by virtue of a Utility Agreement executed by PAWC and AWR at the time of the sale. PAWC's relationship with AWR as a partner who provides optional warranty products and services to its customers has remained unchanged over the last two decades.

OCA Exc. at 4 (citing R.D. at 32; additional citations omitted). In support of its Exception No. 2, the OCA contends that this finding is not supported by the record when AWR was sold in 2021 and the relationship between AWR and PAWC is now controlled by a Utility Agreement. The OCA believes "[t]hese changes are material and significant and support the recommendation that the OCA made in its case that PAWC should be required to cease its [*sic*] marketing and billing arrangements prospectively and the Commission should open an investigation into the relationship between these companies." OCA Exc. at 4-5.

In its Exception No. 25, the OCA takes issue with the analysis conducted by the ALJs that resulted in their finding that PAWC's relationship with AWR has

remained unchanged for over 20 years and is not deceptive and discriminatory to the detriment of PAWC's customers. The OCA points to the sale of AWR by AWK in December of 2021, which ended the affiliate relationship between AWR and PAWC and necessitated the signing of a Licensing Agreement between AWR and PAWC. The OCA argues that AWR's usage of the AWK name and logo, access to PAWC bills as a line item, and access to PAWC's customers for marketing creates a false impression that the companies are affiliated and that both parties profit from the false impression. OCA Exc. at 38-39. The OCA also insists the ALJs erred by finding the Utility Agreement and PAWC's practice of including AWR charges on customer bills is not discriminatory to other providers and reinforces its request that the Commission order an investigation into the AWR program. OCA Exc. at 39-40 (Confidential).

In reply, PAWC reiterates its argument that the Company's billing is not discriminatory as "PAWC is not providing any preference or advantage to AWR that runs afoul of the Public Utility Code." Additionally, PAWC restates that no other entity is seeking access to PAWC's bills. PAWC also maintains that AWR's use of PAWC's name and logo is reasonable as there are clear disclosures noting PAWC and AWR are not affiliated, AWR's services are optional, and AWR's prices are not determined by PAWC. PAWC states this "long-standing use of PAWC's name and logo for marketing purposes does not provide a basis for" the Commission to grant the OCA's request for an investigation. PAWC R. Exc. at 16-17.

4. Disposition

We agree with the ALJs and reject the OCA's request for an investigation into the relationship between PAWC and AWR. In doing so, we note the record evidence showing the relationship between PAWC and AWR has not materially changed, despite the issues outlined by the OCA. Therefore, we shall reject Exceptions No. 2 and No. 25 filed by the OCA and adopt the ALJs' recommendation on this issue.

In so doing, we first consider the OCA's argument that the relationship between PAWC and AWR has changed based on the December 2021 sale of AWR's interest in AWR and the parties' subsequent entrance into a Utility Agreement. As noted by the ALJs, this agreement maintains essentially the same day-to-day relationship between PAWC and AWR, with PAWC continuing to adhere to Commission regulations related to billing of AWR charges. The essential relationship between PAWC and AWR, a partnership where AWR provides optional warranty products and services to PAWC customers, is unchanged. The usage of PAWC's name and logo for marketing purposes is a longstanding practice as part of this arrangement and does not provide support for the OCA's requested investigation, especially given the clear disclosures that PAWC and AWR are not affiliated and AWR's services are optional.

Additionally, we find the relationship between PAWC and AWR is not discriminatory. The agreement between the parties is not exclusive and PAWC showed that no other companies were seeking access to PAWC's bill at this time. Taking note of the OCA's arguments, we also consider Section 1502 of the Code, 66 Pa.C.S § 1502, which prohibits discrimination or unreasonable preference to "any person, corporation, or municipal corporation." Here, the record does not show any preferential treatment on the part of PAWC towards AWR.

Regarding the OCA's request that PAWC have some oversight of AWR's pricing, we concur with the ALJs and reject this proposal, finding that the prices of non-basic products and services are beyond the scope of Commission jurisdiction and, therefore, PAWC should not be required to have monitoring responsibility over AWR's charges. In light of our findings here, we believe the revenues PAWC receives from AWR are appropriately part of this proceeding. Accordingly, as noted in Section VI.C, *supra*, we have approved PAWC's claim for miscellaneous revenues related to AWR.

E. Main Extensions

1. Positions of the Parties

PAWC explained that the OCA's witness, Mr. Terry Fought, recommended that the Company consider a main extension project that would extend an existing water line along Bethel Ridge Road to the West Virginia state border with spurs to serve Shades of Death Road, Locust and Carter Lanes and Penobscot Road in Jefferson Township. PAWC M.B. at 107. PAWC estimated that the main extension proposed by Mr. Fought and Jefferson Township Municipal Authority (JTMA) would require the Company to invest \$5.2 million to install mains at 39 locations along the route presented in OCA Exhibit TLF-4. *Id.* (citing, PAWC St. 3-R at 3-4). PAWC noted that it is still assessing whether the proposed main extension is eligible under Rule 27.1(F) of its tariff, which permits main extensions within its existing service territory to be installed without customer contributions subject to Commission approval to address health and safety concerns. PAWC M.B. at 107.

The OCA explained in its Main Brief that Mr. Phil Choff is part of the JTMA Formal Complaint that requests an extension of water service within PAWC's existing service territory in Avella, Washington County, to at least 39 residents that struggle with quantity and quality of water. OCA M.B. at 106-07 (citing Tr. 1840-41; OCA St. 7-Supp. at 8-9, Exh. TLF-4). The OCA recommended that, as part of the approval of any rate increase in this proceeding, that PAWC be ordered to:

1. Seek grant funding, lower-cost funding, or contributions from other sources to help offset the costs of the project, whether or not the extension is funded under Rule 27.1(F).

2. Meet regularly with the OCA and other interested parties to provide updates on the JTMA project and allow the OCA to ask questions in real time. OCA St. 7-SR at 8-9.

OCA M.B. at 107.

2. Recommended Decision

Noting the absence of any disagreement between the Parties on this issue, the ALJs recommended the adoption of the OCA's proposal that PAWC be ordered to seek funding to offset the costs of the JTMA main extension request and to regularly meet with the OCA and other interested parties to provide updates on the JTMA project. R.D. at 384.

3. Disposition

No Exceptions have been filed to this determination. Finding the ALJs' recommendation to be reasonable, appropriate, and in accordance with the record evidence, it is adopted.

F. Pressure Surveys and Pressure Reducing Valves

1. Positions of the Parties

PAWC explained that Rule 4.7 of the Company's Water Tariff outlines the requirement for customers to install and maintain a pressure reducing valve (PRV) if the pressure at their service location exceeds 100 pounds per square inch (psi). PAWC stated that it largely agrees with the OCA's recommendations regarding this issue except for the OCA's proposed general education campaign. According to PAWC, the Company already records pressure information and reports it to the Commission for pressure

complaints. Additionally, the Company asserted that it agreed to establish a notification process for customers where PAWC's system pressure regularly exceeds 100 psi. PAWC explained that as a part of this notification, the Company will educate the customer on their responsibility of installing a PRV at their service location under PAWC's tariff and encourage the customer to contact a licensed plumber for installation and maintenance of PRVs. PAWC M.B. at 108-09. The Company further explained that it will identify customers in higher pressure areas to receive this notification by using its Geographic Information System (GIS) system. *Id.* at 109 (citing Tr. at 1983-84). Due to the small number of customers affected by the PRV tariff requirement, PAWC's current education efforts, and its agreement to deploy a new, targeted notification process, the Company argued that the Commission should reject the outreach and education program proposed by the OCA's witness, Ms. Alexander. PAWC M.B. at 109.

The OCA noted PAWC's witness, Mr. Runzer's, statement regarding the Company's agreement to establish a notification process for customers where PAWC's system pressure regularly exceeds 100 psi. OCA M.B. at 107 (citing OCA St. 7 at 10; OCA St. 7-SR at 2; OCA St. 6 at 42-43; OCA St. 6-SR at 24-25; Tr. at 1983). The OCA stated that it supports the plan, which includes annual notice and targeted notices for move-ins. OCA M.B. at 107 (citing Tr. at 2055). In addition, the OCA recommended that PAWC also provide notice if, for operational reasons, the Company increases regular operating pressures above 100 psi. OCA M.B. at 107 (citing OCA St. 7-SR at 2). The OCA asserted that the Commission should direct the agreed-upon notification, including the OCA's addition, as a part of any authorized rate increase. OCA M.B. at 107-08 (citing 66 Pa.C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44).

2. Recommended Decision

In the Recommended Decision, the ALJs recognized the public input hearing testimony from customers that had concerns regarding negative experiences with

excess pressure. R.D. at 386 (citing Tr. at 1472-1523). As a result, the ALJs recommended that the Commission adopt the agreement between PAWC and the OCA that the Company provide notice to customers where systems regularly exceed 100 psi and the OCA's proposal that the Company provide annual notice and targeted notices for move-ins and if the Company increases regular operating pressures above 100 psi. R.D. at 386.

3. Disposition

No Exceptions have been filed to this determination. Finding the ALJs' recommendation to be reasonable, appropriate, and in accordance with the record evidence, it is adopted.

XIV. Miscellaneous Issues

A. Customer Notices Related to Rate Changes

1. Positions of the Parties

PAWC argued that it complied with the Commission's Regulations at 52 Pa. Code § 53.45 when it provided notice to all customers that reflected the Company's proposed Act 11 wastewater-to-water revenue requirement allocation. PAWC contended that the OCA's below proposal, that PAWC be required to mail customers a new notice of approved rates before rates go into effect, should be rejected. PAWC M.B. at 109. PAWC averred that any new notice requirements should be adopted by the Commission and applied to all water and wastewater utilities, and not solely to PAWC. PAWC submitted that its notice here was consistent with each of the notices in its rate cases since the enactment of Act 11, and that it already provides detailed notice of its rate changes once they are approved by the Commission through a bill insert. PAWC

contended that an additional mailing is not feasible given the short time period between when rates are approved and when those rates become effective, and the process of sending a customized direct mail notice to its nearly 800,000 customers takes several weeks and is a considerable expense. *Id.* at 109-10.

The OCA argued that PAWC's notices to customers regarding the contents of its proposed rate changes are deficient and constitute inadequate notice. The OCA averred that the notice is deficient in terms of the accuracy of the bill impact of PAWC's proposed revenue shift under 66 Pa.C.S. § 1311(c), the residential customer usage level, and the Commission's final disposition of PAWC's proposed alternative ratemaking mechanisms under 66 Pa.C.S. § 1330. To remedy this deficiency, the OCA recommended that customer notices provide relevant information about the impact on their bill if PAWC's cost-of-service revenue deficiencies are used to set rates, and that a chart, illustrating three usage levels, be included in the rate case notices for water and wastewater in PAWC's next base rate filing. OCA M.B. at 108.

Furthermore, the OCA proposed that a notice should be directly mailed at the end of this proceeding that shows customers the impact on their bills from the final order, similar to how PAWC used direct mailing for the notices at the time of its filing. The OCA argued that this notice should include a link to the alternative ratemaking information posted on PAWC's website, as required by Commission Regulation or Order, as well as 66 Pa.C.S. § 1330(c)(1) and (2), and the website posting with the alternative ratemaking information could include information about the bill impact of the Commission's final order at three usage levels. The OCA averred that PAWC benefits from the obscurity that is provided by only showing what a typical customer's bill would be. Rather, the OCA contended that PAWC could choose to show usage at multiple levels but has made the choice not to do so. The OCA asserted that this could be accomplished without changing the Commission's Regulation on notice. OCA M.B. at 108-09.

2. Recommended Decision

The ALJs found that there is no need to revise customer notices related to rate changes, and that the notice provided by PAWC to customers in this and recent base rate cases complies with the Commission's Regulations. The ALJs also concluded that any new notice requirements should first be adopted by the Commission and then applied to all Pennsylvania water and wastewater utilities. Therefore, the ALJs recommended that the notice changes proposed by the OCA be rejected. R.D. at 389.

3. Disposition

None of the Parties filed Exceptions on this issue. We agree with the ALJs' recommendation and adopt it without further comment.

XV. Conclusion

Based on our review of the record in this proceeding, we shall: (1) grant, in part, and deny, in part, the Exceptions filed by I&E, the OCA, and CAUSE-PA; (2) deny the Exceptions filed by PAWC, PAWLUG, Cleveland-Cliffs, and the City of Scranton; (3) deem the OCA Motion to be moot; and (4) approve an annual revenue increase of \$88,121,069 to the Company's *pro forma* revenue at present rates of \$820,869,547, or approximately 10.74%, for its water service and an annual revenue increase of \$11,207,944 to the Company's *pro forma* revenue at present rates of \$173,308,937, or approximately 6.47%, for its wastewater service, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Exceptions filed by the Commission's Bureau of Investigation and Enforcement on May 17, 2024, are granted, in part, and denied, in part, consistent with this Opinion and Order.

2. That the Exceptions filed by the Office of Consumer Advocate on May 17, 2024, are granted, in part, and denied, in part, consistent with this Opinion and Order.

3. That the Exceptions filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania on May 17, 2024, are granted, in part, and denied, in part, consistent with this Opinion and Order.

4. That the Exceptions filed by Pennsylvania-American Water Company on May 17, 2024, are denied, consistent with this Opinion and Order.

5. That the Exceptions filed by Pennsylvania-American Water Large Users Group on May 17, 2024, are denied, consistent with this Opinion and Order.

6. That the Exceptions filed by Cleveland-Cliffs Steel on May 17, 2024, are denied, consistent with this Opinion and Order.

7. That the Exceptions filed by the City of Scranton on May 17, 2024, are denied, consistent with this Opinion and Order.

8. That the Motion for Relief Regarding Ex Parte Communications filed by the Office of Consumer Advocate on May 22, 2024, is deemed to be moot, consistent with this Opinion and Order.

9. That the Recommended Decision of Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John M. Coogan, issued on May 7, 2024, is adopted, as modified, by this Opinion and Order.

10. That the corrections and modifications directed by this Opinion and Order, reflected in the Pennsylvania-American Water Company and Pennsylvania-American Water Company-Wastewater Division, Docket Nos. R-2023-3043189 and R-2023-3043190 (Commission Tables Calculating Allowed Revenue Increase), attached hereto, are adopted as being in the public interest.

11. That Pennsylvania-American Water Company shall not place into effect the rates contained in Supplement No. 45 to Tariff – Water Pa. P.U.C. No. 5, as filed.

12. That Pennsylvania-American Water Company shall not place into effect the rates contained in Supplement No. 47 to Tariff – Wastewater Pa. P.U.C. No. 16, as filed.

13. That Pennsylvania-American Water Company is authorized to file tariffs, tariff supplements and/or tariff revisions, on at least one day's notice, and pursuant to the provisions of 52 Pa. Code §§ 53.1, *et seq.*, and 53.101, designed to produce an annual operating revenue of approximately \$908,990,615 for its water operations, representing an annual revenue increase of approximately \$88,121,069, to become effective for service rendered on and after August 7, 2024.

14. That Pennsylvania-American Water Company is authorized to file tariffs, tariff supplements and/or tariff revisions, on at least one day's notice, and pursuant to the provisions of 52 Pa. Code §§ 53.1, *et seq.*, and 53.101, designed to produce an annual operating revenue of approximately \$184,516,880 for its wastewater

operations, representing an annual revenue increase of approximately \$11,207,944 , to become effective for service rendered on and after August 7, 2024.

15. That Pennsylvania-American Water Company shall file detailed calculations with its tariff filings, which shall demonstrate to the Commission's satisfaction that the filed tariff adjustments comply with the provisions of this final Opinion and Order.

16. That Pennsylvania-American Water Company shall allocate the authorized increase in water operating revenues and wastewater operating revenues to each service, rate schedule, and customer class, and rate schedule within each rate customer class, in the manner prescribed in this Opinion and Order.

17. That Pennsylvania-American Water Company shall file with the Commission's Secretary's Bureau at these dockets and provide the Commission's Bureaus of Technical Utility Services and Investigation and Enforcement with updates to PAWC Exhibit 3-A, pages 26, 97, 146, 179, and 218 no later than December 1, 2025, which should include actual plant additions and retirements for the twelve months ending June 30, 2024, and for the twelve months ending June 30, 2025, as set forth in Section V.A of this Opinion and Order.

18. That Pennsylvania-American Water Company shall comply with all directives and conclusions contained in this Opinion and Order that are not the subject of individual ordering paragraphs as if they were the subject of specific ordering paragraphs.

19. That the Commission's Law Bureau, in conjunction with the Bureau of Technical Utility Services, shall implement an investigation into the quality-of-service issues in Pennsylvania American Water Company's northeastern service territory, culminating in the issuance of a root cause analysis report exhibiting any key findings,

within nine (9) months after the effective date of rates resulting from this base rate proceeding, *i.e.*, by no later than May 7, 2025, as set forth in Section III of this Opinion and Order.

20. That the Law Bureau, in conjunction with the Bureau of Technical Utility Services, may refer the findings of the investigation described in the previous ordering paragraph to the Commission's Bureau of Investigation and Enforcement and the Pennsylvania Department of Environmental Protection, or both, should it deem such action necessary.

21. That in its next base rate proceeding, Pennsylvania-American Water Company shall include Rider DIS and Rider DRS customers as separate customer classes in its water cost-of-service-study, as set forth in Section X.C of this Opinion and Order.

22. That Pennsylvania-American Water Company shall implement the increased tiered discount percentages of its Bill Discount Program within one (1) year after the effective date of rates resulting from this base rate proceeding, *i.e.*, by no later than August 7, 2025, as set forth in Section XII.B of this Opinion and Order. By this date, the Company shall file an associated report with the Commission's Bureau of Consumer Services.

23. That Pennsylvania-American Water Company shall implement the adoptions to its Hardship Fund, as described in Section XII.C of this Opinion and Order, within one (1) year after the effective date of rates resulting from this base rate proceeding, *i.e.*, by no later than August 7, 2025. By this date, the Company shall file an associated report with the Commission's Bureau of Consumer Services

24. That in its next base rate proceeding, Pennsylvania-American Water Company shall explain the efforts it has undertaken to provide Hardship Fund assistance

to as many eligible, low-income customers as possible, as set forth in Section XII.C of this Opinion and Order.

25. That Pennsylvania American Water Company should strive to set a target donation of an additional \$1 million into its Hardship Fund.

26. That within one (1) year after the effective date of the rates resulting from this base rate proceeding, *i.e.*, by no later than August 7, 2025, Pennsylvania American Water Company shall implement the recommendations of the Office of Consumer Advocate and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania regarding the Company's Low-Income Customer Outreach, Screening, and Intake, as set forth in Section XII.E of this Opinion and Order.

27. That within one (1) year after the effective date of the rates resulting from this base rate proceeding, *i.e.*, by no later than August 7, 2025, Pennsylvania-American Water Company shall file a plan with the Commission's Bureau of Consumer Services outlining how the Company proposes to implement the recommendations of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania regarding the Company's Data Collection, Reporting, and Monitoring of its Low-Income Programs, as set forth in Section XII.F of this Opinion and Order.

28. That Pennsylvania American Water Company shall prepare and submit plans demonstrating how it intends to continue to improve its call abandonment rate and its percentage of calls answered in sixty (60) seconds or fewer, as set forth in Section XIII.A of this Opinion and Order. Such plans shall be filed with the Commission's Bureau of Consumer Services no later than one-hundred and eighty (180) days from the entry date of a Final Commission Order in this base rate proceeding.

29. That the following Formal Complaints at the respective docket numbers be dismissed and marked closed by the Commission's Secretary's Bureau:

Complainant(s)	Docket Number (Water)
Office of Consumer Advocate	C-2023-3044289
Office of Small Business Advocate	C-2023-3044375
Mark Henderson	C-2023-3044156
Kathleen Schwartz	C-2023-3044190
Amanda Johnsen	C-2023-3044185
Adam Nemchick	C-2023-3044191
Kirk Spencer	C-2023-3044189
Keith Sauer	C-2023-3044218
Andrew Kulp	C-2023-3044225
Jim Davidson	C-2023-3044223
Robert K. Ralls	C-2023-3044220
Richard Tawadros	C-2023-3044244
Natalie Rarick	C-2023-3044234
Tracy M. Rutherford	C-2023-3044293
David Ross	C-2023-3044348
Phyllis Connelly	C-2023-3044352
Thomas J. Hollenbach	C-2023-3044389
Alecia M. Lilley	C-2023-3044359
Lynn Mugno	C-2023-3044365
Michelle White	C-2023-3044369
Dr. Mostafa Easa	C-2023-3044567
Lynn DeAcosta	C-2023-3044380
Jeff Henry	C-2023-3044406
Anh Duong	C-2023-3044354
William Cameron & Linda Long	C-2023-3044355
Nicole Glimp	C-2023-3044565
Anthony McCann	C-2023-3044578
Shanna Weagle	C-2023-3044399
Brian Dugas	C-2023-3044563
Todd Blum	C-2023-3044583
Jennifer Dianna	C-2023-3044394
Mallory & Glenn Kercher	C-2023-3044686
Danielle Gabriel	C-2023-3044683
Devon Landis	C-2023-3044442
Morgan Wengert	C-2023-3044426
Angelica Alvarez	C-2023-3044405
John P. Dolekary	C-2023-3044580
John Miller	C-2023-3044416

Carl & Sharon Winter	C-2023-3044607
Paul & Catherine Brown	C-2023-3044611
Raymond Volsario	C-2023-3044614
Matthew J. Miller	C-2023-3044429
William R. Thomas	C-2023-3044601
Horace R. Battle	C-2023-3044600
Chirstopher Blake	C-2023-3044443
Laura Semel	C-2023-3044461
Robert M. Nowotarski	C-2023-3044676
Matthew & Melissa Mengel	C-2023-3044673
Tracy Cosgrove	C-2023-3044672
Richard Peal	C-2023-3044622
Patricia A. Finley	C-2023-3044504
Joseph Donahue	C-2023-3044524
Robert Bifano	C-2023-3044534
Gary Sirois	C-2023-3044830
Michelle Zebrowski	C-2023-3044868
Mary Ann Maro	C-2023-3044869
Joel Hernandez	C-2023-3044872
Dan Nebeker o/b/o Coldwater Lemoyne Carwash	C-2023-3044874
Mary Chibatar	C-2023-3044876
Mary Tanealian	C-2023-3044576
Tao Lu	C-2023-3044585
Jennifer Cohen	C-2023-3044682
Carla Seidel	C-2023-3044679
Amy E. Dalton	C-2023-3044677
Nicholas Orman	C-2023-3044642
Jay Phillips	C-2023-3044707
Carl W. Tunall, Jr.	C-2023-3044725
Steven Solomon	C-2023-3044733
Debora A. Sokol	C-2023-3044768
Shaun Keperling	C-2023-3044801
Audrey Gerold	C-2023-3044785
Robert Anderson	C-2023-3044799
Carl Kupchunas	C-2023-3044826
Matthew Jordan	C-2023-3044813
Cindy Cabrera	C-2023-3044816
Marie Sweeney	C-2023-3044918
Pennsylvania-American Water Large Users Group	C-2023-3044871
West Norriton Township	C-2023-3044965
John J. Heilenman	C-2023-3044908
Thalia Karalis	C-2023-3044929
Daniel Bergey	C-2023-3044984

Richard Matijasich	C-2023-3044981
Nicholas Collette	C-2023-3045023
Angela P. Kern	C-2023-3045039
Dennis McConnell	C-2023-3045053
James & Peggy Lingwall	C-2023-3045054
Wolfram Milz	C-2023-3045055
Donald Jones	C-2023-3045059
Marie Dougherty	C-2023-3045061
Michael & Mary Weishner	C-2023-3045062
Michelle R. Miller	C-2023-3045063
Carol Patterson	C-2023-3045064
Zachary Sprowls	C-2023-3045072
Elizabeth Sprowls	C-2023-3045073
Catharine Anderson	C-2023-3045082
Kathleen Donell	C-2023-3045083
Paul & Eileen Miller	C-2023-3045084
Norman T. Carpenter	C-2023-3045085
David Duquette	C-2023-3045087
Wesley Hartman	C-2023-3045088
Don Anderson	C-2023-3045089
Melissa Harper	C-2023-3045090
Charles E. Schwering	C-2023-3045093
Beth A. Gandelman	C-2023-3045094
Catherine & Kenneth Green	C-2023-3045095
Violet B. Kern	C-2023-3045105
Paul J. Walaski	C-2023-3045113
Cindy Murphy	C-2023-3045123
Gino Purchiaroni	C-2023-3045124
Christopher Nicholson	C-2023-3045134
Richard Small	C-2023-3045121
Nancy and Charles Wilson	C-2023-3045138
Harry Haas	C-2023-3045137
Jean Ustaszewski	C-2023-3045146
Kathryn Wilson	C-2023-3045152
Thomas McAuliffe	C-2023-3045156
Keith Pinkerton	C-2023-3045159
Kelly Knapp	C-2023-3045185
Alicia W. Shussett	C-2024-3045187
Patrick F. Boyle	C-2024-3045190
Jefferson Township Municipal Authority, c/o	
Patricia Lawrence, Secretary	C-2024-3045202
Juan F. Ramos	C-2024-3045208
Kyle Donahue	C-2024-3045210

John Erbicella	C-2024-3045209
Angela Gilmore	C-2024-3045212
Tracy L. Duff	C-2024-3045220
Timothy J. Creelman	C-2024-3045249
Frank Cerra	C-2024-3045257
Thomas F. Miller	C-2024-3045261
Mark Schuette	C-2024-3045263
Andrea Devlin	C-2024-3045285
Alena Trently	C-2024-3045258
Vicki DiArchangelo	C-2024-3045278
Thomas C. Kidwell	C-2024-3045315
Barry S. & Ethel Wagner	C-2024-3045320
Priscilla T. Gentry	C-2024-3045341
Matthew & Heather Heliger	C-2024-3045343
Barbara Stettenbauer	C-2024-3045360
Elizabeth Clark	C-2024-3045366
East Norriton Township	C-2024-3045399
Beth A. Gandelman	C-2024-3045422
Naomi Conte	C-2024-3045457
Ryan Gandelman	C-2024-3045467
Priscilla Jovais & Walter Baginski	C-2024-3045871
George M. Kamage, Jr.	C-2024-3045968
Julia Wright	C-2024-3045983
Anita Sakevich	C-2024-3045907
Michael W. Knoll	C-2024-3045985
Joseph Koza	C-2024-3045992
Randy McDaniels	C-2024-3045701
Christine Janiga	C-2024-3045987
Nereida Colon-Gonzalez	C-2024-3045788
Ruth McMullan	C-2024-3045997
Miranda Connors	C-2024-3046001
Deborah Nystrom	C-2024-3046000
Lora Gibb	C-2024-3045999
Ernest & Kathy Mayer	C-2024-3046292
Kathleen & William Nole	C-2024-3046296
Frances S. Kearney	C-2024-3046246
William Stevens	C-2024-3046071
Joe Dominick	C-2024-3046262
Andrea O'Neill-Hoffman	C-2024-3046195
Leslie Spindler	C-2024-3046230
Richard Brill	C-2024-3046111
Josephine Roman	C-2024-3046059
Mildred Decelles	C-2024-3046085

Gerald Smurl	C-2024-3046220
William Roman	C-2024-3046082
Harold Kiefer	C-2024-3046263
James G. Haggerty	C-2024-3046164
Ronald Benke	C-2024-3046112
Jodi Mayer	C-2024-3046291
James Wynder	C-2024-3046294
Billydon Hickson	C-2024-3046079
Elaine F. Campbell	C-2024-3046261
John Borer	C-2024-3046172
Thomas Tomeo	C-2024-3046047
Mary McKenna	C-2024-3046218
Bill Gaughan	C-2024-3046094
Jimmy Allen	C-2024-3046080
Mark Mecca	C-2024-3046055
Chris Casciano	C-2024-3046114
John Laskowski	C-2024-3045814
Colleen M. Gaughan	C-2024-3046044
Sean McAndrew	C-2024-3046252
Brian Cadugan	C-2024-3046169
Timothy Brier	C-2024-3046254
Joseph Baronski	C-2024-3046170
Michael Bussacco	C-2024-3046240
Robert Meyers	C-2024-3046219
Arthur F. Werner, Jr.	C-2024-3045244
Marianne Vergnetti	C-2024-3046108
Edmund Moroney	C-2024-3046061
Alice Lord	C-2024-3046043
Giselle Rutchford	C-2024-3046095
Ann McDermott	C-2024-3046046
Patricia Shultz	C-2024-3046050
Frank S. Sislo	C-2024-3046087
Linda Kiefer	C-2024-3046265
Dominic Cuchara	C-2024-3046109
Anthony Palmere, Jr.	C-2024-3046243
Debbie Wilson	C-2024-3046276
Gerard Dombroski	C-2024-3046259
Roberta Brentano	C-2024-3046098
William Seeger	C-2024-3046057
Elizabeth Zangardi	C-2024-3046226
Paul DelRossso	C-2024-3046217
Joseph Guerra	C-2024-3046168
Michael Shafer	C-2024-3046215

Marty Flynn	C-2024-3046257
Patrick H. Brentano	C-2024-3046099
Gary Shiner	C-2024-3046166
David F. Sevensky	C-2024-3046267
Susan Gilday	C-2024-3046238
Bernadette Bussacco	C-2024-3046221
Theodore Parchinski	C-2024-3046053
John Blackledge	C-2024-3046274
John Kulick	C-2024-3046353
Richard & Carmella Zaleski	C-2024-3046482
Nadine Simms	C-2024-3046351
James P. McDermott	C-2024-3046301
Lucy Jason	C-2024-3046302
Lynn King	C-2024-3046249
John McAuliffe	C-2024-3046392
Laura Virtue-Delayo	C-2024-3046397
Jessica Libassi	C-2024-3045805
David A. Grecco	C-2024-3046096
Leroy James Watters	C-2024-3046404
James Metzger	C-2024-3046411
Lorraine Perry	C-2024-3046408
Stephen Marr	C-2024-3046410
Brian A. McDonald	C-2024-3046741
Patricia A. Perri	C-2024-3046970
Patricia Barbuti	C-2024-3046810
Ryan & Leslie Ferguson	C-2024-3046467
Natalie Davis	C-2024-3046744
Patricia A. Perri	C-2024-3046745
Gary Graziano	C-2024-3046736
Joseph & Erin Kreis	C-2024-3046470
Caesar Bordo	C-2024-3046870
Ann McDonald	C-2024-3046746
Janice M. Mcdonald	C-2024-3046874
Jennifer Comparetta	C-2024-3046471
Sharon Cuff	C-2024-3046477
Karen Schuster	C-2024-3046742
Valerie Mendicino	C-2024-3046737
William J. O'Malley, III	C-2024-3046734
Louis Guzzi, Jr.	C-2024-3046406
Francis Kranick, Jr.	C-2024-3046811
Tara & Tom Schuster	C-2024-3046738
Colleen Demuro	C-2024-3046867
Charlotte DeRosier	C-2024-3046466

Albert Denunzio	C-2024-3046871
Mary C. Jennings	C-2024-3046743
James F. McCormick	C-2024-3046873
Laura A. O'Malley	C-2024-3046405
Mary & David Dobrzyn	C-2024-3046875
Gene Stanavitch	C-2024-3046403
Pat Stanavitch	C-2024-3046402
Robert Barry	C-2024-3046399
John Borgia	C-2024-3047073
Domenic P. Cafarella	C-2024-3046878
Michael D. Brooks	C-2024-3046880
Daniel E. Skvarla	C-2024-3046881
Donna Antonelli	C-2024-3046882
Michael Dempsey	C-2024-3046884
Marianne Brown	C-2024-3046886
Sharon Soudas	C-2024-3046885
Gina McCarthy	C-2024-3047515
Gerald Fabricatore	C-2024-3047312
Gerald R. Fabricatore	C-2024-3047375
Laura Wisniewski	C-2024-3047521
Julie Janosy	C-2024-3047695
Lackawanna County	C-2024-3048333
Vincent Ennis	C-2024-3048341
Clyde H. Morgan	C-2024-3045569
Colleen Adams	C-2024-3045573
Mark J. Mazurkiewicz	C-2024-3045579
Linda Culbertson	C-2024-3045650
Larry Wise	C-2024-3045668
James Lyband Jackson	C-2024-3045674
Gail Y. Gayeski	C-2024-3045666
Veronica A. Hannevig	C-2024-3045667
Theresa Skobel	C-2024-3045670
Jordan Henning	C-2024-3045678
Kyle & Lori Rompella	C-2024-3045681
Stefanie Adams	C-2024-3045685
Deborah & Robert May	C-2024-3045687
David & Lynn Griffith	C-2024-3045686
Paul Krammes	C-2024-3045690
Thomas Campisano	C-2024-3045691
Nelson Moeller	C-2024-3045703
Paulette Knott	C-2024-3045741
Gene & Patricia Malaspina	C-2024-3045750
Stephanie Sienkel	C-2024-3045767

Robert Boni	C-2024-3045765
Janice M. Reynolds	C-2024-3045768
Bilal Salaam	C-2024-3045812
Michael Troutman	C-2024-3045835
Kendra Robinson	C-2024-3045838
Gertrude Terrell	C-2024-3045842

<u>Complainant(s)</u>	<u>Docket Number (Wastewater)</u>
Office of Consumer Advocate	C-2023-3044292
Office of Small Business Advocate	C-2023-3044377
Mark Henderson	C-2023-3044159
Brian Gottschall	C-2023-3044170
Leroy Bumbarger	C-2023-3044169
Kathleen Schwartz	C-2023-3044193
Amanda Johnsen	C-2023-3044187
Adam Nemchick	C-2023-3044192
Anne Lockwood & Michael Haehnel	C-2023-3044168
Keith Sauer	C-2023-3044219
Natalie Rarick	C-2023-3044239
Darlene Hamilton	C-2023-3044170
Tracy M. Rutherford	C-2023-3044333
David Ross	C-2023-3044349
Alecia M. Lilley	C-2023-3044367
Lynn DeAcosta	C-2023-3044401
Nicole Glimp	C-2023-3044564
William H. Rissmiller	C-2023-3044569
Michelle White	C-2023-3044371
Jennifer Dianna	C-2023-3044395
Thomas J. Hollenbach	C-2023-3044685
Mallory Kercher	C-2023-3044681
Devon Landis	C-2023-3044448
Morgan Wengert	C-2023-3044427
Jeff Henry	C-2023-3044407
John Miller	C-2023-3044413
Angelica Alvarez	C-2023-3044566
Andrew Kulp	C-2023-3044468
Sharon Winter	C-2023-3044615
Paul Brown	C-2023-3044616
Charles L. Heydt	C-2023-3044618
William R. Thomas	C-2023-3044604
Linda Allison	C-2023-3044595
Christopher Blake	C-2023-3044444
Richard Peal	C-2023-3044620

Tracy Cosgrove	C-2023-3044667
Donald D. Dickerson	C-2023-3044662
Patricia A. Finley	C-2023-3044505
Jennifer Cohen	C-2023-3044671
Michael D. Fletcher	C-2023-3044688
Mary Tanealian	C-2023-3044577
Tao Lu	C-2023-3044573
Amy E. Dalton	C-2023-3044678
Mark Coogan	C-2023-3044704
Carla Seidel	C-2023-3044732
Anh Duong	C-2023-3044353
Borough of St. Lawrence	C-2023-3044757
Debora A. Sokol	C-2023-3044767
Audrey Gerold	C-2023-3044786
Matthew Jordan	C-2023-3044814
Laura Semel	C-2023-3044821
Lynn Mugno	C-2023-3044366
Pennsylvania-American Water Large Users Group	C-2023-3044873
Joel Hernandez	C-2023-3044877
Mary Chibatar	C-2023-3044879
Dennis McConnell	C-2023-3044880
Marie T. Ratchford-Demkosky	C-2023-3044881
Cindy Cabrera	C-2023-3044916
Thalia Karalis	C-2023-3044915
Richard Matijasich	C-2023-3044982
Daniel B. Fletcher	C-2023-3045056
James Lingwall	C-2023-3045065
Donald Jones	C-2023-3045066
Marie Dougherty	C-2023-3045067
Jay Phillips	C-2023-3045069
Carl W. Tunall, Jr.	C-2023-3045070
Catharine Anderson	C-2023-3045074
Kathleen Donell	C-2023-3045075
Paul & Eileen Miller	C-2023-3045077
Norman T. Carpenter	C-2023-3045079
David Duquette	C-2023-3045091
Wesley Hartman	C-2023-3045092
Shaun Keperling	C-2023-3044802
Cindy Murphy	C-2023-3045125
Patrick O'Donnell	C-2023-3045140
Kathryn Wilson	C-2023-3045153
Keith Pinkerton	C-2023-3045164
Nancy and Charles Wilson	C-2023-3045160

Dayna Gardecki	C-2023-3045167
Kelly Knapp	C-2023-3045186
Alicia W. Shussett	C-2024-3045188
Patrick F. Boyle	C-2024-3045191
Juan F. Ramos	C-2024-3045206
Kyle Donahue	C-2024-3045211
Angela Gilmore	C-2024-3045213
John Erbicella	C-2024-3045255
Vicki DiArchangelo	C-2024-3045279
Alena Trently	C-2024-3045259
Andrea Devlin	C-2024-3045296
Thomas C. Kidwell	C-2024-3045316
Lloyd Simmers	C-2024-3045332
Anne-Marie Trace	C-2024-3045331
Borough of Port Vue	C-2024-3045334
Christopher Nicholson	C-2024-3045337
Priscilla T. Gentry	C-2024-3045342
Ruth & Craig Benderoth	C-2024-3045346
Matthew & Heather Heliger	C-2024-3045344
Barbara Stettenbauer	C-2024-3045362
Elizabeth Clark	C-2024-3045367
Catherine & Kenneth Green	C-2023-3045441
Naomi Conte	C-2024-3045464
Clyde H. Morgan	C-2024-3045571
Colleen Adams	C-2024-3045572
Mark Pezone	C-2024-3045574
Mark J. Mazurkiewicz	C-2024-3045582
Larry Wise	C-2024-3045669
James Lyband Jackson	C-2024-3045673
Janice M. Reynolds	C-2024-3045684
Veronica A. Hannevig	C-2024-3045694
Theresa Skobel	C-2024-3045695
David & Lynn Griffith	C-2024-3045696
Thomas Campisano	C-2024-3045723
Paulette Knott	C-2024-3045734
Gene & Patricia Malaspina	C-2024-3045747
Jordan Henning	C-2024-3045773
Kyle & Lori Rompella	C-2024-3045779
Richard Hamilton	C-2024-3045806
Kenneth Stoudt Jr.	C-2024-3045811
Bilal Salaam	C-2024-3045826
Ashley Sanchez	C-2024-3045815
Kendra Robinson	C-2024-3045839

David Breitegam	C-2024-3045873
Anita Sakevich	C-2024-3045902
George M. Kamage, Jr.	C-2024-3045967
Michael W. Knoll	C-2024-3045984
Joseph Koza	C-2024-3045989
Ruth McMullan	C-2024-3045994
Thomas Tomeo	C-2024-3046051
David A. Grecco	C-2024-3046052
Theodore Parchinski	C-2024-3046054
Mark Mecca	C-2024-3046056
William Seeger	C-2024-3046058
Josephine Roman	C-2024-3046060
Edmond Maroney	C-2024-3046062
Nereida Colon-Gonzalez	C-2024-3046072
William Roman	C-2024-3046081
Frank S. Sislo	C-2024-3046088
Patrick H. Brentano	C-2024-3046083
Bill Gaughan	C-2024-3046089
Giselle Rutchford	C-2024-3046091
Roberta Brentano	C-2024-3046093
Brian Cadugan	C-2024-3046119
John Fletcher	C-2024-3046121
Marianne Vergnetti	C-2024-3046126
Dominic Cuchara	C-2024-3046128
Richard Brill	C-2024-3046130
Ronald & Lucy Benke	C-2024-3046133
Gary Shiner	C-2024-3046134
Suzanne Horishny	C-2024-3046145
Chris Casciano	C-2024-3046150
James G. Haggerty	C-2024-3046152
Joseph Baronski	C-2024-3046154
Joseph Guerra	C-2024-3046156
John Borer	C-2024-3046159
Michael Shafer	C-2024-3046160
Joel Hoffman	C-2024-3046185
Paul DelRosso	C-2024-3046193
Ferentz Irrevocable Grantor Trust c/o Joseph Surenko	C-2024-3046197
Robert Meyers	C-2024-3046198
Bernadette Bussacco	C-2024-3046222
Susan Gilday	C-2024-3046223
Arthur F. Werner, Jr.	C-2024-3046242
Timothy Brier	C-2024-3046239
Frances S. Kearney	C-2024-3046251

Sean McAndrew	C-2024-3046255
Elaine F. Campbell	C-2024-3046256
Marty Flynn	C-2024-3046258
Gerard Dombroski	C-2024-3046260
Harold Kiefer	C-2024-3046264
Linda Kiefer	C-2024-3046266
David F. Sevensky	C-2024-3046268
John Blackledge	C-2024-3046273
John Mayer	C-2024-3046280
Lucy Jason	C-2024-3046247
Lynn King	C-2024-3046248
Ernest & Kathy Mayer	C-2024-3046293
James & Marie Wynder	C-2024-3046295
Kathleen Nole	C-2024-3046297
James P. McDermott	C-2024-3046300
Nadine Simms	C-2024-3046350
David A. Grecco	C-2024-3046352
John Kulick	C-2024-3046354
Richard & Carmella Zaleski	C-2024-3046355
John McAuliffe	C-2024-3046393
Laura Virtue-Delayo	C-2024-3046398
Robert Barry	C-2024-3046400
Mark Perry	C-2024-3046407
Rebecca Pesyna	C-2024-3046409
Louis Guzzi, Jr.	C-2024-3046472
Maureen Guzzi	C-2024-3046473
David Dobrzyn	C-2024-3046474
Albert Denunzio	C-2024-3046475
Caesar Bordo	C-2024-3046476
Gary & Beth Graziano	C-2024-3046739
Valerie Mendicino	C-2024-3046740
Tara & Tom Schuster	C-2024-3046752
Karen Schuster	C-2024-3046807
Mary C. Jennings	C-2024-3046808
Patricia Barbuti	C-2024-3046809
Francis Kranick, Jr.	C-2024-3046812
Natalie Davis	C-2024-3046863
Sharon Cuff	C-2024-3046869
Colleen Demuro	C-2024-3046868
Domenic P. Cafarella	C-2024-3046879
Michael Dempsey	C-2024-3046883
Marianne Brown	C-2024-3046887
Gerald Fabricatore	C-2024-3047362

Gerald R. Fabricatore
Gina McCarthy
Julie Janosy

C-2024-3047371
C-2024-3047533
C-2024-3047696

30. That a copy of this Opinion and Order be served on the Commission's Bureau of Consumer Services, Division of Policy; the Bureau of Investigation and Enforcement; the Bureau of Audits, and the Bureau of Technical Utility Services, Finance/Tariff Division for monitoring and compliance.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta", written in a cursive style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: July 11, 2024

ORDER ENTERED: July 22, 2024

LIST OF ABBREVIATIONS

AIA	Affiliated Interest Agreement
ALJ	Administrative Law Judge
AMP	Arrearage Management Plan
APP	Annual Performance Plan
ASC 715	Accounting Standard Codification Topic 715
Audits	Bureau of Audits
AWK	American Water Works Company, Inc.
AWR	American Water Resources
AWWA	American Water Works Association
BASA	Butler Area Sewer Authority
BCS	Bureau of Consumer Services
BDP	Bill Discount Program
BEC	Base-Extra Capacity
BTI	Bill-to-Income
CAAG	Customer Assistance Advisory Group
CAPM	Capital Asset Pricing Model
CAUSE-PA	Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania
CCA	Customer Care Agent
CEO	Commission on Economic Opportunity
Code	Pennsylvania Public Utility Code
COSS	Cost-of-Service Study
CSR	Customer Service Representative
CSS	Combined Sewer System
DCF	Discounted Cash Flow
DCP	Defined Contribution Plan
DEF	Dollar Energy Fund
DIS	Demand Industrial Sales
DRS	Demand Resale Sales
DSIC	Distribution System Improvement Charge
DSLPA	Discontinuance of Services to Lease Premises Act
ECAPM	Empirical Capital Asset Pricing Model
ECIC	Environmental Compliance Investment Charge
ECP	Environmental Compliance Plan
EDC	Electric Distribution Company
EDWA	East Dunkard Water Authority
EE&C	Energy Efficiency and Conservation

EPS	Earnings Per Share
ERP	Equity Risk Premium
ESPP	Employee Stock Purchase Plan
FASB	Financial Accounting Standards Board
FERC	Federal Energy Regulatory Commission
FPFTY	Fully Projected Future Test Year
FPL	Federal Poverty Level
FTY	Future Test Year
FY	Fiscal Year
GDP	Gross Domestic Product
GIS	Geographic Information System
H2O	Help to Others
HTY	Historic Test Year
I&E	Bureau of Investigation and Enforcement
I&I	Inflow and Infiltration
IOTG	Insurance Other Than Group
JTMA	Jefferson Township Municipal Authority
LIAG	Low Income Advocacy Groups
LIHWAP	Low-Income Household Water Assistance Program
LIURP	Low-Income Usage Reduction Program
LTIIP	Long Term Infrastructure Investment Plan
LTPP	Long-Term Performance Plan
MCLGs	Maximum Contaminant Level Goals
MCLs	Maximum Contaminant Levels
MHI	Median Household Income
MHI-HO	Median Household Income Data From Homeowners
NAWC	National Association of Water Companies
NGDC	Natural Gas Distribution Company
NSF	National Science Foundation
O&M	Operating and Maintenance
OALJ	Office of Administrative Law Judge
OCA	Office of Consumer Advocate
OPEB	Other Post-Employment Benefits
OSBA	Office of Small Business Advocate
PADEP	Pennsylvania Department of Environmental Protection
PAWC	Pennsylvania-American Water Company
PAWLUG	Pennsylvania-American Water Large Users Group
PFAS	Polyfluoroalkyl Substances
PGW	Philadelphia Gas Works

PIP	Percentage of Income Program
PRV	Pressure Reducing Valve
psi	Pounds Per Square Inch
PSU	Performance Stock Units
R.D.	Recommended Decision
RDM	Revenue Decoupling Mechanism
ROE	Return on Equity
RROR	Relative Rate of Return
RSU	Restricted Stock Units
RZ-1	Rate Zone 1
RZ-2	Rate Zone 2
RZ-3	Rate Zone 3
RZ-4	Rate Zone 4
RZ-5	Rate Zone 5
RZ-6	Rate Zone 6
RZ-7	Rate Zone 7
RZ-8	Rate Zone 8
RZ-9	Rate Zone 9
S&P	Standard & Poor's
SBC	Stock-based Compensation
SCADA	Supervisory Control and Data Acquisition
SCERP	Service Company Executive Retirement Plan
SLIBCO	Scranton Lackawanna Industrial Building Company
SSS	Sanitary Sewer System
STAS	State Tax Adjustment Surcharge
STMA	Sadsbury Township Municipal Authority
SVF	Straight Fixed Variable
TUS	Bureau of Technical Utility Services
USEPA	United States Environmental Protection Agency
USP	Universal Service Program
USTRA	Utility Services Tenants Rights Act
VA	VA Medical Center
WACC	Weighted Average Cost of Capital
WB	West Brandywine
WSA	Water Services Act
WWTP	Wastewater Treatment Plant
YBCs	York Bulk Customers

Pennsylvania Public Utility Commission, *et. al.*

v.

**Pennsylvania-American Water Company
Pennsylvania-American Water Company-Wastewater Division
Docket Nos. R-2023-3043189
R-2023-3043190**

Commission Tables Calculating Allowed Revenue Increase

Table Act 11 Act 11 Water and Wastewater Revenue Requirement Summary

Water Tables

Table I	Income Summary
Table IA	Rate of Return
Table IB	Revenue Factor
Table II	Summary of Commission Adjustments
Table III	Interest Synchronization
Table IV	Cash Working Capital: Interest and Dividends
Table V	Cash Working Capital: Taxes
Table VI	Cash Working Capital: O&M Expense

Wastewater SSS Tables

Table I	Income Summary
Table IA	Rate of Return
Table IB	Revenue Factor
Table II	Summary of Commission Adjustments
Table III	Interest Synchronization
Table IV	Cash Working Capital: Interest and Dividends
Table V	Cash Working Capital: Taxes
Table VI	Cash Working Capital: O&M Expense

Wastewater-CSS Tables

Table I	Income Summary
Table IA	Rate of Return
Table IB	Revenue Factor
Table II	Summary of Commission Adjustments
Table III	Interest Synchronization
Table IV	Cash Working Capital: Interest and Dividends
Table V	Cash Working Capital: Taxes
Table VI	Cash Working Capital: O&M Expense

Commission Final Allowance
TABLE ACT 11
PENNSYLVANIA-AMERICAN WATER COMPANY
WATER AND WASTEWATER REVENUE REQUIREMENT SUMMARY
R-2023-3043189, R-2023-3043190

Line No.	Description	Total Company \$	Water Operations \$	Wastewater SSS Operations \$	Wastewater CSS Operations \$
1	Present Rate Revenue	\$ 994,178,484	\$ 820,869,547	\$ 94,672,721	\$ 78,636,216
2	Additional Revenue Requirement ⁽¹⁾	99,329,012	64,799,685	24,226,880	10,302,448
3	Act 11 - Wastewater Allocation	-	23,321,384	(18,170,160)	(5,151,224)
4	Proposed Revenues	<u>\$ 1,093,507,496</u>	<u>\$ 908,990,615</u>	<u>\$ 100,729,441</u>	<u>\$ 83,787,440</u>
5	Rate Increase/(Decrease) \$	\$ 99,329,012	\$ 88,121,069	\$ 6,056,720	\$ 5,151,224
6	Rate Increase/(Decrease) %	9.99%	10.74%	6.40%	6.55%
7	Rate Increase/(Decrease) \$ - Total Wastewater Operations			\$ 11,207,944	
8	Rate Increase/(Decrease) % - Total Wastewater Operations			6.47%	

Notes:

⁽¹⁾ Excludes revenue requirement associated with the BASA and Brentwood acquisitions.

Commission Final Allowance
TABLE I WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
INCOME SUMMARY
R-2023-3043189, R-2023-3043190

	Pro Forma Present Rates (1)	Company Adjustments (2)	Pro Forma Present Rates (Revised) (3)	Commission Adjustments	Commission Pro Forma Present Rates	Commission Revenue Increase	Total Allowable Revenues
	\$ (1)	\$ (2)	\$ (3) = (1) + (2)	\$ (4)	\$ (5) = (3) + (4)	\$ (6)	\$ (7) = (5) + (6)
1. Operating Revenue	\$ 824,117,186	\$ -	\$ 824,117,186	\$ (3,247,639)	\$ 820,869,547	\$ 64,799,685	\$ 885,669,232
2. Expenses:							
3. O & M Expense	256,824,574	(720,938)	256,103,636	(10,032,096)	246,071,540	762,044	246,833,584
4. Depreciation	210,700,336	1,660,367	212,360,703	(1,174,154)	211,186,549	0	211,186,549
5. Taxes, Other	14,398,232	(62,322)	14,335,910	(48,401)	14,287,509	412,868	14,700,377
6. Income Taxes:							
7. State	13,347,020	67,799	13,414,819	658,374	14,073,193	5,083,619	19,156,812
8. Federal	33,635,358	163,955	33,799,313	1,592,133	35,391,446	12,293,642	47,685,088
9. Total Expenses	528,905,520	1,108,861	530,014,381	(9,004,144)	521,010,237	18,552,173	539,562,410
10. Net Income Available for Return	295,211,666	(1,108,861)	294,102,805	5,756,504	299,859,309	46,247,511	346,106,821
11. Rate Base	4,704,067,856	(3,127,277)	4,700,940,379	(11,146,058)	4,689,794,321		4,689,794,321
12. Rate of Return	6.28%		6.26%		6.39%		7.38%

Notes and Sources:

(1) PAWC Exh. 3-A Initial.

(2) Difference between PAWC Exh. 3-A Initial and Exh. 3-A Revised.

(3) PAWC Exh. 3-A Revised.

Pre-Act 11 Allocation Revenue Change (%): 7.89%

Pre-Act 11 Allocation % of requested Increase 50.10%

Commission Final Allowance
TABLE I(A) WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
RATE OF RETURN
R-2023-3043189, R-2023-3043190

	Structure	Cost	After-Tax Weighted Cost	Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
	(1)	(2)	[(3)=(1)x(2)]	(4)	[(5)=(3)x(4)]
1. Total Cost of Debt			2.09%		2.09%
2. Long-term Debt ⁽¹⁾	44.01%	4.76%	2.09%		2.09%
3. Short-term Debt	0.00%	0	0.00%		0.00%
4. Preferred Stock	0.00%	0	0.00%	0.726879	0.00%
5. Common Equity ⁽¹⁾	55.99%	9.45%	5.29%	0.726879	7.28%
6. Rate of Return ⁽¹⁾	100.00%		7.38%		9.3700%
7. Pre-Tax Interest Coverage	4.48				
8. After-Tax Interest Coverage	3.53				
9. Tax Rate Complement (1-(21%+(7.99% X (1-21%)))	72.68790%				

Notes and Sources:

⁽¹⁾See Section IX - Fair Rate of Return

Commission Final Allowance
TABLE I(B) WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
REVENUE FACTOR
R-2023-3043189, R-2023-3043190

1.	100%	<u>1.00000000</u>
	Less:	
2.	Uncollectible Accounts Factor ⁽¹⁾	0.01176000
3.	PUC, OCA, OSBA, DPC Assessment Factors ⁽¹⁾	0.00637145
4.	Gross Receipts Tax	0.00000000
5.	Other Tax Factors	<u>0.00000000</u>
6.		0.98186855
7.	State Income Tax Rate ⁽¹⁾	<u>0.07990000</u>
8.	Effective State Income Tax Rate	<u>0.07845130</u>
9.	Factor After Local and State Taxes	0.90341725
10.	Federal Income Tax Rate ⁽¹⁾	<u>0.21000000</u>
11.	Effective Federal Income Tax Rate	<u>0.18971762</u>
12.	Revenue Factor (100% - Effective Tax Rates)	<u><u>0.71369963</u></u>

Notes and Sources:

⁽¹⁾ PAWC Exh. 3-A Revised

Commission Final Adjustments
TABLE II WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
SUMMARY OF ADJUSTMENTS
R-2023-3043183, R-2023-3043190

	<u>Adjustments</u>	<u>Rate Base</u>	<u>Revenues</u>	<u>Expenses</u>	<u>Depreciation</u>	<u>Taxes-Other</u>	<u>State</u> <u>Income Tax</u>	<u>Federal</u> <u>Income Tax</u>
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		\$	\$	\$	\$	\$	\$	\$
1.	RATE BASE:							
	CWC:							
2.	Int. & Div. (Table IV)	19,785						
3.	Taxes (Table V)	146,442						
4.	O & M (Table VI)	(1,157,103)						
5.	Farmington (water) Plant	(2,502,811)						
6.	Audubon Plant	(360,229)						
7.	Farmington (water) Acq Adj.	(195,736)						
	Audubon Acq Adj.	(6,333,453)						
8.	Farmington (water) Trans. Cost	(43,733)						
9.	Audubon Trans. Cost	(107,142)						
10.	REVENUES:							
11.	Audubon Revenue ⁽¹⁾⁽⁴⁾		(2,965,024)	(34,863)		(18,831)	(232,610)	(562,517)
12.	Farmington (water) Revenue ⁽¹⁾⁽⁴⁾		(266,371)	(3,133)		(1,637)	(20,837)	(50,535)
13.							0	0
14.	Concomitant Revenue ⁽¹⁾⁽⁴⁾		(16,244)	(131)		(103)	(1,274)	(3,082)
15.							0	0
16.	EXPENSES:						0	0
17.	Audubon O&M & Taxes-Other ⁽²⁾			(1,557,863)		(27,703)	126,687	306,366
18.	Farmington (water) Expenses ⁽³⁾			(152,385)			12,176	23,444
19.	Pension Expense ⁽⁵⁾			(4,771,807)			381,267	322,013
20.	OPEB Expense ⁽⁵⁾			(1,664,016)			132,355	321,523
21.	AMP ⁽⁴⁾			(1,847,832)			147,642	357,040
22.							0	0
23.	Audubon Depreciation				(263,533)		21,541	52,032
24.	Farmington (water) Depreciation				(101,751)		8,130	13,660
25.	Audubon Acq Amort. ⁽⁴⁾				(775,772)		61,384	143,835
26.	Farmington (water) Acq Amort. ⁽⁷⁾				(27,032)		2,160	5,223
27.					0		0	0
28.	TAXES:							
29.	Interest Synchronization (Table III)						18,613	45,011
30.	TOTALS	<u>(11,146,058)</u>	<u>(3,247,633)</u>	<u>(10,032,036)</u>	<u>(1,174,154)</u>	<u>(48,401)</u>	<u>658,374</u>	<u>1,532,133</u>

Notes to Accompany Table II – Water

- (1) Revenue adjustments require concomitant adjustments for bad debt & general assessment expenses (Table IB-Water) & forfeited discounts / late payment fee revenues (PAWC Exh. 3-A Revised at 24R) that are determined as a percentage of revenues. Concomitant revenue is then subject to the same adjustment.
- (2) See PAWC Exh. 3-A Revised at 63R and PAWC Exh. 3-B at 304. Taxes-Other includes only property taxes.
- (3) See PAWC Exh. 3-A Revised at 63R and PAWC Exh. 3-B at 303.
- (4) No cash working capital adjustment is provided for non-cash adjustments, including for bad debt/AMP and depreciation. Tax adjustments are in Table V-Water.
- (5) See, I&E M.B. at 24.
- (6) Reduction of \$775,772 to remove PAWC's claims related to Audubon. This includes an acquisition adjustment amortization expense of \$763,977 and associated transaction costs of \$11,795. [$\$763,977 + \$11,795 = \$775,772$]. See Section VII. M of this Opinion and Order.
- (7) Reduction of \$27,032 to remove PAWC's claims related to Farmington (water). This includes an acquisition adjustment amortization expense of \$21,549 and associated transaction costs of \$5,483. [$\$21,549 + \$5,483$]. See Section VII.M of this Opinion and Order.

Commission Final Allowance
TABLE III WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
INTEREST SYNCHRONIZATION
R-2023-3043189, R-2023-3043190

	Amount \$
1. Company Rate Base Claim ⁽¹⁾	4,700,940,379
2. Commission Rate Base Adjustments (From Table II)	<u>(11,146,058)</u>
3. Commission Rate Base (Line 1 - Line 2)	4,689,794,321
4. Weighted Cost of Debt (From Table IA)	<u>2.09000000%</u>
5. Commission Interest Expense - (Line 3 x Line 4)	98,016,701
6. Company Claim ⁽¹⁾	<u>98,249,654</u>
7. Total Commission Adjustment	232,953
8. Company Adjustment	<u>0</u>
9. Net Commission Interest Adjustment (Line 7 - Line 8)	232,953
10. State Income Tax Rate	<u>7.99%</u>
11. State Income Tax Adjustment (Line 9 x Line 10) (Flow to Table II)	<u>18,613</u>
12. Net Commission Interest Adjustment (Line 9)	232,953
13. State Income Tax Adjustment (Line 11)	<u>18,613</u>
14. Net Commission Adjustment for F.I.T. (Line 12 - Line 13)	214,340
15. Federal Income Tax Rate	<u>21.00%</u>
16. Federal Income Tax Adjustment (Line 14 x Line 15) (Flow to Table II)	<u><u>45,011</u></u>

Notes and Sources:

⁽¹⁾ Company Main Brief

Commission Final Allowance
TABLE IV WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL - Interest and Dividends
R-2023-3043189, R-2023-3043190

Accrued Interest			Preferred Stock Dividends		
	(1)	Long-Term Debt (2)	Short-Term Debt (3)	(4)	(5)
1.	Company Rate Base Claim	\$4,700,940,379	\$4,700,940,379	Company Rate Base Claim	\$4,700,940,379
2.	Commission Rate Base Adjustments	<u>(\$11,146,058)</u>	<u>(\$11,146,058)</u>	Commission Rate Base Adj.	<u>(\$11,146,058)</u>
3.	Commission Rate Base	\$4,689,794,321	\$4,689,794,321	Commission Rate Base	\$4,689,794,321
4.	Weighted Cost of Debt	<u>2.09%</u>	<u>0.00%</u>	Weighted Cost Pref. Stock	<u>0.00%</u>
5.	Commission Annual Interest Exp.	<u>\$98,016,701</u>	<u>\$0</u>	Commission Preferred Dividends	<u>\$0</u>
6.	Average Revenue Lag Days ⁽¹⁾	50.6	50.6	Average Revenue Lag Days	50.6
7.	Average Expense Lag Days ⁽¹⁾	<u>81.6</u>	<u>15.0</u>	Average Expense Lag Days	<u>46.4</u>
8.	Net Lag Days	<u>-31.0</u>	<u>35.6</u>	Net Lag Days	<u>4.2</u>
9.	Working Capital Adjustment				
10.	Commission Daily Interest Exp.	\$268,539	\$0	Commission Daily Dividends	\$0
11.	Net Lag Days	<u>-31.0</u>	<u>35.6</u>	Net Lag Days	<u>4.2</u>
12.	Commission Working Capital	(\$8,327,394)	\$0		\$0
13.	Company Claim ⁽¹⁾	<u>(\$8,347,179)</u>	<u>\$0</u>	Company Claim ⁽¹⁾	<u>\$0</u>
14.	Commission Adjustment	<u>\$19,785</u>	<u>\$0</u>		<u>\$0</u>
15.	Total Interest & Dividend Adj.	<u>\$19,785</u>			

Notes and Sources:

⁽¹⁾ Company Main Brief.

Commission Final Allowance
TABLE V WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -TAXES
R-2023-3043189, R-2023-3043190

	Description (1)	Company Proforma Tax Expense Present Rates (2)	Commission Adjustments (3)	Commission Pro forma Tax Expense Present Rates (4)	Commission Allowance (5)	Commission Adjusted Taxes at Present Rates (6)	Daily Expense (7)	Net Lead/ Lag Days ⁽¹⁾ (8)	Accrued Tax Adjustment (9)
1.	Assessments	\$5,164,137	(\$20,692)	\$5,143,445	\$412,868	\$5,556,313	\$15,222.77	190.20	\$2,895,371
2.	Public Utility Realty	\$2,126,732	\$0	\$2,126,732		\$2,126,732	\$5,826.66	47.35	\$275,892
3.	Local Property Tax	\$2,073,365	(\$27,709)	\$2,045,656		\$2,045,656	\$5,604.54	64.56	\$361,855
		\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
		\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
4.	State Income Tax	\$13,414,819	\$658,374	\$14,073,193	\$5,083,619	\$19,156,812	\$52,484.42	13.60	\$713,788
5.	Federal Income Tax	\$34,032,905	\$1,592,133	\$35,625,038	\$12,293,642	\$47,918,680	\$131,284.05	-18.40	(\$2,415,627)
6.		<u>\$56,811,958</u>	<u>\$2,202,106</u>	<u>\$59,014,064</u>	<u>\$17,790,129</u>	<u>\$76,804,193</u>	<u>\$210,422</u>	<u>8.70</u>	<u>\$1,831,279</u>
7.							Commission Allowance		\$ 1,831,279
8.							Company Claim ⁽¹⁾		\$ 1,684,837
9.							Commission Adjustment		<u>\$ 146,442</u>

Notes and Sources:

⁽¹⁾ Company Main Brief

Commission Final Allowance

TABLE VI WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -- O & M EXPENSE
R-2023-3043183, R-2023-3043190

	Description (1)	Company Pro forma Expense (2)	Commission (3)	Commission Pro forma Expenses (4)	Lag Days ^[1] (5)	Lag Dollars (6)
1.	Service Company ^[1]	\$60,897,948	(\$302,738)	\$60,595,210	12.05	\$730,426,780
2.	Chemicals ^[1]	\$23,528,121	(\$36,468)	\$23,431,653	47.20	\$1,106,012,803
3.	Group Insurance ^[1]	\$11,220,476	(\$35,932)	\$11,124,484	11.00	\$122,369,324
4.	Insurance, Other ^[1]	\$14,893,805	(\$71,451)	\$14,822,354	-69.48	(\$1,029,789,524)
5.	Labor ^[1]	\$68,588,923	(\$504,647)	\$68,084,276	12.05	\$820,701,480
6.	Leased Equip./Rent	\$105,375	\$0	\$105,375	-13.36	(\$1,407,511)
7.	Leased Vehicles	\$5,043,012	\$0	\$5,043,012	54.08	\$272,747,715
8.	Miscellaneous ^[1]	\$33,133,084	(\$485,598)	\$38,653,486	30.46	\$1,177,398,731
9.	Natural Gas	\$1,232,626	\$0	\$1,232,626	33.33	\$41,087,081
10.	Power ^[1]	\$15,812,740	(\$150,641)	\$15,662,099	31.00	\$485,590,492
11.	Purchased Water	\$3,099,741	\$0	\$3,099,741	35.22	\$109,173,435
12.	Telephone	\$4,396,974	\$0	\$4,396,974	3.88	\$19,398,219
13.	Waste Disposal ^[1]	\$3,337,122	(\$2,349)	\$3,334,773	41.96	\$139,928,434
14.	Post Retirement Benefits/VEBA ^[2]	(\$6,496,737)	(\$1,664,379)	(\$8,161,116)	0.00	\$0
15.	Pensions ^[2]	\$371,072	(\$4,771,807)	(\$3,800,735)	-6.41	\$24,381,605
16.	Totals	<u>\$246,370,282</u>	<u>(\$8,146,070)</u>	<u>\$238,224,212</u>	<u>16.30</u>	<u>\$4,018,019,064</u>
17.	Commission Average Revenue Lag	50.6				
18.	Less: Commission Avg. Expense Lag	<u>16.3</u>				
19.	Net Difference	33.7	Days			
20.	Commission Pro forma					
22.	O & M Expense per Day	<u>\$652,669</u>				
23.	Commission C/W/C for O & M	\$21,994,945				
24.	Less: Company Claim ^[3]	<u>\$23,152,054</u>				
25.	Commission Adjustment	<u>(\$1,157,109)</u>				

Notes and Sources:

^[1] See Table II-Water, Notes 2 & 3. In PA/W/C Ex. 3-B at 303-304, "Labor", "401K", "DCP", & "Payroll Taxes" are assigned to Labor above. "Contracted Services", "Rents", "General Office", "Miscellaneous", & "Maintenance" are assigned to Miscellaneous above. Other O&M Expenses are assigned to a description above that matches the expense.

^[2] See Table II-Water, Note 5. The OPEB adjustment is assigned to Post Retirement Benefits/VEBA above, and the Pensions adjustment is assigned to Pensions above.

^[3] Company Main Brief

Commission Final Allowance
TABLE I WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
INCOME SUMMARY
R-2023-3043189, R-2023-3043190

	Pro Forma Present Rates (1)	Company Adjustments (2)	Pro Forma Present Rates (Revised (3))	Commission Adjustments	Commission Pro Forma Present Rates	Commission Revenue Increase	Total Allowable Revenues
	\$ (1)	\$ (2)	\$ (3) = (1) + (2)	\$ (4)	\$ (5) = (3) + (4)	\$ (6)	\$ (7) = (5) + (6)
1. Operating Revenue	\$95,470,867	\$ -	\$95,470,867	\$ (798,146)	\$ 94,672,721	\$24,226,880	\$ 118,899,600
2. Expenses:							
3. O & M Expense	26,009,252	57,140	26,066,392	(670,027)	25,396,365	284,908	25,681,273
4. Depreciation	27,406,489	0	27,406,489	(110,119)	27,296,370	0	27,296,370
5. Taxes, Other	3,217,927	3,124	3,221,051	(8,632)	3,212,419	154,360	3,366,779
6. Income Taxes:							
7. State	2,906,503	(4,825)	2,901,678	7,665	2,909,343	1,900,630	4,809,973
8. Federal	7,064,720	(11,668)	7,053,052	18,536	7,071,588	4,596,266	11,667,854
10. Total Expenses	66,604,891	43,771	66,648,662	(762,578)	65,886,084	6,936,164	72,822,248
Net Income Available for							
11. Return	28,865,976	(43,771)	28,822,205	(35,568)	28,786,637	17,290,715	46,077,352
12. Rate Base	649,330,622	5,483	649,336,105	(4,897,620)	644,438,485		644,438,485
13. Rate of Return	4.45%		4.44%		4.47%		7.15%

Notes and Sources:

(1) PAWC Exh. 3-A Initial.

(2) Difference between PAWC Exh. 3-A Initial and Exh. 3-A Revised.

(3) PAWC Exh. 3-A Revised.

Pre-Act 11 Allocation Revenue Change (%): 25.53%

Pre-Act 11 Allocation % of requested Increase 76.05%

Commission Final Allowance
TABLE I(A) WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
RATE OF RETURN
R-2023-3043189, R-2023-3043190

	Structure	Cost	After-Tax Weighted Cost	Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
	(1)	(2)	[(3)=(1)x(2)]	(4)	[(5)=(3)x(4)]
1. Total Cost of Debt			2.15%		2.15%
2. Long-term Debt ⁽¹⁾ Wastewater Specific Long-term	42.73%	4.76%	2.03%		2.03%
3. Debt ⁽¹⁾	4.40%	2.67%	0.12%		0.12%
4. Preferred Stock	0.00%	0	0.00%	0.726879	0.00%
5. Common Equity ⁽¹⁾	52.87%	9.45%	5.00%	0.726879	6.88%
6. Rate of Return ⁽¹⁾	100.00%		7.15%		9.0300%
7. Pre-Tax Interest Coverage	4.45				
8. After-Tax Interest Coverage	3.52				
9. Tax Rate Complement (1-(21%+(7.99% X (1-21%)))	72.68790%				

Notes and Sources:

⁽¹⁾See Section IX - Fair Rate of Return

Commission Final Allowance
TABLE I(B) WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
REVENUE FACTOR
R-2023-3043189, R-2023-3043190

1.	100%	<u>1.00000000</u>
	Less:	
2.	Uncollectible Accounts Factor ⁽¹⁾	0.01176000
3.	PUC, OCA, OSBA, DPC Assessment Factors ⁽¹⁾	0.00637145
4.	Gross Receipts Tax	0.00000000
5.	Other Tax Factors	<u>0.00000000</u>
6.		0.98186855
7.	State Income Tax Rate ⁽¹⁾	<u>0.07990000</u>
8.	Effective State Income Tax Rate	<u>0.07845130</u>
9.	Factor After Local and State Taxes	0.90341725
10.	Federal Income Tax Rate ⁽¹⁾	<u>0.21000000</u>
11.	Effective Federal Income Tax Rate	<u>0.18971762</u>
12.	Revenue Factor (100% - Effective Tax Rates)	<u><u>0.71369963</u></u>

Notes and Sources:

⁽¹⁾ PAWC Exh. 3-A Revised

Commission Final Adjustments
TABLE II WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
SUMMARY OF ADJUSTMENTS
R-2023-3043189, R-2023-3043190

	<u>Adjustments</u>	<u>Rate Base</u>	<u>Revenues</u>	<u>Expenses</u>	<u>Depreciation</u>	<u>Taxes-Other</u>	<u>State</u> <u>Income Tax</u>	<u>Federal</u> <u>Income Tax</u>
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		\$	\$	\$	\$	\$	\$	\$
1.	RATE BASE:							
	CWC:							
2.	Int. & Div. (Table IV)	8,962						
3.	Taxes (Table V)	21,955						
4.	O & M (Table VI)	(31,379)						
5.	STMA Plant ⁽⁷⁾	(2,018,697)						
6.	Farmington (wastewater) Plant ⁽⁸⁾	(2,878,461)						
7.	REVENUES:							
8.	STMA Revenue ⁽¹⁾⁽⁴⁾		(471,228)	(5,542)		(3,002)	(36,968)	(89,400)
9.	Farmington (wastewater) Revenue ⁽¹⁾⁽⁴⁾		(322,926)	(3,798)		(2,058)	(25,334)	(61,265)
10.	Concomitant Revenue ⁽¹⁾		(3,992)	(47)		(25)	(313)	0
11.	EXPENSES:							
12.	STMA O&M & Taxes-Other ⁽²⁾			(245,741)		(3,547)	19,918	48,168
14.	Farmington (wastewater) O&M ⁽³⁾			(264,176)			21,108	51,044
15.	AMP ⁽⁴⁾			(150,724)			12,043	29,123
16.								0
17.	STMA Depreciation				(51,847)		4,143	10,018
18.	Farmington (wastewater) Depreciation				(137,987)		11,025	26,662
19.	STMA Acq. Amort. ⁽⁵⁾				85,414		(6,825)	(16,504)
20.	Farmington (wastewater) Acq. Amort. ⁽⁶⁾				(5,699)		455	1,101
28.	TAXES:							
29.	Interest Synchronization (Table III)						8,413	20,346
30.	TOTALS	<u>(4,897,620)</u>	<u>(798,146)</u>	<u>(670,027)</u>	<u>(110,119)</u>	<u>(8,632)</u>	<u>7,665</u>	<u>18,536</u>

Notes to Accompany Table II – Wastewater SSS

- (1) Revenue adjustments require concomitant adjustments for bad debt & general assessment expenses (Table IB-Wastewater SSS) & forfeited discounts / late payment fee revenues (PAWC Exh. 3-A Revised, at 95R) that are determined as a percentage of revenues. Concomitant revenue is then subject to the same adjustment.
- (2) See PAWC Exh. 3-A Initial at 126 & PAWC Exh. 3-B at 306. Taxes-Other includes only property taxes.
- (3) See PAWC Exh. 3-A Initial at 126 & PAWC Exh. 3-B at 305.
- (4) No cash working capital adjustment is provided for non-cash adjustments, including for bad debt/AMP and depreciation. Tax adjustments are in Table V-Wastewater SSS.
- (5) Addition of \$85,414 to remove PAWC's claimed negative acquisition amortization expense related to STMA. This includes a negative acquisition amortization of \$94,561 and associated transaction costs of \$9,147. $[(\$94,561) + \$9,147 = (\$85,414)]$. See Section VII.M of this Opinion and Order.
- (6) Reduction of \$5,699 to remove the transaction costs associated with Farmington (wastewater). See Section VII.M of this Opinion and Order.
- (7) Amount includes removal of claimed \$1,935,612 in Net Utility Plant in Service and \$83,085 of transaction costs related to the STMA system. $[\$1,935,612 + \$83,085 = \$2,018,697]$.
- (8) Amount includes removal of claimed \$2,826,700 in Net Utility Plant in Service and \$81,761 of transaction costs related to the Farmington (wastewater) system. $[\$2,826,700 + \$81,761 = \$2,908,461]$.

Commission Final Allowance
TABLE III WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
INTEREST SYNCHRONIZATION
R-2023-3043189, R-2023-3043190

	Amount \$
1. Company Rate Base Claim ⁽¹⁾	649,336,105
2. Commission Rate Base Adjustments (From Table II)	<u>(4,897,620)</u>
3. Commission Rate Base (Line 1 - Line 2)	644,438,485
4. Weighted Cost of Debt (From Table IA)	<u>2.15%</u>
5. Commission Interest Expense - (Line 3 x Line 4)	13,855,427
6. Company Claim ⁽¹⁾	<u>13,960,726</u>
7. Total Commission Adjustment	105,299
8. Company Adjustment	0
9. Net Commission Interest Adjustment (Line 7 - Line 8)	105,299
10. State Income Tax Rate	<u>7.99%</u>
11. State Income Tax Adjustment (Line 9 x Line 10) (Flow to Table II)	8,413
12. Net Commission Interest Adjustment (Line 9)	105,299
13. State Income Tax Adjustment (Line 11)	<u>8,413</u>
14. Net Commission Adjustment for F.I.T. (Line 12 - Line 13)	96,886
15. Federal Income Tax Rate	<u>21.00%</u>
16. Federal Income Tax Adjustment (Line 14 x Line 15) (Flow to Table II)	<u><u>20,346</u></u>

Notes and Sources:

⁽¹⁾ Company Main Brief

Commission Final Allowance
TABLE IV WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL - Interest and Dividends
R-2023-3043189, R-2023-3043190

Accrued Interest			Preferred Stock Dividends		
	(1)	Long-Term Debt (2)	Wastewater Specific Long-Term Debt (3)	(4)	(5)
1. Company Rate Base Claim		\$649,336,105	\$649,336,105	Company Rate Base Claim	\$649,336,105
2. Commission Rate Base Adjustments		(\$4,897,620)	(\$4,897,620)	Commission Rate Base Adjustments	(\$4,897,620)
3. Commission Rate Base		\$644,438,485	\$644,438,485	Commission Rate Base	\$644,438,485
4. Weighted Cost of Debt		2.03%	0.12%	Weighted Cost Pref. Stock	0.00%
5. Commission Annual Interest Exp.		<u>\$13,082,101</u>	<u>\$773,326</u>	Commission Preferred Dividends	<u>\$0</u>
6. Average Revenue Lag Days ⁽¹⁾		50.6	50.6	Average Revenue Lag Days ⁽¹⁾	50.6
7. Average Expense Lag Days ⁽¹⁾		<u>81.6</u>	<u>81.6</u>	Average Expense Lag Days	<u>46.4</u>
8. Net Lag Days		<u>-31.0</u>	<u>-31.0</u>	Net Lag Days	<u>4.2</u>
9. Working Capital Adjustment					
10. Commission Daily Interest Exp.		\$35,841	\$2,119	Commission Daily Dividends	\$0
11. Net Lag Days		<u>-31.0</u>	<u>-31.0</u>	Net Lag Days	<u>4.2</u>
12. Commission Working Capital		(\$1,111,429)	(\$65,710)		\$0
13. Company Claim ⁽¹⁾		<u>(\$1,119,895)</u>	<u>(\$66,206)</u>	Company Claim ⁽¹⁾	<u>\$0</u>
14. Commission Adjustment		<u>\$8,466</u>	<u>\$496</u>		<u>\$0</u>
15. Total Interest & Dividend Adj.		<u>\$8,962</u>			

Notes and Sources:

⁽¹⁾ Company Main Brief.

Commission Final Allowance
TABLE V WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL - TAXES
R-2023-3043189, R-2023-3043190

	Description (1)	Company Proforma Tax Expense Present Rates (2)	Commission Adjustments (3)	Commission Pro forma Tax Expense Present Rates (4)	Commission Allowance (5)	Commission Adjusted Taxes at Present Rates (6)	Daily Expense (7)	Net Lead/ Lag Days ⁽¹⁾ (8)	Accrued Tax Adjustment (9)
1.	Assessments	\$598,699	(\$5,085)	\$593,614	\$154,360	\$747,974	\$2,049.24	190.20	\$389,765
2.	Public Utility Realty	\$0	\$0	\$0		\$0	\$0.00	47.35	\$0
3.	Local Property Tax	\$2,227,703	(\$3,547)	\$2,224,156		\$2,224,156	\$6,093.58	64.56	\$393,430
		\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
		\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
4.	State Income Tax	\$2,901,678	\$7,665	\$2,909,343	\$1,900,630	\$4,809,973	\$13,178.01	13.60	\$179,221
5.	Federal Income Tax	\$7,053,052	\$18,536	\$7,071,588	\$4,536,266	\$11,667,854	\$31,966.72	-18.40	(\$588,188)
6.		<u>\$12,781,132</u>	<u>\$17,569</u>	<u>\$12,798,701</u>	<u>\$6,651,256</u>	<u>\$19,449,957</u>	<u>\$ 53,287.55</u>	<u>7.02</u>	<u>\$374,228</u>
7.							Commission Allowance		\$ 374,228
8.							Company Claim ⁽¹⁾		\$ 352,273
9.							Commission Adjustment		\$ 21,955

Notes and Sources:

⁽¹⁾ Company Main Brief

Commission Final Allowance
TABLE VI WASTEWATER \$\$\$
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -- O & M EXPENSE
R-2023-3043183, R-2023-3043190

	Description (1)	Company Pro forma Expense (2)	Commission (3)	Commission Pro forma Expenses (4)	Lag Days (5)	Lag Dollars (6)
1.	Service Company ^[1]	\$1,303,639	(\$63,607)	\$1,840,092	12.05	\$22,180,837
2.	Chemicals ^[1]	\$1,827,234	(\$7,500)	\$1,819,734	47.20	\$85,894,457
3.	Group Insurance ^[1]	\$1,070,358	(\$15,703)	\$1,055,249	11.00	\$11,607,739
4.	Insurance, Other ^[1]	\$2,038,237	(\$12,770)	\$2,085,467	-69.48	(\$144,888,732)
5.	Labor ^[1]	\$5,286,389	(\$75,958)	\$5,210,431	12.05	\$62,807,577
6.	Leased Equip./Rent	\$50,345	\$0	\$50,345	-13.36	(\$672,466)
7.	Leased Vehicles	\$176,055	\$0	\$176,055	54.08	\$3,521,809
8.	Miscellaneous ^[1]	\$5,595,997	(\$106,873)	\$5,489,124	30.46	\$167,200,642
9.	Natural Gas	\$431,432	\$0	\$431,432	33.33	\$14,380,908
10.	Power ^[1]	\$3,372,968	(\$37,500)	\$3,335,468	31.00	\$103,413,441
11.	Purchased Water	\$0	\$0	\$0	35.22	\$0
12.	Telephone	\$211,445	\$0	\$211,445	3.88	\$820,828
13.	Waste Disposal ^[1]	\$3,087,197	(\$190,000)	\$2,897,197	41.96	\$121,567,566
14.	Post Retirement Benefits	\$3,810	\$0	\$3,810	0.00	\$0
15.	Pensions	\$216,538	\$0	\$216,538	-6.41	(\$1,389,085)
16.	Totals	<u>\$25,338,304</u>	<u>(\$509,917)</u>	<u>\$24,828,387</u>	<u>18.20</u>	<u>\$452,445,521</u>
17.	Commission Average Revenue Lag	50.6				
18.	Less: Commission Avg. Expense Lag	<u>18.2</u>				
19.	Net Difference	32.4	Days			
20.	Commission Pro forma					
22.	O & M Expense per Day	<u>\$68,023</u>				
23.	Commission C/W/C for O & M	\$2,203,945				
24.	Less: Company Claim ^[2]	<u>\$2,235,324</u>				
25.	Commission Adjustment	<u>(\$31,379)</u>				

Notes and Sources:

^[1] See Table II-Wastewater \$\$\$, Notes 2 & 3. In PA/WC Ex. 3-B at 305-306, "Labor", "401K", "DCP", & "Payroll Taxes" are assigned to Labor above. "Contracted Services", "Rents", "General Office", "Miscellaneous", & "Maintenance" are assigned to Miscellaneous above. Other O&M Expenses are assigned to a description above that matches the expense.

^[2] Company Main Brief

Commission Final Allowance
TABLE I WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
INCOME SUMMARY
R-2023-3043189, R-2023-3043190

	Pro Forma Present Rates (1)	Company Adjustments (2)	Pro Forma Present Rates (Revised (3))	Commission Adjustments	Commission Pro Forma Present Rates	Commission Revenue Increase	Total Allowable Revenues
	\$	\$	\$	\$	\$	\$	\$
	(1)	(2)	(3) = (1) + (2)	(4)	(5) = (3) + (4)	(6)	(7) = (5) + (6)
1. Operating Revenue	\$ 78,636,216	\$ -	\$ 78,636,216	\$ -	\$ 78,636,216	\$ 10,302,448	\$ 88,938,664
2. Expenses:							
3. O & M Expense	21,438,527	20,813	21,459,340	(113,746)	21,345,594	121,157	21,466,751
4. Depreciation	20,497,016	0	20,497,016	0	20,497,016	0	20,497,016
5. Taxes, Other	2,231,143	892	2,232,035	0	2,232,035	65,642	2,297,677
6. Income Taxes:							
7. State	1,984,048	(2,279)	1,981,769	9,058	1,990,827	808,240	2,799,067
8. Federal	4,906,577	(5,513)	4,901,064	21,905	4,922,969	1,954,556	6,877,525
10. Total Expenses	51,057,311	13,913	51,071,224	(82,783)	50,988,441	2,949,595	53,938,036
11. Net Income Available for Return	27,578,905	(13,913)	27,564,992	82,783	27,647,775	7,352,853	35,000,628
12. Rate Base	483,184,280	6,317,381	489,501,661	17,613	489,519,274		489,519,274
13. Rate of Return	5.71%		5.63%		5.65%		7.15%

Notes and Sources:

(1) PAWC Exh. 3-A Initial.

(2) Difference between PAWC Exh. 3-A Initial and Exh. 3-A Revised.

(3) PAWC Exh. 3-A Revised.

Pre-Act 11 Allocation Revenue Change (%): 13.10%

Pre-Act 11 Allocation % of requested Increase 65.06%

Commission Final Allowance
TABLE I(A) WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
RATE OF RETURN
R-2023-3043189, R-2023-3043190

	Structure	Cost	After-Tax Weighted Cost	Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
	(1)	(2)	[(3)=(1)x(2)]	(4)	[(5)=(3)x(4)]
1. Total Cost of Debt			2.15%		2.15%
2. Long-term Debt ⁽¹⁾	42.73%	4.76%	2.03%		2.03%
Wastewater Specific Long					
3. term Debt ⁽¹⁾	4.40%	2.67%	0.12%		0.12%
4. Preferred Stock	0.00%	0	0.00%	0.726879	0.00%
5. Common Equity ⁽¹⁾	52.87%	9.45%	5.00%	0.726879	6.88%
6. Rate of Return ⁽¹⁾	100.00%		7.15%		9.0300%
7. Pre-Tax Interest Coverage	4.45				
8. After-Tax Interest Coverage	3.52				
9. Tax Rate Complement (1-(21%+(7.99% X (1-21%)))	72.68790%				

Notes and Sources:

⁽¹⁾See Section IX - Fair Rate of Return

Commission Final Allowance
TABLE I(B) WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
REVENUE FACTOR
R-2023-3043189, R-2023-3043190

1.	100%	<u>1.00000000</u>
	Less:	
2.	Uncollectible Accounts Factor ⁽¹⁾	0.01176000
3.	PUC, OCA, OSBA, DPC Assessment Factors ⁽¹⁾	0.00637145
4.	Gross Receipts Tax	0.00000000
5.	Other Tax Factors	<u>0.00000000</u>
6.		0.98186855
7.	State Income Tax Rate ⁽¹⁾	<u>0.07990000</u>
8.	Effective State Income Tax Rate	<u>0.07845130</u>
9.	Factor After Local and State Taxes	0.90341725
10.	Federal Income Tax Rate ⁽¹⁾	<u>0.21000000</u>
11.	Effective Federal Income Tax Rate	<u>0.18971762</u>
12.	Revenue Factor (100% - Effective Tax Rates)	<u><u>0.71369963</u></u>

Notes and Sources:

⁽¹⁾ PAWC Exh. 3-A Revised

Commission Final Adjustments
TABLE II WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
SUMMARY OF ADJUSTMENTS
R-2023-3043189, R-2023-3043190

	<u>Adjustments</u> (1)	<u>Rate Base</u> (2)	<u>Revenues</u> (3)	<u>Expenses</u> (4)	<u>Depreciation</u> (5)	<u>Taxes-Other</u> (6)	<u>State Income Tax</u> (7)	<u>Federal Income Tax</u> (8)
1. RATE BASE:								
2. CWC:								
3. Int. & Div. (Table IV)		(31)						
4. Taxes (Table V)		17,644						
5. O & M (Table VI)		0						
6. REVENUES:								
7. Concomitant Revenue ⁽¹⁾			0	0		0	0	0
8. EXPENSES:								
9. AMP ⁽²⁾				(113,746)			9,088	21,978
10. TAXES:								
11. Interest Synchronization (Table III)							(30)	(73)
12. TOTALS		<u>17,613</u>	<u>0</u>	<u>(113,746)</u>	<u>0</u>	<u>0</u>	<u>9,058</u>	<u>21,905</u>

Notes and Sources:

⁽¹⁾ Revenue adjustments require concomitant adjustments for bad debt & general assessment expenses (Table IB-Wastewater CSS) & forfeited discounts / late payment fee revenues (PAWC Exh. 3-A Revised at 216R) that are determined as a percentage of revenues. Concomitant revenue is then subject to the same adjustment.

⁽²⁾ No cash working capital adjustment is provided for non-cash adjustments, including for bad debt/AMP and depreciation. Tax adjustments are in Table V.

Commission Final Allowance
TABLE III WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
INTEREST SYNCHRONIZATION
R-2023-3043189, R-2023-3043190

	Amount \$
1. Company Rate Base Claim ⁽¹⁾	489,501,661
2. Commission Rate Base Adjustments (From Table II)	<u>17,613</u>
3. Commission Rate Base (Line 1 - Line 2)	489,519,274
4. Weighted Cost of Debt (From Table IA)	<u>2.15%</u>
5. Commission Interest Expense - (Line 3 x Line 4)	10,524,664
6. Company Claim ⁽¹⁾	<u>10,524,286</u>
7. Total Commission Adjustment	(378)
8. Company Adjustment	0
9. Net Commission Interest Adjustment (Line 7 - Line 8)	(378)
10. State Income Tax Rate	<u>7.99%</u>
11. State Income Tax Adjustment (Line 9 x Line 10) (Flow to Table II)	<u>(30)</u>
12. Net Commission Interest Adjustment (Line 9)	(378)
13. State Income Tax Adjustment (Line 11)	<u>(30)</u>
14. Net Commission Adjustment for F.I.T. (Line 12 - Line 13)	(348)
15. Federal Income Tax Rate	<u>21.00%</u>
16. Federal Income Tax Adjustment (Line 14 x Line 15) (Flow to Table II)	<u><u>(73)</u></u>

Notes and Sources:

⁽¹⁾ Company Main Brief

Commission Final Allowance
TABLE IV WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL - Interest and Dividends
R-2023-3043189, R-2023-3043190

Accrued Interest			Preferred Stock Dividends		
	(1)	Long-Term Debt (2)	Wastewater Specific Long-Term Debt (3)	(4)	(5)
1.	Company Rate Base Claim	\$489,501,661	\$489,501,661	Company Rate Base Claim	\$489,501,661
2.	Commission Rate Base Adjustments	\$17,613	\$17,613	Commission Rate Base Adjustments	\$17,613
3.	Commission Rate Base	\$489,519,274	\$489,519,274	Commission Rate Base	\$489,519,274
4.	Weighted Cost of Debt	2.03%	0.12%	Weighted Cost Pref. Stock	0.00%
5.	Commission Annual Interest Exp.	\$9,937,241	\$587,423	Commission Preferred Dividends	\$0
6.	Average Revenue Lag Days ⁽¹⁾	50.6	50.6	Average Revenue Lag Days ⁽¹⁾	50.6
7.	Average Expense Lag Days ⁽¹⁾	81.6	81.6	Average Expense Lag Days	46.4
8.	Net Lag Days	-31.0	-31.0	Net Lag Days	4.2
9.	Working Capital Adjustment				
10.	Commission Daily Interest Exp.	\$27,225	\$1,609	Commission Daily Dividends	\$0
11.	Net Lag Days	-31.0	-31.0	Net Lag Days	4.2
12.	Commission Working Capital	(\$844,247)	(\$49,895)		\$0
13.	Company Claim ⁽¹⁾	(\$844,216)	(\$49,895)	Company Claim ⁽¹⁾	\$0
14.	Commission Adjustment	(\$31)	\$0		\$0
15.	Total Interest & Dividend Adj.	(\$31)			

Notes and Sources:

⁽¹⁾ Company Main Brief.

Commission Final Allowance
TABLE V WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL - TAXES
R-2023-3043189, R-2023-3043190

	Description (1)	Company Proforma Tax Expense Present Rates (2)	Commission Adjustments (3)	Commission Pro forma Tax Expense Present Rates (4)	Commission Allowance (5)	Commission Adjusted Taxes at Present Rates (6)	Daily Expense (7)	Net Lead/ Lag Days ⁽¹⁾ (8)	Accrued Tax Adjustment (9)
1.	Assessments	\$497,495	\$0	\$497,495	\$65,642	\$563,137	\$1,542.84	190.20	\$293,448
2.	Public Utility Realty	\$0	\$0	\$0		\$0	\$0.00	47.35	\$0
3.	Local Property Tax	\$1,198,060	\$0	\$1,198,060		\$1,198,060	\$3,282.36	64.56	\$211,924
		\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
		\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
4.	State Income Tax	\$1,981,769	\$9,058	\$1,990,827	\$808,240	\$2,799,067	\$7,668.68	13.60	\$104,294
5.	Federal Income Tax	\$4,901,064	\$21,905	\$4,922,969	\$1,954,556	\$6,877,525	\$18,842.53	-18.40	(\$346,703)
6.		<u>\$8,578,388</u>	<u>\$30,963</u>	<u>\$8,609,351</u>	<u>\$2,828,438</u>	<u>\$11,437,789</u>	<u>\$31,336</u>	8.3916	<u>\$262,963</u>
7.							Commission Allowance		262,963
8.							Company Claim ⁽¹⁾		<u>245,319</u>
9.							Commission Adjustment		<u>17,644</u>

Notes and Sources:

⁽¹⁾ Company Main Brief

Commission Final Allowance
TABLE VI WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -- O & M EXPENSE
R-2023-3043189, R-2023-3043190

	Description (1)	Company Pro forma Expense (2)	Commission (3)	Commission Pro forma Expenses (4)	Lag Days (5)	Lag Dollars (6)
1.	Service Company	\$1,038,033	\$0	\$1,038,033	12.05	\$12,512,657
2.	Chemicals	\$2,129,667	\$0	\$2,129,667	47.20	\$100,523,807
3.	Group Insurance	\$1,327,139	\$0	\$1,327,139	11.00	\$14,598,529
4.	Insurance, Other	\$1,434,260	\$0	\$1,434,260	-69.48	(\$99,645,841)
5.	Labor	\$7,280,640	\$0	\$7,280,640	12.05	\$87,762,291
6.	Leased Equip./Rent	\$16,425	\$0	\$16,425	-13.36	(\$219,391)
7.	Leased Vehicles	\$690,475	\$0	\$690,475	54.08	\$37,343,849
8.	Miscellaneous	\$3,209,124	\$0	\$3,209,124	30.46	\$97,751,042
9.	Natural Gas	\$150,057	\$0	\$150,057	33.33	\$5,001,845
10.	Power	\$1,691,208	\$0	\$1,691,208	31.00	\$52,434,512
11.	Purchased Water	\$0	\$0	\$0	35.22	\$0
12.	Telephone	\$120,976	\$0	\$120,976	3.88	\$469,628
13.	Waste Disposal	\$1,704,931	\$0	\$1,704,931	41.96	\$71,539,599
14.	Post Retirement Benefits	\$32,234	\$0	\$32,234	0.00	\$0
15.	Pensions	\$245,439	\$0	\$245,439	-6.41	(\$1,574,484)
16.	Totals	<u>\$21,070,608</u>	<u>\$0</u>	<u>\$21,070,608</u>	<u>18.00</u>	<u>\$378,498,043</u>
17.	Commission Average Revenue Lag	50.6				
18.	Less: Commission Avg. Expense Lag	<u>18.0</u>				
19.	Net Difference	32.6	Days			
20.	Commission Pro forma					
22.	O & M Expense per Day	<u>\$57,728</u>				
23.	Commission CwC for O & M	\$1,881,933				
24.	Less: Company Claim ⁽¹⁾	<u>\$1,881,933</u>				
25.	Commission Adjustment	<u>\$0</u>				

Notes and Sources:

⁽¹⁾ Company Main Brief

**5. Exhibit – Recommended Decision from PAWC
R-2023-3043189; and**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2023-3043189
Office of Consumer Advocate	:	C-2023-3044289
Office of Small Business Advocate	:	C-2023-3044375
Mark Henderson	:	C-2023-3044156
Kathleen Schwartz	:	C-2023-3044190
Amanda Johnsen	:	C-2023-3044185
Adam Nemchick	:	C-2023-3044191
Kirk Spencer	:	C-2023-3044189
Keith Sauer	:	C-2023-3044218
Andrew Kulp	:	C-2023-3044225
Jim Davidson	:	C-2023-3044223
Robert K. Ralls	:	C-2023-3044220
Richard Tawadros	:	C-2023-3044244
Natalie Rarick	:	C-2023-3044234
Tracy M. Rutherford	:	C-2023-3044293
David Ross	:	C-2023-3044348
Phyllis Connelly	:	C-2023-3044352
Thomas J. Hollenbach	:	C-2023-3044389
Alecia M. Lilley	:	C-2023-3044359
Lynn Mugno	:	C-2023-3044365
Michelle White	:	C-2023-3044369
Dr. Mostafa Easa	:	C-2023-3044567
Lynn DeAcosta	:	C-2023-3044380
Jeff Henry	:	C-2023-3044406
Anh Duong	:	C-2023-3044354
William Cameron & Linda Long	:	C-2023-3044355
Nicole Glimp	:	C-2023-3044565
Anthony McCann	:	C-2023-3044578
Shanna Weagle	:	C-2023-3044399
Brian Dugas	:	C-2023-3044563
Todd Blum	:	C-2023-3044583
Jennifer Dianna	:	C-2023-3044394
Mallory & Glenn Kercher	:	C-2023-3044686
Danielle Gabriel	:	C-2023-3044683
Devon Landis	:	C-2023-3044442
Morgan Wengert	:	C-2023-3044426
Angelica Alvarez	:	C-2023-3044405
John P. Dolekary	:	C-2023-3044580
John Miller	:	C-2023-3044416
Carl & Sharon Winter	:	C-2023-3044607
Paul & Catherine Brown	:	C-2023-3044611

Raymond Volsario	:	C-2023-3044614
Matthew J. Miller	:	C-2023-3044429
William R. Thomas	:	C-2023-3044601
Horace R. Battle	:	C-2023-3044600
Christopher Blake	:	C-2023-3044443
Laura Semel	:	C-2023-3044461
Robert M. Nowotarski	:	C-2023-3044676
Matthew & Melissa Mengel	:	C-2023-3044673
Tracy Cosgrove	:	C-2023-3044672
Richard Peal	:	C-2023-3044622
Patricia A. Finley	:	C-2023-3044504
Joseph Donahue	:	C-2023-3044524
Robert Bifano	:	C-2023-3044534
Gary Sirois	:	C-2023-3044830
Michelle Zebrowski	:	C-2023-3044868
Mary Ann Maro	:	C-2023-3044869
Joel Hernandez	:	C-2023-3044872
Dan Nebeker o/b/o Coldwater Lemoyne Carwash	:	C-2023-3044874
Mary Chibatar	:	C-2023-3044876
Mary Tanealian	:	C-2023-3044576
Tao Lu	:	C-2023-3044585
Jennifer Cohen	:	C-2023-3044682
Carla Seidel	:	C-2023-3044679
Amy E. Dalton	:	C-2023-3044677
Nicholas Orman	:	C-2023-3044642
Jay Phillips	:	C-2023-3044707
Carl W. Tunall, Jr.	:	C-2023-3044725
Steven Solomon	:	C-2023-3044733
Debora A. Sokol	:	C-2023-3044768
Shaun Keperling	:	C-2023-3044801
Audrey Gerold	:	C-2023-3044785
Robert Anderson	:	C-2023-3044799
Carl Kupchunas	:	C-2023-3044826
Matthew Jordan	:	C-2023-3044813
Cindy Cabrera	:	C-2023-3044816
Marie Sweeney	:	C-2023-3044918
Pennsylvania-American Water Large Users Group	:	C-2023-3044871
West Norriton Township	:	C-2023-3044965
John J. Heilenman	:	C-2023-3044908
Thalia Karalis	:	C-2023-3044929
Daniel Bergey	:	C-2023-3044984
Richard Matijasich	:	C-2023-3044981
Nicholas Collette	:	C-2023-3045023
Angela P. Kern	:	C-2023-3045039

Dennis McConnell	:	C-2023-3045053
James & Peggy Lingwall	:	C-2023-3045054
Wolfram Milz	:	C-2023-3045055
Donald Jones	:	C-2023-3045059
Marie Dougherty	:	C-2023-3045061
Michael & Mary Weishner	:	C-2023-3045062
Michelle R. Miller	:	C-2023-3045063
Carol Patterson	:	C-2023-3045064
Zachary Sprowls	:	C-2023-3045072
Elizabeth Sprowls	:	C-2023-3045073
Catharine Anderson	:	C-2023-3045082
Kathleen Donell	:	C-2023-3045083
Paul & Eileen Miller	:	C-2023-3045084
Norman T. Carpenter	:	C-2023-3045085
David Duquette	:	C-2023-3045087
Wesley Hartman	:	C-2023-3045088
Don Anderson	:	C-2023-3045089
Melissa Harper	:	C-2023-3045090
Charles E. Schwering	:	C-2023-3045093
Beth A. Gandelman	:	C-2023-3045094
Catherine & Kenneth Green	:	C-2023-3045095
Violet B. Kern	:	C-2023-3045105
Paul J. Walaski	:	C-2023-3045113
Cindy Murphy	:	C-2023-3045123
Gino Purchiaroni	:	C-2023-3045124
Christopher Nicholson	:	C-2023-3045134
Richard Small	:	C-2023-3045121
Nancy and Charles Wilson	:	C-2023-3045138
Harry Haas	:	C-2023-3045137
Jean Ustaszewski	:	C-2023-3045146
Kathryn Wilson	:	C-2023-3045152
Thomas McAuliffe	:	C-2023-3045156
Keith Pinkerton	:	C-2023-3045159
Kelly Knapp	:	C-2023-3045185
Alicia W. Shussett	:	C-2024-3045187
Patrick F. Boyle	:	C-2024-3045190
Jefferson Township Municipal Authority, c/o	:	
Patricia Lawrence, Secretary	:	C-2024-3045202
Juan F. Ramos	:	C-2024-3045208
Kyle Donahue	:	C-2024-3045210
John Erbicella	:	C-2024-3045209
Angela Gilmore	:	C-2024-3045212
Tracy L. Duff	:	C-2024-3045220
Timothy J. Creelman	:	C-2024-3045249

Frank Cerra	:	C-2024-3045257
Thomas F. Miller	:	C-2024-3045261
Mark Schuette	:	C-2024-3045263
Andrea Devlin	:	C-2024-3045285
Alena Trently	:	C-2024-3045258
Vicki DiArchangelo	:	C-2024-3045278
Thomas C. Kidwell	:	C-2024-3045315
Barry S. & Ethel Wagner	:	C-2024-3045320
Priscilla T. Gentry	:	C-2024-3045341
Matthew & Heather Heliger	:	C-2024-3045343
Barbara Stettenbauer	:	C-2024-3045360
Elizabeth Clark	:	C-2024-3045366
East Norriton Township	:	C-2024-3045399
Beth A. Gandelman	:	C-2024-3045422
Naomi Conte	:	C-2024-3045457
Ryan Gandelman	:	C-2024-3045467
Priscilla Jovais & Walter Baginski	:	C-2024-3045871
George M. Kamage, Jr.	:	C-2024-3045968
Julia Wright	:	C-2024-3045983
Anita Sakevich	:	C-2024-3045907
Michael W. Knoll	:	C-2024-3045985
Joseph J. Koza	:	C-2024-3045992
Randy McDaniels	:	C-2024-3045701
Christine Janiga	:	C-2024-3045987
Nereida Colon-Gonzalez	:	C-2024-3045788
Ruth McMullan	:	C-2024-3045997
Miranda Connors	:	C-2024-3046001
Deborah Nystrom	:	C-2024-3046000
Lora Gibb	:	C-2024-3045999
Ernest & Kathy Mayer	:	C-2024-3046292
Kathleen & William Nole	:	C-2024-3046296
Frances S. Kearney	:	C-2024-3046246
William Stevens	:	C-2024-3046071
Joe Dominick	:	C-2024-3046262
Andrea O'Neill-Hoffman	:	C-2024-3046195
Leslie Spindler	:	C-2024-3046230
Richard Brill	:	C-2024-3046111
Josephine Roman	:	C-2024-3046059
Mildred Decelles	:	C-2024-3046085
Gerald Smurl	:	C-2024-3046220
William Roman	:	C-2024-3046082
Harold Kiefer	:	C-2024-3046263
James G. Haggerty	:	C-2024-3046164
Ronald Benke	:	C-2024-3046112

Jodi Mayer	:	C-2024-3046291
James Wynder	:	C-2024-3046294
Billydon Hickson	:	C-2024-3046079
Elaine F. Campbell	:	C-2024-3046261
John Borer	:	C-2024-3046172
Thomas Tomeo	:	C-2024-3046047
Mary McKenna	:	C-2024-3046218
Bill Gaughan	:	C-2024-3046094
Jimmy Allen	:	C-2024-3046080
Mark Mecca	:	C-2024-3046055
Chris Casciano	:	C-2024-3046114
John Laskowski	:	C-2024-3045814
Colleen M. Gaughan	:	C-2024-3046044
Sean McAndrew	:	C-2024-3046252
Brian Cadugan	:	C-2024-3046169
Timoth Brier	:	C-2024-3046254
Joseph Baronski	:	C-2024-3046170
Michael Bussacco	:	C-2024-3046240
Robert Meyers	:	C-2024-3046219
Arthur F. Werner, Jr.	:	C-2024-3046244
Marianne Vergnetti	:	C-2024-3046108
Edmund Moroney	:	C-2024-3046061
Alice Lord	:	C-2024-3046043
Giselle Rutchford	:	C-2024-3046095
Ann McDermott	:	C-2024-3046046
Patricia Shultz	:	C-2024-3046050
Frank S. Sislo	:	C-2024-3046087
Linda Kiefer	:	C-2024-3046265
Dominic Cuchara	:	C-2024-3046109
Anthony Palmere, Jr.	:	C-2024-3046243
Debbie Wilson	:	C-2024-3046276
Gerard Dombroski	:	C-2024-3046259
Roberta Brentano	:	C-2024-3046098
William Seeger	:	C-2024-3046057
Elizabeth Zangardi	:	C-2024-3046226
Paul DelRossso	:	C-2024-3046217
Joseph Guerra	:	C-2024-3046168
Michael Shafer	:	C-2024-3046215
Marty Flynn	:	C-2024-3046257
Patrick H. Brentano	:	C-2024-3046099
Gary Shiner	:	C-2024-3046166
David F. Sevensky	:	C-2024-3046267
Susan Gilday	:	C-2024-3046238
Bernadette Bussacco	:	C-2024-3046221
Theodore Parchinski	:	C-2024-3046053

John Blackledge	:	C-2024-3046274
John Kulick	:	C-2024-3046353
Richard & Carmella Zaleski	:	C-2024-3046482
Nadine Simms	:	C-2024-3046351
James P. McDermott	:	C-2024-3046301
Lucy Jason	:	C-2024-3046302
Lynn King	:	C-2024-3046249
John McAuliffe	:	C-2024-3046392
Laura Virtue-Delayo	:	C-2024-3046397
Jessica Libassi	:	C-2024-3045805
David A. Grecco	:	C-2024-3046096
Leroy James Watters	:	C-2024-3046404
James Metzger	:	C-2024-3046411
Lorraine Perry	:	C-2024-3046408
Stephen Marr	:	C-2024-3046410
Brian A. McDonald	:	C-2024-3046741
Patricia A. Perri	:	C-2024-3046970
Patricia Barbuti	:	C-2024-3046810
Ryan & Leslie Ferguson	:	C-2024-3046467
Natalie Davis	:	C-2024-3046744
Patricia A. Perri	:	C-2024-3046745
Gary Graziano	:	C-2024-3046736
Joseph & Erin Kreis	:	C-2024-3046470
Caesar Bordo	:	C-2024-3046870
Ann McDonald	:	C-2024-3046746
Janice M. Mcdonald	:	C-2024-3046874
Jennifer Comparetta	:	C-2024-3046471
Sharon Cuff	:	C-2024-3046477
Karen Schuster	:	C-2024-3046742
Valerie Mendicino	:	C-2024-3046737
William J. O'Malley, III	:	C-2024-3046734
Louis Guzzi, Jr.	:	C-2024-3046406
Francis Kranick, Jr.	:	C-2024-3046811
Tara & Tom Schuster	:	C-2024-3046738
Colleen Demuro	:	C-2024-3046867
Charlotte DeRosier	:	C-2024-3046466
Albert Denunzio	:	C-2024-3046871
Mary C. Jennings	:	C-2024-3046743
James F. McCormick	:	C-2024-3046873
Laura A. O'Malley	:	C-2024-3046405
Mary & David Dobrzyn	:	C-2024-3046875
Gene Stanavitch	:	C-2024-3046403
Pat Stanavitch	:	C-2024-3046402
Robert Barry	:	C-2024-3046399
John Borgia	:	C-2024-3047073

Dominic P. Cafarella	:	C-2024-3046878
Michael D. Brooks	:	C-2024-3046880
Daniel E. Skvarla	:	C-2024-3046881
Donna Antonelli	:	C-2024-3046882
Michael Dempsey	:	C-2024-3046884
Marianne Brown	:	C-2024-3046886
Sharon Soudas	:	C-2024-3046885
Gina McCarthy	:	C-2024-3047515
Gerald Fabricatore	:	C-2024-3047312
Gerald R. Fabricatore	:	C-2024-3047375
Laura Wisniewski	:	C-2024-3047521
Julie Janosey	:	C-2024-3047695
Lackawanna County	:	C-2024-3048333
Vincent Ennis	:	C-2024-3048341
Clyde H. Morgan	:	C-2024-3045569
Colleen Adams	:	C-2024-3045573
Mark J. Mazurkiewicz	:	C-2024-3045579
Linda Culbertson	:	C-2024-3045650
Larry Wise	:	C-2024-3045668
James Lyband Jackson	:	C-2024-3045674
Gail Y. Gayeski	:	C-2024-3045666
Veronica A. Hannevig	:	C-2024-3045667
Theresa Skobel	:	C-2024-3045670
Jordan Henning	:	C-2024-3045678
Kyle & Lori Rompella	:	C-2024-3045681
Stefanie Adams	:	C-2024-3045685
Deborah & Robert May	:	C-2024-3045687
David & Lynn Griffith	:	C-2024-3045686
Paul Krammes	:	C-2024-3045690
Thomas Campisano	:	C-2024-3045691
Nelson Moeller	:	C-2024-3045703
Paulette Knott	:	C-2024-3045741
Gene & Patricia Malaspina	:	C-2024-3045750
Stephanie Sienkel	:	C-2024-3045767
Robert Boni	:	C-2024-3045765
Janice M. Reynolds	:	C-2024-3045768
Bilal Salaam	:	C-2024-3045812
Michael Troutman	:	C-2024-3045835
Kendra Robnison	:	C-2024-3045838
Gertrude Terrell	:	C-2024-3045842

v.

Pennsylvania-American Water Company

Pennsylvania Public Utility Commission	:	R-2023-3043190
Office of Consumer Advocate	:	C-2023-3044292
Office of Small Business Advocate	:	C-2023-3044377
Mark Henderson	:	C-2023-3044159
Brian Gottschall	:	C-2023-3044170
Leroy Bumbarger	:	C-2023-3044169
Kathleen Schwartz	:	C-2023-3044193
Amanda Johnsen	:	C-2023-3044187
Adam Nemchick	:	C-2023-3044192
Anne Lockwood & Michael Haehnel	:	C-2023-3044168
Keith Sauer	:	C-2023-3044219
Natalie Rarick	:	C-2023-3044239
Darlene Hamilton	:	C-2023-3044170
Tacy M. Rutherford	:	C-2023-3044333
David Ross	:	C-2023-3044349
Alecia M. Lilley	:	C-2023-3044367
Lynn DeAcosta	:	C-2023-3044401
Nicole Glimp	:	C-2023-3044564
William H. Rissmiller	:	C-2023-3044569
Michelle White	:	C-2023-3044371
Jennifer Dianna	:	C-2023-3044395
Thomas J. Hollenbach	:	C-2023-3044685
Mallory Kercher	:	C-2023-3044681
Devon Landis	:	C-2023-3044448
Morgan Wengert	:	C-2023-3044427
Jeff Henry	:	C-2023-3044407
John Miller	:	C-2023-3044413
Angelica Alvarez	:	C-2023-3044566
Andrew Kulp	:	C-2023-3044468
Sharon Winter	:	C-2023-3044615
Paul Brown	:	C-2023-3044616
Charles L. Heydt	:	C-2023-3044618
William R. Thomas	:	C-2023-3044604
Linda Allison	:	C-2023-3044595
Christopher Blake	:	C-2023-3044444
Richard Peal	:	C-2023-3044620
Tracy Cosgrove	:	C-2023-3044667
Donald D. Dickerson	:	C-2023-3044662
Patricia A. Finley	:	C-2023-3044505
Jennifer Cohen	:	C-2023-3044671
Michael D. Fletcher	:	C-2023-3044688
Mary Tanealian	:	C-2023-3044577
Tao Lu	:	C-2023-3044573

Amy E. Dalton	:	C-2023-3044678
Mark Coogan	:	C-2023-3044704
Carla Seidel	:	C-2023-3044732
Anh Duong	:	C-2023-3044353
Borough of St. Lawrence	:	C-2023-3044757
Debora A. Sokol	:	C-2023-3044767
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Gerald Fabricatore	:	C-2024-3047371
Gina McCarthy	:	C-2024-3047533
Julie Janosy	:	C-2024-3047696

v.

Pennsylvania-American Water Company –
Wastewater Division

RECOMMENDED DECISION

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

John M. Coogan
Administrative Law Judge

NON-PROPRIETARY VERSION

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I. INTRODUCTION

This Recommended Decision recommends that Pennsylvania-American Water Company's proposed Supplement No. 45 to Tariff Water-PA. P.U.C. No. 5, which would increase PAWC's total annual operating revenues for water service by approximately \$199.2 million, or 24.2%, and proposed Supplement No. 47 to Tariff Wastewater PA P.U.C. No. 16, which would increase PAWC-WD's total annual operating revenues for wastewater service by approximately \$4.7 million, or 2.5%, both be denied because the Company has not met its burden of proving by a preponderance of the evidence the justness and reasonableness of every element of its requested increases.

Instead, this Recommended Decision recommends a maximum water revenue increase of approximately \$92.6 million. This water revenue increase, when combined with adjusted pro forma present rate water revenues, results in an allowable annual revenue of approximately \$913.5 million for PAWC's water service. This decision also recommends a maximum wastewater revenue increase of approximately \$11.5 million that, when combined with adjusted pro forma present rate wastewater revenues results in an allowable annual revenue of \$184.8 million. This represents an approximate 11.3% increase in water operating revenue and 6.6% increase in wastewater operating revenue.¹

The suspension period for this proceeding ends on August 7, 2024. Therefore, the Commission must act on these filings no later than its Public Meeting on July 11, 2024.

II. HISTORY OF THE PROCEEDING

On November 8, 2023, Pennsylvania-American Water Company (PAWC or Company) filed Supplement No. 45 to Tariff Water-PA. P.U.C. No. 5 (Supplement No. 45) with the Pennsylvania Public Utility Commission to become effective January 7, 2024. Supplement

¹ Tables setting forth the Rate of Return and summary of Adjustments and Comparison of Present and Proposed Water Rates are attached hereto and made a part of this Recommended Decision.

No. 45 would increase PAWC's total annual operating revenues for water service by approximately \$199.2 million, or 24.2%.

Also on November 8, 2023, the Pennsylvania-American Water Company – Wastewater Division (PAWC-WD or Company) filed Supplement No. 47 to Tariff Wastewater PA P.U.C. No. 16 (Supplement No. 47) with the Commission to become effective January 7, 2024. Supplement No. 47 would increase PAWC-WD's total annual operating revenues for wastewater service by approximately \$4.7 million, or 2.5%.

Formal Complaints have been filed against PAWC and PAWC-WD's tariff filings by the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), as well as various PAWC and PAWC-WD customers. Additionally, Petitions to Intervene have been received by the Commission on Economic Opportunity (CEO), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Cleveland-Cliffs Steel (Cleveland-Cliffs), the City of Scranton, Victory Brewing Company (Victory Brewing), and Exeter Township.

On December 21, 2023, by separate Orders, the Commission suspended the filings by operation of law until August 7, 2024, pursuant to Section 1308(d) of the Public Utility Code, unless permitted by the Commission to become effective at an earlier date. In both Orders, the Commission stated that investigation and analysis of the proposed tariff supplements and the supporting data indicate that the proposed changes in rates, rules and regulations may be unlawful, unjust, unreasonable, and contrary to the public interest. The Commission also determined that consideration should be given to the reasonableness of PAWC's and PAWC-WD's existing rates, rules, and regulations. As a result, the Commission ordered that an investigation be instituted in response to both filings to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed tariff filings, as well as a consideration of the lawfulness, justness and reasonableness of the existing rates, rules, and regulations. The Commission assigned the cases to the Office of Administrative Law Judge for Alternative Dispute Resolution, if possible, and for the prompt scheduling of hearings as may be necessary culminating in the issuance of Recommended Decisions.

On December 21, 2023, a hearing notice was issued for both filings establishing a telephonic prehearing conference for these matters for Wednesday, January 3, 2024, at 10:00 a.m. and assigning us as the Presiding Officers. A Prehearing Conference Order was issued on December 22, 2023, setting forth rules that would govern the prehearing conference.

On December 28, 2023, prehearing memoranda were filed by the following parties: PAWC and PAWC-WD (Collectively, PAWC), the Commission's Bureau of Investigation and Enforcement (I&E), OCA, OSBA, CAUSE-PA, CEO, Pennsylvania American Water Large Users Group (PAWLUG), Cleveland-Cliffs Steel, and the Borough of St. Lawrence.

Separately on December 28, 2023, PAWC filed its Petition of Pennsylvania-American Water Company for Protective Order at docket numbers R-2023-3043189 and R-2023-3043190. Additionally, PAWC filed its Petition of Pennsylvania-American Water Company for Consolidation or Rate Proceedings at the aforementioned dockets.

The prehearing conference convened on January 3, 2024, as scheduled. The following parties were present and represented by the following counsel: Brooke McGlinn, Esquire, for PAWC; Erin Gannon, Esquire, for OCA; Carrie Wright, Esquire, for I&E; Steve Gray, Esquire, for OSBA; Ria Pereira, Esquire, for CAUSE-PA; Kurt Boehm, Esquire for Cleveland-Cliffs Steel; Joseph Vullo, Esquire, for CEO; Adeolu Bakare, Esquire, for PAWLUG; Joan London, Esquire, for the Borough of St. Lawrence; Kailie Melchior, Esquire, for West Norriton Township; and J. Chadwick Schnee, Esquire, for Exeter Township. Eighteen consumer Complainants were also present, two of whom requested active status in this proceeding, Robert Ralls, and Kyle Donahue. During the Prehearing Conference, we granted PAWC's Motion to Consolidate these proceedings.

On January 5, 2024, we issued Prehearing Order #1 for the proceedings at Docket Numbers R-2023-3043189 and R-2023-3043190.

On January 5, 2024, we issued an order granting PAWC's Petition for Protective Order.

On January 12, 2024, the Commission issued a public input hearing notice for a series of twelve public input hearings to be held as follows:

- January 29, 2024 – two in-person public input hearings in Port Vue, PA;
- January 30, 2024 – two in-person public input hearings in Scranton, PA;
- January 31, 2024 – two in-person public input hearings in Exeter Township, PA;
- February 5, 2024 – two telephonic public input hearings;
- February 6, 2024 – two in-person public input hearings in Harrisburg, PA; and
- February 7, 2024 – two telephonic public input hearings.

On January 25, 2024, we issued Prehearing Order #2, which granted in part and denied in part OCA's Motion to Compel filed on January 12, 2024.

On January 25, 2024, the Commission issued a call-in telephonic hearing notice for evidentiary hearings on March 7 and 8, 2024.

On January 29, 2024, we issued Prehearing Order #3, which granted OCA's Motion to Compel filed on January 19, 2024.

The public input hearings were held as scheduled.² A total of 217 people testified during the public input hearings.

The evidentiary hearings were held as scheduled on March 7 and 8, 2024. During the hearings, the following occurred: PAWC, I&E, OCA, OSBA, CAUSE-PA, CEO, Cleveland-Cliffs Steel, Exeter Township, the Borough of St. Lawrence, PAWLUG, Kyle Donahue, and the City of Scranton moved for the admission of their pre-served testimony and exhibits into the record; PAWC presented rejoinder testimony; witnesses for PAWC, I&E, and the OCA were

² Vice Chair Kimberly M. Barrow attended the Scranton public input hearings and the 6 p.m. Harrisburg public input hearing. Commissioner Kathryn L. Zerfuss attended the Scranton public input hearings and the Harrisburg public input hearings. Neither Commissioner participated in the preparation of this Recommended Decision.

cross-examined; and various housekeeping matters were discussed. The list of pre-served testimony and exhibits admitted into the record at the evidentiary hearings are attached as Appendix A to this Recommended Decision.

On March 11, 2024, we issued a Briefing Order.

On March 26, 2024, we received Main Briefs from PAWC, OCA, I&E, OSBA, CAUSE-PA, Cleveland-Cliffs Steel, and PAWLUG.³

On April 5, 2024, we received Reply Briefs from PAWC, OCA, I&E, OSBA, CAUSE-PA, and Cleveland-Cliffs Steel.

III. FINDINGS OF FACT

1. Pennsylvania-American Water Company (“PAWC” or the “Company”) is a Pennsylvania public utility that furnishes water and wastewater services to approximately 780,000 customers in a service territory covering portions of 36 counties across the Commonwealth. *See* PAWC St. 2, pp. 2-3.

2. On November 8, 2023, the Company initiated this rate case pursuant to 66 Pa.C.S. § 1308(d) by filing Supplement No. 45 to Tariff Water – Pa. P.U.C. No. 5 and Supplement No. 47 to Tariff Wastewater – Pa. P.U.C. No. 16 requesting a \$203.9 million increase in its total annual operating revenues to become effective January 7, 2024. PAWC St. 1, p. 7.

³ CEO, Exeter Township, the Borough of St. Lawrence, and the City of Scranton submitted letters in lieu of Main Briefs. CEO stated that it would join in the position taken by the OCA in these proceedings. Exeter Township stated it adopts the positions taken by OCA, CAUSE-PA, OSBA, and I&E. The Borough of St. Lawrence stated it adopts the position taken by the OCA in these proceedings. The City of Scranton stated that it is opposed to rate increases for both water and wastewater consumers and is also opposed to a shift of costs to wastewater.

Rate Base

A. Utility Plant In Service

3. PAWC's revenue requirement includes utility plant in service claims in the FPFTY for six not yet completed acquisitions. PAWC Ex. 3-A; OCA St. 2, p. 18-19; OCA St. 2SR at 24.

4. The six proposed acquisitions include: (1) Audubon Water Company's water system, (2) Farmington Township's water system, (3) Farmington Township's wastewater system, (4) Sadsbury Township Municipal Authority's wastewater system, (5) Butler Area Sewer Authority's (BASA's) wastewater, and (6) the Borough of Brentwood's wastewater system. OCA St. 2, p. 18.

5. Five of the six proposed acquisitions – Audubon water, Farmington water and wastewater, Sadsbury wastewater, and BASA – are in various stages of litigation (OCA St. 2, pp. 24, 27- 28, 30, 31-32), and the sixth acquisition – Brentwood – was denied by Commission order. (OCA St. 2SR, p. 8).

6. PAWC proposed a multistep revenue requirement consisting of a Step 1 that excludes BASA and Brentwood acquisitions, a Step 2 that excludes Brentwood but includes BASA, and a Step 3 that includes BASA and Brentwood. PAWC St. 1R, pp. 4-6.

7. As a result of the Commission's denying PAWC's application to acquire the Brentwood wastewater system, PAWC removed the revenue requirement for the Brentwood wastewater acquisition and Step 3 from its ratemaking claims in this case. Tr. 1969-70.

B. Depreciation Reserve

8. PAWC witness Spanos completed depreciation studies to estimate the annual depreciation accruals related to water and wastewater plant in service for ratemaking

purposes and, using PUC-approved procedures, to estimate the Company's book reserve as of June 30, 2023, June 30, 2024, and June 30, 2025. *See generally* PAWC St. 11; PAWC Exs. 11-A through 11-M; *see also* PAWC Ex. JJS-1R. PAWC's annual depreciation accrual applicable to plant-in-service at June 30, 2025, is \$265,476,224.

9. Service life studies were the basis for the service lives and survivor curves Mr. Spanos used to calculate annual accruals. PAWC's most recent service life studies were performed in 2022 for the Company's water assets (based on plant data through 2021) and in 2020 for its wastewater assets (based on plant data through 2019). PAWC St. 11, p. 7.

C. Cash Working Capital

10. Cash working capital represents the funds needed to pay O&M expenses and taxes that, on average, are incurred in advance of the utility's receipt of revenues. PAWC calculated its cash working capital requirement using the accepted, PUC-approved lead-lag method. PAWC St. 4, pp. 13-15.

Expenses

A. Payroll Costs – Vacancy Rate

11. The OCA proposed a 1.76% vacancy rate adjustment to salaries, wages, and related benefits for the water operations. OCA St. 2, pp. 56-59; OCA St. 2SR, p. 2, n. 1, 2.

12. PAWC accepted the adjustments recommended based on the OCA's 1.76% vacancy rate. PAWC St. 5R, pp. 2-3.

B. Annualized Performance Pay

13. PAWC's performance pay calculation, inclusive of financial performance metrics, benefits customers by encouraging, among other things, operational efficiency and accessing capital at reasonable rates. PAWC St. 2-R, pp. 6-7.

C. Group Insurance Expense

14. The OCA's vacancy rate adjustment reduces projected 2025 group insurance expense by \$200,623 for water operations. OCA St. 2, p. 60; OCA St. 2SR, p. 2.

D. 401K, Define Contribution Plan and Employee Stock Purchase Plan

15. PAWC employees who become American Water shareholders have additional incentive to establish efficiencies that benefit customers. PAWC St. 5-R, p. 5; *see also* PAWC St. 2-R, p. 6.

E. Stock-Based Compensation Expense – American Water Executives

16. PAWC's Long-Term Performance Plan includes both restricted stock units (RSUs) and performance stock units (PSUs). PAWC St. 2, p. 41.

17. PSUs reflect the Company's financial performance. PAWC St. 2, p. 41, fn. 2.

18. Improved financial performance can benefit customers by encouraging operational efficiency. PAWC St. 2-R, pp. 6-7.

19. RSUs are not linked to financial goals or targets but vest in equal increments in the three years following the year in which the RSUs were granted. *See* PAWC St. 2-R, p. 7.

20. Encouraging employee retention can benefit ratepayers by maintaining stable leadership experienced with the Company's operations as well as avoiding turnover costs. PAWC St. 2-R, p. 8.

F. Executive Perquisites (AWW Executives Dividend Equivalents)

21. The executive perquisites associated with dividend equivalents are paid in cash with respect to PSUs and RSUs if the PSUs or RSUs are converted to common stock. OCA St. 2, p. 70.

G. Insurance Other Than Group

22. OCA witness Smith proposes using a single data point – the HTY to FTY increase – in lieu of the five-year average PAWC employed to derive its FPFTY insurance other than group expense claim. OCA St. 2, pp. 63-64.

23. In its last base rate case, PAWC used a five-year average to smooth year-to-year variations, and that approach was not opposed by the OCA. The Company’s approach continues to smooth out year-over-year variations. PAWC St. 5-R, p. 8.

H. Uncollectible Expense (Rate of Net Write-Offs)

24. Outstanding arrearages for PAWC’s customers have stabilized from the significant increases during the peak of the COVID-19 pandemic, and the Company’s net write-offs have been trending back toward pre-pandemic levels since mid-2021. As a result, PAWC calculated its claim for bad debt (uncollectible) expense using a two-year historic average (July 1, 2021, to June 30, 2023) ratio of net write-offs as a percentage of sales revenues (1.176%) to normalize the rate of uncollectible accounts to pre-pandemic levels and account for the application of Low-Income Household Water Assistance Program (“LIHWAP”) funds to reduce unpaid balances. PAWC St. 8, pp. 3-6.

I. Arrearage Management Plan (“AMP”) Credits – Uncollectible Expense

25. PAWC’s Miscellaneous Expense Adjustment included costs related to the Arrearage Management Plan (“AMP”) that was pending before the Commission at the time of

the initial base rate filing and later approved on December 7, 2023, at Docket No. P-2021-3028195. The total cost of arrearage forgiveness is based on the average number of Bill Discount Program (“BDP”) customers in the HTY with arrears multiplied by the annual AMP credits, assuming a 100% participation rate. PAWC Statements 5, p. 26 (inclusion in Miscellaneous Expense Adjustment) & 5-R, p. 8 (identifying PUC approval order).

J. Interest Synchronization

26. PAWC’s claim for income tax expense is set forth in PAWC Exhibit 3A-Revised and is based, in part, on an interest expense deduction calculated using the Company’s proposed rate base and weighted cost of debt. PAWC Ex. 3-A Revised, pp. 72R-75R.

K. Amortization Expense

27. I&E and the OCA propose adjustments to PAWC’s amortization expense related to PAWC’s acquisitions of the AWC, BASA, Farmington and Sadsbury systems. See I&E St. 3, pp. 81-83; OCA St. 2, pp. 49-52.

L. Call Center Expense

28. The OCA presented evidence expressing concerns with both PAWC’s own call centers as operated by the Service Company as well as call centers operated by third parties. PAWC St. 6, pp. 19-26.

29. Third-party call center agents are trained with the same materials as internal call center employees. PAWC St. 9-R, p. 6.

M. Pension and Other Post Employment Benefits (“OPEB”) Expense (and Request for Deferred Regulatory Accounting Treatment)

30. Pension and OPEB costs are not extraordinary, unanticipated, or non-recurring. I&E St. 1, p. 21.

31. PAWC's historic pension and OPEB costs are variable. I&E St. 1, pp. 21-25; I&E St. 1-SR, pp. 20-26.

N. Production Expense (and Request for Deferred Regulatory Accounting Treatment)

32. Production costs are not extraordinary, unanticipated, or non-recurring. I&E St. 1, pp. 32-33.

Taxes

33. PAWC's claims for Federal and State income taxes are set forth in described by Company witness Melissa Ciullo in PAWC Statement No. 7 and set forth in PAWC Exhibit 3-A Revised.

Rate of Return

A. Proxy Group

34. Less than 50% of Essential Utilities' operating revenues comes from regulated water service. PAWC St. 13-R, p. 22.

35. Electric and gas utilities are dissimilar from water and wastewater utilities because electric and gas customer can shop for a supplier. I&E St. 2, p. 14.

36. Each different utility industry faces different operational, safety, and weather-related risk. I&E St. 2, p. 14.

B. Capital Structure

37. PAWC's actual capital structure for water operations includes 44.01% Long-Term Debt and 55.99% Common Equity. I&E St. 2, p. 6

38. PAWC's actual capital structure for wastewater operations includes 42.73% Long-Term Debt, 4.40% Wastewater Specific Debt, and 52.87% Common Equity. I&E St. 2, p. 6.

C. Cost of Long-Term Debt

39. PAWC's cost of long-term debt is 4.76%. I&E St. 2-SR, pp. 5-6.

D. Return on Equity

40. I&E's DCF cost of equity analysis result is 8.45%. I&E St. 2, pp. 29-31.

41. I&E's CAPM cost of equity analysis result is 10.44%. I&E St. 2, pp. 31-34.

42. Current market conditions include high inflation and high interest rates. PAWC St. 13, pp. 30.

43. An ECAPM cost of equity analysis introduces subjectivity to the CAPM analysis by reducing reliance on the company-specific beta variable. I&E St. 2, pp. 50-51.

44. In the last ten years the Company has completed sixteen acquisitions of very small, less-viable water and wastewater systems with less than 1,000 customers each. PAWC St. 1, p. 42-43.

45. PAWC customers provided hundreds of comments criticizing PAWC for the affordability of its rates, quality of service, and other concerns. Tr. 110-1893.

Rate Structure and Rate Design

A. Cost of Service Studies – Water Operations

46. PAWC submitted five separate cost of service studies (“COSSs”), one for its water operations and four for its wastewater operations. PAWC St. 12, pp. 3-5; PAWC Exs. 12-A Revised to 12-E Revised.

47. PAWC’s COSS for PAWC’s water operations (“Water COSS”) used the base-extra capacity method for allocating costs to customer classifications. PAWC St. 12, pp. 6-16; PAWC Ex. 12-A Revised (Water Operations).

48. PAWC’s proposed system-wide maximum day demand factor (1.4) reflects the maximum daily send-out of the Company since its formation in 1987. PAWC must be prepared to meet customers’ peak demands whenever they occur, and the water usage on the maximum day of 2022 in several areas within the Company’s overall water operations was more than 1.4 times the average usage for that year. PAWC St. 12-R, pp. 5-6; PAWC Exs. CEH-2R & CEH-1SR.

49. The 2.1 maximum hour factor Ms. Heppenstall employed in the Water COSS is based on a detailed analysis of PAWC’s actual maximum hour send out in 1988. PAWC St. 12, p. 10.

50. The demand study statistics used in PAWC’s Water COSS, which include the maximum day and maximum hour demand factors for each customer class, account for changes in consumption patterns. PAWC St. 12-R, p. 9.

B. Cost of Service Studies – Wastewater Operations

51. For sanitary sewer system (“SSS”) operations, PAWC’s COSSs were prepared using the functional cost allocation methodology described in “Financing and Charges

for Wastewater Systems,” Manual of Practice No. 27, published by the Water Environment Federation. That allocation methodology was modified to determine the incremental cost related to handling stormwater for PAWC’s combined sewer system (“CSS”) operations. PAWC St. 12, pp. 16-31; PAWC Exs. 12-B Revised (Wastewater SSS General Operations), 12-C Revised (BASA) & 12-E Revised (Wastewater CSS Operations).

52. No parties raised any objections to the allocation methodology employed in PAWC’s wastewater COSSs.

C. Cost of Service Studies – Cost of Service for Future General Rate Increases

53. PAWC has agreed to continue providing separate CCOS studies for water operations, SSS Operations, and CSS Operations. PAWC St. 1R, p. 31.

54. PAWC did not separately determine the costs associated with serving Rider DIS and DRS customers in its water COSS study, these revenues from Rider DIS and DRRS customers were reflected as credit to overall cost of service. OCA St. 4, p. 19.

55. Having a revenue requirement associated with each Section 1329 acquisition separately calculated provides information to establish rates that reflects the costs of the system, shows the magnitude of the subsidy proposed for those systems, and facilitates the review and recommended removal of those systems from revenue requirement by parties challenging their inclusion in the FPFTY. OCA St. 4SR, p. 36; PAWC St. 10, p. 47.

56. PAWC submitted its most recent customer class demand study in the Company’s 2017 base rate case. PAWC St. 12, p. 13.

57. The first step to completing a new demand study is to do a study of the feasibility of conducting such a demand study. PAWC St. 12-R, p. 13.

58. A feasibility study would determine the overall scope of the demand study, the methods for selecting the customers to be monitored, the location of the selected areas, the equipment to be used, and the overall cost of the study. *Id.*

59. A feasibility study would take approximately 90-120 days to complete.

Id.

60. After completion, the feasibility study could be presented to the parties for their input and approval of the overall scope and cost before any full-scaled demand study would be undertaken. *Id.*

D. Cost of Service Studies – Allocation of Arrearage Management Program (AMP) Costs and Administrative Costs for H2O Programs

61. The direct revenue shortfall from residential low-income discounts is recovered from the residential class in the Company's rate design. OSBA St. 1, p. 31.

62. Contrary to the Company's rate design, PAWC allocates \$3,180,090 in AMP costs and administrative costs associated with its H20m Grant and Discount and Dollar Energy programs among both residential and non-residential customer classes in its cost of service studies. OSBA St. 1, p. 31; PAWC Initial Filing Volume 04, PAWC Ex. 3-B, page 336; PAWC responses to OSBA 01-005 and OSBA 03-002, included in Schedule KCH-10.

63. Specifically, PAWC allocates \$2,031,317 for its proposed AMP and \$416,569 in Dollar Energy administrative costs among its Water classes based on the historical incurrence of net charge offs (bad debt). OSBA St. 1, p. 31; PAWC Initial Filing Volume 04, PAWC Ex. 3-B, page 336; PAWC responses to OSBA 01-005 and OSBA 03-002, included in Schedule KCH-10, Exhibit 12-A under Proposed Rates.

64. For Wastewater, PAWC allocates a total of \$345,883 in AMP expense and \$70,931 in Dollar Energy administrative costs among classes within its four wastewater cost of service studies based on customer count. OSBA St. 1, p. 31; PAWC Exs. 12-B, 12-C, 12-D, and 12-E under Proposed Rates.

65. PAWC also allocates \$315,390 in administrative costs for its H2O Grant and Discount program among water customer classes using an operations & maintenance (“O&M”) composite factor. OSBA St. 1, p. 31; PAWC Ex. 12-A under Proposed Rates.

66. PAWC initially claimed that costs associated with its AMP are recovered in base rates from residential customers. OSBA St. 1, p. 31; PAWC response to OCA 11-028, included in Schedule KCH-10.

67. PAWC subsequently acknowledged that these costs are not directly assigned to the residential class in its cost of service study. OSBA St. 1, p. 32; PAWC response to OSBA 03-002, included in Schedule KCH-10.

E. Revenue Allocation and Act 11

68. PAWC is proposing to reallocate a portion of the wastewater revenue requirement calculated in this case to its water service customers under the provisions of Act 11 of 2012. PAWC St. 10, p. 40.

69. OCA Table 4-SR summarizes the results of the OCA’s CCOS study at present and proposed rate revenues based on PAWC’s claimed cost of service, adjusted to reflect OCA’s proposed Act 11 shift. OCA St. 4, p. 32; OCA St. 4SR, pp. 15-16.

70. Typically, an increase of 1.5 to 2.0 times the system average increase is consistent with the concept of gradualism. OCA St. 4, p. 33.

71. PAWC has proposed to allocate in the FPFTY approximately \$71 million of its wastewater cost of service to its water operations. PAWC St. 1, p. 19.

72. At proposed rates, inclusive of act 11 shift, PAWC is proposing to increase water revenues by 24.3% while decreasing revenues for the SSS wastewater customers and CSS customers by .1% and .2% respectively. PAWC Ex. 3-A Revised.

73. Without the \$71 million assignment of wastewater revenue requirement to water customers, the increase to water customers would be 15.5%. OCA St. 4, p. 27.

74. Most of PAWC Water customers do not obtain wastewater service from PAWC, as PAWC serves seven times as many water customers as wastewater customers. OCA St. 4R, pp. 10-11 n. 3.

75. There are several PAWC Wastewater systems whose customers do not purchase water from PAWC. OCA St. 4R, p. 10.

F. Tariff Structure – Residential Customer Charge

76. The current water customer charge for residential customers in Rate Zones 1-5 with 5/8-inch, 3/4-inch, 1-inch, and 1&1/2-inch meters is \$17.50 per month. PAWC Ex. 10-A.

77. PAWC is proposing to increase the water residential customer charge for Rate Zones 1-5 with 5/8-inch, 3/4-inch, 1-inch, and 1&1/2-inch meters from \$17.50 to \$20.00 in the FPFTY. PAWC Ex. 10-A.

78. PAWC provided an updated direct customer cost analysis in its rebuttal testimony that demonstrated a cost of \$20.26 per 5/8-inch residential customer. I&E Statement 4SR at 26; PAWC Statement 12-R at 13; PAWC Ex.12-A Revised.

79. PAWC's proposed increase for residential customers with meter sizes 2-inches and over are all consistently increased by approximately 8%. I&E St. 4, pp. 34-35.

80. The current wastewater residential customer charge for SSS Rate Zones 1 (Statewide), 2 (New Cumberland), and 5 (Valley) is \$14.30 per month. PAWC St. 10, pp. 37-38.

81. The current wastewater residential customer charge for SSS Rate Zone 7 (York) is \$18.00 per month. PAWC St. 10, p. 38.

82. Rates in SSS Rate Zone 8 (Foster) currently consist of a flat rate of \$85.00 per equivalent dwelling unit (“EDU”) per month, which will increase to a flat rate of \$106.00 per month on December 31, 2024. PAWC St. 10, p. 38.

83. The current wastewater residential customer charge for SSS Rate Zone 9 (Royersford) is \$48.00 per month. PAWC St. 10, p. 38.

84. The current wastewater residential customer charge for CSS Rate Zone 3 (Scranton) is \$19.50 per month. PAWC St. 10, p. 39.

85. Service in CSS Rate Zone 4 is currently offered through a monthly service charge to all customers at \$40.00 per month for customers with a 5/8-inch water meter and \$100.00 per month for customers with water meters larger than 5/8-inch diameter. PAWC St. 10, p. 39.

86. The current wastewater residential customer charge for CSS Rate Zone 6 (McKeesport) is \$14.30 per month. PAWC St. 10, p. 39.

87. PAWC is proposing to set all residential wastewater service charges at \$20 per month. PAWC St. 10, p. 41.

G. Tariff Structure – Water Rate Design

88. PAWC offers water service in five rate zones. The five rate zones are: Rate Zone 1 – General Statewide Rate, Rate Zone 2 – Valley, Rate Zone 3 – SLIBCO, Rate Zone 4 – Turbotville, and Rate Zone 5 – Steelton. PAWC St. 10, p. 31.

89. In an attempt to achieve single tariff pricing, PAWC proposes to consolidate Rate Zones 2-5 to Rate Zone 1 rates. PAWC Ex. CBR-3.

H. Tariff Structure – Wastewater Rate Design

90. PAWC provides wastewater service to the following Sanitary Sewer Systems (“SSS”): Rate Zone 1 – PAWC Statewide, Rate Zone 2 – New Cumberland, Rate Zone 5 – Valley, Rate Zone 7 – York, Rate Zone 8 – Foster Township, Rate Zone 9 – Royersford. PAWC St. 10, pp. 37-40. PAWC provides wastewater service to the following Combined Sewer Systems (“CSS”): Rate Zone 3 – Scranton, Rate Zone 4 – Kane, Rate Zone 6 – McKeesport. PAWC St. 10, pp. 37-40.

91. PAWC is proposing consolidation of rate zones for wastewater service in this proceeding. PAWC St. 10, p. 41.

92. In addition to setting residential wastewater service charges at \$20 per month, PAWC proposes to set non-residential wastewater service charges at \$50 per month. PAWC St. 10, p. 41.

93. PAWC did not propose any changes for Scranton rates except for the roll-in of the DSIC mechanism, which results in the same percentage increase to all rate components in Scranton. PAWC St. 10, p. 41.

I. Tariff Structure – Winter Averaging Proposal

94. PAWC proposes to change the way that it determines the volumetric component of bills for residential customers from the current method, where volumetric charges are based on total metered water usage for the month, to a methodology referred to as winter averaging. PAWC St. 10, p. 42.

95. Winter averaging is a method for determining volumetric components of wastewater bills that attempts to separate metered water usage that is likely to go through the wastewater system from water usage that is used for outdoor purposes in the summertime. PAWC St. 10, p. 43.

96. Under winter averaging, a customer's bill in the wintertime is determined by actual metered water usage for the month, and in the summertime the customer's bill is determined by the lesser of the actual metered water usage for the month or the average water consumption for that customer in the winter months. PAWC St. 10, p. 43.

97. PAWC is defining winter months for the winter averaging period to be January, February, and March. PAWC St. 10, p. 44; OCA St. 4, p. 41.

98. If a customer is new or if there is no winter average billing data upon which to base a calculation, PAWC will assume a standard usage level of 3,000 gallons per month for a comparison point for billed summer usage. PAWC St. 10, p. 44; OCA St. 4, p. 42.

99. The winter average methodology results in volumetric rates that are higher than they otherwise would have been for the same revenue requirement. PAWC St. 10, p. 45; OCA St. 4, p. 42.

100. There is not substantial variability in residential water bills between the three winter months, as defined by PAWC, and the remaining 9 months. OCA St. 5, p. 97.

101. The number of residential accounts that have no volumetric charge on their bills substantially increases during the winter months. OCA St. 5, p. 99.

102. In March 2022, there were 27,690 accounts with no volumetric charges. OCA St. 5, p. 100.

J. Scale Back of Rates

103. If the Commission approves a revenue requirement that is less than that proposed by the Company, the Company proposes to proportionally reduce the water and

wastewater revenue requirements, and the proposed amount of reallocation from wastewater to water under Act 11. PAWC St. 10, pp. 16-17; PAWC St. 10-R, p. 37.

Alternative Ratemaking

A. Revenue Decoupling Mechanism

104. The Revenue Decoupling Mechanism (“RDM”) is an alternative rate design mechanism whose purpose is to recover the revenue requirement and associated fixed costs approved by the Commission. PAWC St. 10, p. 86.

105. Decoupling mechanisms such as the RDM are explicitly authorized by Section 1330(b)(2) of the Public Utility Code. 66 Pa.C.S. § 1330(b).

106. The Company’s proposed RDM couples traditional rate design with elements of Straight Fixed Variable (“SFV”) Pricing. PAWC St. 10, p. 89.

107. SFV pricing is a rate design that collects a utility’s fixed costs through fixed charges and a utility’s variable costs through volumetric charges. PAWC St. 10, p. 90.

108. The proposed RDM compares the revenues collected under the actual Commission-approved rates customers pay with the revenues that would have been collected through an SFV rate design on a forward-looking basis and accrues the differences, which are either credited to customers or collected from customers at a later time. PAWC St. 10, p. 90.

109. If sales decrease, the RDM formula will adjust rates to charge customers to make-up for the reduced recovery due to decreased sales. OCA St. 1, p. 47.

110. With a RDM in place, customers would have to reduce their consumption by more than the reduction of usage by all other customers in order to reap the full benefit of reduction. OCA St. 4, p. 58.

111. If a customer's usage reduction turns out to be less than the reduction in usage by all other customers, the RDM will take those savings away and the customer's bill will be higher. OCA St. 4, p. 58.

B. Environmental Compliance Investment Charge

112. The Environmental Compliance Investment Charge ("ECIC") is a rate adjustment clause designed to reflect and recover, between rate cases, the capital costs and expenses imposed on the Company to address and comply with new or changed federal and state environmental mandates. PAWC St. 1, p. 26; PAWC St. 8, p. 21.

113. PAWC proposed the ECIC to establish a rate mechanism to enable planning and execution of a five-year investment plan and support full rate recognition of PAWC's costs to meet evolving requirements from the United State Environmental Protection Agency ("EPA"), the Pennsylvania Department of Environmental Protection ("PADEP"), and other environmental agencies. PAWC St. 3, p. 5.

114. PAWC proposed the ECIC in response to regulatory mandates involving the combination of federal and state regulations concerning per- and polyfluoroalkyl substances ("PFAS"), where the EPA issued proposed drinking water regulations for six PFAS that will establish maximum contaminant levels ("MCLs"), Maximum Contaminant Level Goals ("MCLGs"), and monitoring, public notice and treatment requirements, which the EPA is expected to finalize before the end of 2024, after which public water systems would be required to modify their facilities to comply within three years. PAWC St. 3, p. 9.

115. PAWC also proposed the ECIC in response to PADEP promulgated state drinking water standards establishing strict MCLs and MCLGs for two PFAS with compliance monitoring mandates effective January 1, 2024. PAWC St. 3, p. 9.

116. The Commission has the authority to approve the ECIC pursuant to Section 1330(b)(2) of the Public Utility Code. 66 Pa.C.S. § 1330(b).

117. The proposed environmental compliance plan would be filed outside the parameters of a base rate case. PAWC St. 8 at 25-26; I&E St. 1, p. 35.

118. Under PAWC's proposal quarterly updates would take effect on only 10 days' notice. Parties would be required to conduct review and discovery in an expedited time frame during which parties would also be required to respond to two different sets of revisions that the Company would have the option of filing within the same period. OCA St. 4, p. 69-70; OCA St. 4SR, p. 28.

119. PAWC's proposed ECIC would be a charge imposed above and beyond the normal fixed and volumetric charges imposed on residential customers. OCA St. 5, p. 90.

120. The costs PAWC is proposing to recover through the ECIC would ordinarily be assigned to each customer class based on results of a cost of service study. OCA St. 4, p. 67.

Low-Income Customer Assistance

A. Affordability Analysis

121. PAWC conducted a detailed analysis of the affordability of its water and wastewater services. *See* PAWC Ex. CBR-1 and CBR-2.

122. PAWC prepared, for both water and wastewater services, an Enterprise-Level analysis of affordability, which considered the affordability of service at a high-level over a multi-year period, and a Community-Level analysis, which presents a focused analysis of affordability of service at the individual customer level under current and proposed rates and current economic conditions. PAWC St. 10, p. 5; PAWC St. 10-R, pp. 3-4.

123. The Company's affordability analysis concludes that the Company's water and wastewater services have been, are, and are expected to continue to be affordable for the majority of its residential customers, including under the rates proposed in this case. There are, however, groups of customers for whom affordability of water and wastewater services may be challenging. PAWC St. 10, p. 22; *see also* PAWC St. 10, p. 7 (results of Water Enterprise-Level Analysis); pp. 8-9 (results of Wastewater Enterprise-Level Analysis); pp. 15-17 (results of Water and Wastewater Community-Level Analyses).

B. H20 Bill Discount Program

124. PAWC's existing BDP provides bill discounts to customers whose annual household incomes fall between 0% and 150% of FPL. There are three tiers of discounts within the program and customers with the lowest incomes receive the highest percentage discounts. PAWC St. 10, p. 23; PAWC St. 10-R, p. 28.

125. The Company is proposing to keep the existing three tiers without any changes and add a fourth tier of eligibility to expand the program offerings to customers whose household incomes are between 151% and 200% of FPL. For water customers in this fourth tier of eligibility, the Company is proposing to offer discounts of 30% on the 5/8" meter charge and 15% on the volumetric rate for water service and for wastewater customers in this fourth tier of eligibility, the Company is proposing to offer a discount of 20% on the total wastewater bill. PAWC St. 10, pp. 23-26; PAWC St. 10-R, pp. 28-29.

126. OCA supported the proposed expansion of the BDP to include a fourth tier, but recommended a higher discount percentage for that fourth tier and increases to certain discounts for the existing tiers, which CAUSE-PA supported. OCA St. 5, pp. 45, 49-50; CAUSE-PA St. 1, pp. 44-54.

127. PAWC does not oppose the specific tier-level discount changes recommended by OCA and CAUSE-PA. PAWC St. 10-R, p. 31.

C. Hardship Fund

128. The H2O Program provides Hardship Grants for qualifying customers with annual household incomes at or below 200% of FPL and that have made a payment of at least \$50 over the last 90 days. A customer may receive a Hardship Grant equal to the customer's total account balance at the time of grant issuance, up to the maximum annual grant amount of \$500 for water service and \$500 for wastewater service. H2O Hardship Grants are funded through an annual shareholder donation, currently \$625,000 for water and \$125,000 for wastewater, as well as customer and employee donations. PAWC St. 9, pp. 13-14; PAWC St. 14-R, pp. 15-16.

129. To be eligible for a Hardship Fund Grant, a customer must have made a payment of at least \$50 over the last 90 days. PAWC St. 14-R, pp. 15-16.

130. PAWC is working with its Hardship Fund administrator to enable customers to apply for multiple Hardship Grants during a program year. *See* PAWC St. 14-R, p. 16.

131. OCA has proposed that PAWC increase the maximum income eligibility for its hardship grants to 250% of the Federal Poverty Level. OCA St. 5, p. 66.

D. Conservation Assistance

132. CAUSE-PA recommended that PAWC develop and implement a comprehensive conservation and line repair/replacement program for all customers below 200% of FPL. CAUSE-PA further recommended the targeting of high-usage customers, annual reporting, and coordination with other utility programs. CAUSE-PA St. 1, pp. 63-64.

133. Low-income usage reduction programs ("LIURPs") are required under Pennsylvania law for electric distribution companies ("EDCs") and natural gas distribution

companies (“NGDCs”) only and are part of their broad universal service plans. PAWC St. 14-R, p. 13.

134. There are detailed LIURP regulations addressing many of the items recommended by CAUSE-PA, including prioritizing high users, reporting, and utility coordination. *See* 52 Pa. Code §§ 58.1, *et seq.*

E. Low-Income Customer Outreach, Screening, and Intake

135. PAWC employs a multi-prong approach to inform customers about the benefits provided by the H2O Program, including direct customer communication (e.g., bill inserts, social media, websites), participation in PUC consumer education events and local community events (e.g., customer assistance program fairs and senior fairs), and Dollar Energy Fund outreach (e.g., public service announcements and community speaking). PAWC St. 9, pp. 14-16; PAWC St. 14-R, p. 7.

136. In order to target particular communities in need, such as areas with a high percentage of customers at or below 50% of FPL, the Company has deployed an internal analytic process. PAWC St. 14-R, pp. 8-9.

137. If customers access the “myWater” customer portal, they will see information about bill assistance self-service options, as well as a link to information on PAWC’s H2O Programs and instructions for how to apply. PAWC St. 9-R, p. 11.

138. Between December 2020 and November 2023, PAWC has increased participation in its BDP by over 30%. PAWC St. 14-R, p. 8.

139. When a customer calls in seeking payment assistance, customer care agents (“CCAs”) are trained to direct customers to call DEF to enroll. PAWC St. 9-R, p. 11.

F. Data Collection, Reporting, and Monitoring of Low-Income Programs

140. PAWC does not have enrollment benchmarks for BDP enrollment. PAWC St. 14-R pp. 9-10.

141. PAWC customers are currently considered “confirmed low-income” once they verbally provide income documentation verifying their income to PAWC. PAWC currently only verifies income information in connection with its H20 Hardship Grant program, which is administered by the DEF. PAWC St. 14-R pp. 9-10 .

G Comprehensive Written Universal Plan

142. PAWC does not have a written Universal Service Plan. PAWC St. 14-R pp. 12.

143. Universal Service Plans and the related full and timely cost recovery through universal service cost riders are only required for EDCs and NGDCs under Pennsylvania law. 52 Pa. Code § 54.74; 52 Pa. Code § 62.41; 66 Pa.C.S. § 2804(8).

H. Administration of PAWC’s Low-Income Assistance Program

144. PAWC regularly meets with the DEF regarding program administration and addresses any issues as they arise. PAWC St. 14-R, p. 14.

145. PAWC has full access to information regarding DEF fund balances, application processing, application status and standard reports through DEF’s Grant Management System. PAWC St. 14-R, p. 14.

146. DEF provides the Company with standard periodic reports on application and grant activities, and the Company can ask DEF for additional reports as needed. PAWC St. 14-R, p. 14.

Service Quality and Customer Service Issues

A. Customer Service Performance

147. The Customer Service Organization (“CSO”) operated by American Water Works Service Company, Inc. (“Service Company”) supports the customer service needs of PAWC and the other American Water utility subsidiaries, including customer call handling and billing. PAWC St. 9, pp. 2-5.

148. PAWC and the CSO leverage multiple sources of customer feedback to monitor customer satisfaction, including targeted surveys taken immediately after phone, field and customer portal interactions and a customer satisfaction survey of all PAWC customers conducted quarterly. PAWC St. 9, pp. 7-8.

149. PAWC and the CSO identify trends from customer feedback provided via transaction surveys, including from customers seeking bill assistance, requesting payment arrangements, raising inability-to-pay issues, or responding to disconnection notices. PAWC St. 9-R, p. 10.

150. The CSO’s hiring and recruitment efforts over the past several years have reduced wait times and the call abandonment rate for customers that do not utilize the courtesy call back (“CCB”) feature. PAWC Statements 9, pp. 9-13 & 9-R, pp. 3-4.

151. The calculation of CSO service levels excludes calls answered by the interactive voice response (“IVR”) and customers who elected a CCB. PAWC St. 9-R, pp. 4-5.

152. The performance levels of the CSO and third-party call handling agencies are already monitored on a daily basis. PAWC St. 9-R, pp. 6-8.

153. The CSO conducts extensive training of its agents on Pennsylvania rules and regulations before they are permitted to handle calls from PAWC customers. This training includes an 80-page training module and a knowledge test, and the CSO has a quality assurance process focused on CCA adherence to Chapter 14 of the Code and Chapter 56 of the PUC's regulations. PAWC Statements 9, pp. 6-7 & 9-R, pp. 8-9.

154. PAWC: (1) analyzes every customer complaint it receives (other than informal mediation complaints that do not involve any allegation of wrongdoing by the Company), to determine the contributing factor, if any; (2) makes a root-cause determination for every such customer complaint; (3) logs a root cause for each such complaint, where a contributing factor is identified; (4) generates reports reflecting customer complaint root causes; (5) analyzes root- cause trends; and (6) regularly discusses root-cause trends with the CSO and the other appropriate business units. PAWC St. 14-R, pp. 21-24.

155. Several PAWC customers expressed concern at the public input hearings over either not receiving paper bills for the month of December 2023 or receiving mailed bills late. *See* City of Scranton St. 1, p. 6; State Rep. Kyle T. Donahue St. 1, p. 6.

156. PAWC investigated with CSO's print vendor to validate whether all 2023 bills were printed and mailed and found that there were no issues generating, printing, or mailing the bills. PAWC St. 9-R p, 18.

157. PAWC determined that the delayed or not-received bills were the result of United States Postal Service ("USPS") delays, particularly in the Scranton region. PAWC St. 9-R, p. 18.

158. PAWC has agreed to, as a courtesy, automatically credit a late fee charge assessed in January to any Scranton area customer who did not have any late fees in the last quarter of 2023. Any Scranton area customers who do not meet these requirements for an automatic credit, and who may have been assessed a late fee in January due to postal service delays, may still call and request that the late fee be credited. PAWC St. 9-R, p. 18; Tr. 1976-77.

B. Tenant Issues and Protections

159. PAWC complies with the Discontinuation of Services to Leased Premises Act (“DSLPA”) and the Company’s processes are consistent with the Utility Services Tenants Rights Act (“USTRA”), which applies to municipal corporations and municipal authorities rather than regulated utilities. PAWC St. 14-R, p. 18; CAUSE-PA St. 1, pp. 75.

160. PAWC takes steps to determine whether service addresses should be coded as landlord-ratepayer/tenant occupied. PAWC St. 14-R, pp. 18.

161. PAWC relies on information from landlords, tenants, and field service representatives to determine if a property is reasonably likely to be tenant occupied and coded as such. PAWC St. 14-R, pp. 18.

162. PAWC currently has over 20,000 residential accounts coded as tenant occupied. PAWC St. 14-R, pp. 18.

163. If delinquent, these accounts go through the 37-day notice process prior to any service termination as required by the DSLPA and USTRA. PAWC St. 14-R, pp. 18.

164. PAWC utilizes the same processes prior to terminating water services to landlord ratepayer properties at the request of municipal sewer providers as PAWC utilizes for terminations of service that are initiated by PAWC. PAWC St. 14-R, pp. 18.

165. The notices that the affected tenants receive provide directions on how to contact PAWC in order to continue water service, and tenants do not need to rely on the municipal authority to contact PAWC to assert their rights. PAWC St. 14-R, pp. 19.

C. Water Services Act and Section 12.1(H) of Water Tariff

166. PAWC proposed Water Tariff Rule 12.1(H) in its original filing to address termination at the request of a non-Company wastewater provider. PAWC St. 4, p. 34.

167. In rebuttal, the Company replaced proposed Rule 12.1(H) with a proposed new Section 12.8. PAWC St. 4-R, pp. 10-11.

168. The OCA proposed changes to the language of proposed Rule 12.1(H). OCA St. 6-SR, pp. 18-19.

169. Prior to terminating service under the Water Services Act (“WSA”) a 10-day termination notice must be mailed or posted at the property. If during that 10-day period, the person liable for the unpaid charges delivers a written statement under oath to the municipal wastewater provider averring a just defense to all or part of the claim, the water service is not to be shut off until the claim has been judicially investigated. PAWC St. 14-R, p. 19.

170. PAWC’s Commission-approved contracts with sewer providers require the sewer provider to issue the appropriate termination notice to customers. PAWC St. 14-R, p. 19.

171. PAWC has a process in place to verify that the municipal sewer provider has complied with all of its obligations under the WSA, which includes requiring a responsible municipal official to certify both that the notice was provided and the lack of any just defense filing. PAWC St. 14-R, p. 19; PAWC St. 14-R, p. 19.

172. PAWC recently modified the template that municipal entities submit in order to request water service shut-offs to include a confirmation that the municipality has not received a medical certification for the relevant premise. PAWC St. 14-R, p. 20.

D. American Water Resources

173. American Water Resources (“AWR”) has offered optional products and services, such as water line and sewer line protection plans, to PAWC customers for over 20 years. PAWC St. 9-R, p. 12.

174. After enrolling with AWR, customers are charged a monthly fee on their PAWC bills so that if their water or sewer line breaks, AWR will deploy a contractor to fix the water or sewer line under the warranty program at minimal up-front cost to the customer. PAWC St. 9-R, p. 12.

175. [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED] [END CONFIDENTIAL]

176. Although American Water sold its interest in AWR in December 2021, which ended the affiliate relationship between AWR and PAWC, the day-to-day relationship between PAWC and AWR remains the essentially the same by virtue of a Utility Agreement executed by PAWC and AWR at the time of the sale. PAWC’s relationship with AWR as a partner who provides optional warranty products and services to its customers has remained unchanged over the last two decades. PAWC St. 9-R, pp. 12-15; *see also* CONFIDENTIAL OCA Ex. BA-8.

177. No other provider of non-utility services and products is seeking access to PAWC’s bills. PAWC St. 9-R, p. 16.

178. The Utility Agreement states that PAWC is not precluded from offering similar on-bill services to another entity. CONFIDENTIAL OCA Ex. BA-8, p. 2.

179. PAWC has no authority to influence AWR’s prices or other terms under its contracts with customers. PAWC St. 9-R, p. 16.

180. PAWC passes through AWR's charges on its bills as a separate line item and no customers' service is terminated for non-payment of such charges. PAWC St. 9-R, p. 16.

181. If a customer no longer wants to pay for AWR's products and services, the customer can stop paying for them with no negative repercussions on their water or wastewater service. PAWC St. 9-R, p. 16.

182. AWR has historically used PAWC's trademark and logo for marketing purposes, and disclosures are included on all marketing materials explaining that AWR is not affiliated with PAWC, its products and services are optional, and AWR's prices are not determined by PAWC. PAWC St. 9-R, pp. 15.

183. [BEGIN CONFIDENTIAL]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL]

E. Main Extensions

184. Mr. Phil Choff is part of the Jefferson Township Municipal Authority ("JTMA") Formal Complaint requesting an extension of water service within PAWC's existing service territory in Avella, Washington County, to at least 39 residents who struggle with quantity and quality of water. Tr. 1840-41; OCA St. 7-Supp., pp. 8-9, Ex. TLF-4.

185. PAWC estimates that the main extension proposed by the Jefferson Township Municipal Authority would require the Company to invest \$5.2 million to install mains at 39 locations along the route presented in OCA Exhibit TLF-4. PAWC St. 3-R, pp. 3-4.

186. The Company is continuing to evaluate whether the proposed main extension is eligible under Rule 27.1(F) of its tariff, which authorizes main extensions within the Company's existing service territory to be installed without customer contributions subject to Commission approval in order to address health and safety concerns. PAWC St. 3-R, pp. 4-5.

F. Pressure Surveys and Pressure Reducing Valves

187. Rule 4.7 of the Company's Water Tariff outlines the requirement for customers to install and maintain a pressure reducing valve ("PRV") if the pressure at their service location exceeds 100 pounds per square inch ("psi"). This tariff requirement impacts a small percentage of customers and PAWC has a process in place whereby field service representatives educate customers in the field regarding PRV requirements. PAWC St. 2-R, p. 11.

188. PAWC agreed to establish a notification process for customers "where PAWC systems regularly exceed 100 pounds per square inch. Tr. 1983.

189. In this notification, the Company will educate the customer that they are responsible for installing a PRV at their service location under PAWC's tariff and encourage them to contact a licensed plumber for guidance, installation, and maintenance of PRVs. Tr. 1983.

190. The Company has agreed to utilize its GIS system to identify these customers in higher pressure areas to receive this notification. Tr. 1983-84; *see also* Tr. 2054-55.

Miscellaneous Issues

A. Customer Notice

191. In accordance with 52 Pa. Code § 53.45, PAWC provided notice of its proposed rates to all of its customers that reflected the Company's proposed tariffed rates and Act 11 wastewater-to-water revenue requirement allocation. PAWC St. 1-R, p. 25.

192. The Company's notice was consistent with each of the notices in its rate cases since the enactment of Act 11, including the Company's proposed wastewater-to-water revenue requirement allocation in each case. PAWC St. 1-R, p. 26.

193. Customers are able to contact PAWC to determine how proposed rate changes would impact their bills or visit the Company's website to review the Company's proposed rates. PAWC St. 1-R, p. 27.

194. The Company provides detailed notice of its rate changes to customers once they are approved by the Commission through a bill insert. PAWC St. 1-R, p. 27.

IV. PUBLIC INPUT HEARINGS

Due to significant public interest in this proceeding, as well as requests from several Pennsylvania state legislators, the Parties agreed to schedule a series of public input hearings within PAWC's service territory as well as telephonic public input hearings to provide opportunities for customers to express to the Parties and the Commission their views on PAWC's base rate filing. To that end, eight in-person public input hearings were held as follows: Port Vue, PA on January 29, 2024, at 1:00 p.m. and 6:00 p.m.; Scranton, PA on January 30, 2024, at 1:00 p.m. and 6:00 p.m.; Exeter Township, PA on January 31, 2024, at 1:00 p.m. and 6:00 p.m.; and Harrisburg, PA on February 6, 2024, at 1:00 p.m. and 6:00 p.m. Additionally, four telephonic public input hearings were held as follows: February 5, 2024, at 1:00 p.m. and 6:00 p.m. and February 7, 2024, at 1:00 p.m. and 6:00 p.m.

A total of 217 customers provided public input testimony: 32 in Port Vue, 52 in Scranton, 58 in Exeter, 10 in Harrisburg, and 65 by telephone. Below is a summary of public input testimony, including a table showing types of topics covered by location.⁴

Location (Date/Time)	Affordability	Quality of Service	PAWC supportive	Other
Port Vue (1/29/24 1pm)	10	3	7	1
Port Vue (1/29/24 6pm)	12	2	0	7
Scranton (1/30/24 1pm)	23	11	6	11
Scranton (1/30/24 6pm)	22	16	0	12
Exeter (1/31/24 1pm)	31	18	1	22
Exeter (1/31/24 6pm)	17	6	1	10
Telephonic (2/5/24 1pm)	9	3	13	4
Telephonic (2/5/24 6pm)	4	0	2	2
Harrisburg (2/6/24 1pm)	1	2	4	1
Harrisburg (2/6/24 1pm)	1	0	3	1
Telephonic (2/7/24 1pm)	6	3	11	3
Telephonic (2/7/24 6pm)	9	3	5	7
TOTAL	145	67	53	81

⁴ The table below displays more than 217 topics testified on because a public input witness may have testified to more than one topic.

A. Affordability⁵

In Port Vue during the 1:00 p.m. public input hearing on January 29, 2024, 10 people testified to express affordability concerns with PAWC's current and/or proposed rates. State Representative Matthew Gergeley testified that the community needs affordable access to clean water and the proposed rate hikes threaten access. Tr. 134-140, 149-150. Mark Tortorice, President of Port Vue Borough Council, questioned why commercial, industrial, and municipal users get a discount but not the people. Mr. Tortorice testified that the system is old, but people can't afford the pay to update the system. Tr. 141-149, 165-167. Debra McCarthy-Arnone, with the AARP, testified that AARP supports adequate, drinkable, and affordable water for everyone, but their members cannot afford PAWC's proposal. Tr. 180-184. Robert Betters testified that Port Vue has the highest sewage rates in Pennsylvania, and Port Vue is one of the poorest areas in the state. Tr. 225-228.

In Port Vue during the 6:00 p.m. public input hearing on January 29, 2024, 12 people testified to express affordability concerns with PAWC's current and/or proposed rates. State Representative Nick Pisciotano testified that higher rates are negatively impacting businesses, and there needs to be slower increases over time so that PAWC's costs are not immediately applied to every consumer. Tr. 288-291. David Deliman testified that he can't afford these rate increases, and his next move will probably be out of Port Vue and Allegheny County altogether. Tr. 295-298. Pauline Bryner testified that Port Vue is 60% senior citizens, if not more, and the impact of increases would mean the difference between food and medicine. Tr. 312-328. Jody Goughnour testified that she's on LIHEAP and CAP when she never had to be before. Tr. 336-343. Donna Priselac testified that her sewage bill used to be half of what her water consumption was, and now it is more than double what her water bill is. Tr. 352-354.

In Scranton during the 1:00 p.m. public input hearing on January 30, 2024, 23 people testified to express affordability concerns with PAWC's current and/or proposed rates.

⁵ Due to the relatively high number of testimonials expressing concerns with affordability, as well as the generally consistent nature of the remarks, the number of testifiers and a selection of testimonials is provided in this section.

State Senator Marty Flynn testified that PAWC's last increase crippled his constituents, that customers pay for infrastructure improvements and low-income programs, and that his constituents can't afford to pay this. Tr. 397-404. State Representative Bridget Kosierowski testified that PAWC's rate hike is too much for her constituents, and PAWC should bear a larger share of the cost to improve their utility systems rather than ratepayers. Tr. 405-410. State Representative James Haddock requested that the rate increase be denied, and two double-digit rate increases in two years is unconscionable. Tr. 411-418. State Representative Kyle Mullins testified that the massive request is one step too far as ratepayers are still adjusting to the 2022 rate increase. Tr. 418-423. State Representative Maureen Madden testified that PAWC has received exorbitant increases over the years, and PAWC needs to care more about customers than stockholders. Tr. 424-429. Max Conway, Mayor of Dunmore, testified that Dunmore is a borough deeply impacted by the proposed water increases and the rates will bring economic hardship to his residents. Tr. 431-444. Mary Tanealian testified that her income is not at the poverty level, but she has issues paying her bills. Tr. 450-462. Yehudah Fink, with David Elliot Poultry Farm, testified that his company is a large user of water, and an increase will cause an increase to prices. Tr. 562-567.

In Scranton during the 6:00 p.m. public input hearing on January 30, 2024, 22 people testified to express affordability concerns with PAWC's current and/or proposed rates. Lackawanna County Commissioner Bill Guaghan testified that the proposed rate hike threatens to place an additional burden on already stretched budgets. Tr. 607-611. Dunmore Borough Council President Janet Brier testified that Dunmore and Scranton are not wealthy communities, and the Commission should deny PAWC's request. Tr. 613-617. Paul Miller questioned how he can afford this rate hike on a fixed income. Tr. 652-655. Scranton School Board Director Sean McAndrew testified that any increase like this hurts how we operate and affects our student education. Tr. 669-675. Joan Hodowanitz testified that she rents, and her landlord will pass these increases on to her. Tr. 745-750.

In Exeter Township during the 1:00 p.m. public input hearing on January 31, 2024, 31 people testified to express affordability concerns with PAWC's current and/or proposed rates. State Senator Judy Schwank testified that she opposes the rate increase. Tr. 788-797.

Kathleen Schwartz testified that she is a 30-year resident of Exeter Township and that since the sewer facilities were sold, she's paying between 170 and 200% more for sewer. Tr. 806-811. Priscilla Gentry testified that she is on a fixed income and her water is unaffordable. Tr. 815-819. Alicia Shussett testified that she moved to Exeter in 2019 and her bill has increased at an alarming rate. Tr. 832-839. Alan Blackburn testified that since 2019 his rates have gone up almost 32% for water and over 200% for wastewater. Tr. 875-879. Michael Knoll testified that his bills have doubled between 2019 and 2023 and he's joined fitness clubs to shower there rather than at home. Tr. 897-901. Ruth Benderoth testified that her sewer bills have increased 576.9% over what she was paying before PAWC acquired Exeter Township's wastewater. Tr. 913-917, 970-974. Shawn Schower testified that his water and wastewater bill is more than all of his other utilities combined. Tr. 950-955.

In Exeter Township during the 6:00 p.m. public input hearing on January 31, 2024, 17 people testified to express affordability concerns with PAWC's current and/or proposed rates. Exeter Township Supervisor George Bell testified that he is concerned about low-income families and seniors. Tr. 1009-1015. Judie Cox testified that Exeter Township has a bad reputation for those looking to move there because of the high-water bills. Tr. 1023-1027. Cindy Murphy testified that since PAWC took over Exeter's wastewater, her bills have gone up an average of 37% per year, and her water bills are higher than gas and electric. Tr. 1028-1033. Paul Brown testified that he is trying to figure out how to retire and doesn't know how to budget for a water bill 10 years out that is doubling every four years. Tr. 1063-1066. Michelle White testified that she pays more than water customers in other townships, and she conserves. Tr. 1089-1095.

During the 1:00 p.m. telephonic public input hearing on February 5, 2024, nine people testified to express affordability concerns with PAWC's current and/or proposed rates. State Representative Eddie Day Pashinski testified that increases in costs in everything has caused financial concerns for an increased number of his constituents. Tr. 1136-1142. Daniel Skvarla testified that the increase of the water bill average 24% per month on top of the service charge of 14% adds up to 38% per month, and that is not a reasonable request. Tr. 1151-1154. Victor Rodriguez, with the Pennsylvania Developers' Council, testified that his organization

cannot provide affordable housing with the bills they already have. Tr. 1236-1241. Kathleen Townsend testified that she is retired on a limited income, and water and sewer bills are outrageously high. Tr. 1277-1286. Gerald Erdman testified that rates doubled between 2021 and 2024, and for capital investment, there should be a plan that spreads the rate increases gradually to avoid step changes to customer bills. Tr. 1296-1303.

During the 6:00 p.m. telephonic public input hearing on February 5, 2024, 4 people testified to express affordability concerns with PAWC's current and/or proposed rates. Joli Harrington testified that, as someone on Social Security, the increase is far above the cost of living increase that she gets. Tr. 1352-1357. Jeronimo Hernandez testified that the financial abuse of water has forced me to make my exit plan from Scranton. Tr. 1369-1378. Dominick York testified that he is concerned about the proposed increase given the significant increase that just occurred in February 2023. Tr. 1391-1397. Nicole VanCoeur testified since she has been a PAWC customer her bill has gone up threefold and she is vehemently opposed to any rate increases. Tr. 1401-1403.

In Harrisburg during the 1:00 p.m. public input hearing on February 6, 2024, one person testified to express affordability concerns with PAWC's current and/or proposed rates. Michael Langan testified that there has been a dramatic increase in the cost for water over the years. Tr. 1538-1548.

In Harrisburg during the 6:00 p.m. public input hearing on February 6, 2024, one person testified to express affordability concerns with PAWC's current and/or proposed rates. Gary Iorfido, with AARP, testified that many are struggling to make ends meet with current inflationary pressure, and AARP's members cannot afford PAWC's proposal. Tr. 1585-1593.

During the 1:00 p.m. telephonic public input hearing on February 7, 2024, six people testified to express affordability concerns with PAWC's current and/or proposed rates. James Lingwall testified that PAWC is taking unfair advantage of customers to subsidize the cost of doing regular business, and that with inflation customers cannot afford another rate hike along with other utilities. Tr. 1653-1658. Charles Wilson testified that he has experienced cost

increases which he believes exceed the rate of inflation. Tr. 1696-1703. Tacy Rutherford testified that she has a family of 13 and her monthly bill at the current PAWC rate average \$580. Tr. 1704-1714. Zachary Zaff, with Sandcastle Water Park, testified that PAWC's proposal is unreasonable and will drastically affect the park's ability to continue to employ several thousand team members, along with other impacts to the park. Tr. 1737-1741. Nereida Colon-Gonzalez testified that she is opposed to the rate increase because it is a burden to the middle class. Tr. 1742-1746.

During the 6:00 p.m. telephonic public input hearing on February 7, 2024, nine people testified to express affordability concerns with PAWC's current and/or proposed rates. State Representative Christina Sappey testified that she strongly opposes the rate increase because of its negative impact on individuals, families, senior citizens, and those on fixed incomes. Tr. 1787-1791. State Senator Katie Muth testified that when paychecks are not going up and there are other things with rising costs, it is unacceptable to put these charges for acquisitions on our ratepayers. Tr. 1791-1797. Thomas Miller testified that the Commission has a just say yes attitude to allow PAWC to impose financial hardship on its customers. Tr. 1819-1824. Joanna Stuck testified that her lowest bill in 2021 was \$178, and if there is an increase, her water bill will be over \$400 a month, and she is considering moving out of Exeter Township. Tr. 1856-1861. Maria Figueroa testified that she is a student with a fixed stipend and with each rate increase her stipend has been dwindling. Tr. 1869-1872. Carla Seidel testified that, prior to PAWC purchasing Exeter wastewater her bill was \$34 and now it averages \$200, and bills are not sustainable. Tr. 1873-1880.

B. Quality of Service

In Port Vue during the 1:00 p.m. public input hearing on January 29, 2024, State Representative Matthew Gergeley testified that old systems need to be fixed, but how the rates are increased needs to be evaluated. Tr. 149-150. Lissa Ludinich testified that metal plates and multiple sinkholes are on her street. Tr. 236-243. Victoria Curran testified that there are plates on the road. Tr. 244-248.

In Port Vue during the 6:00 p.m. public input hearing on January 29, 2024, Jody Goughnour testified that she had a bill for \$57.30 even though she had zero usage. Tr. 336-343. Diamond Vargo testified that she is billed for 4,000 gallons a month, but she only uses between 100 and 150 gallons a month and she doesn't have any leaks. Tr. 345-347.

In Scranton during the 1:00 p.m. public input hearing on January 30, 2024, State Senator Marty Flynn testified that some months customers don't get bills but then get a double bill with a late charge on it, and that at times there is dirty water. Tr. 397-404. Mary Tanealian testified that she drinks bottled water because the quality of her water is horrible. Tr. 450-462. Marie Ratchford-Demkosky testified that there is inconsistency in what she's charged per gallon each month. Tr. 479-481. Stephen Nelson testified that the water is not good to drink. Tr. 514-517. James McDermott testified that he has a sewage protection plan and there was a delay in addressing his problem, and also the water is dirty. Tr. 528-530. John Borer testified that his water has been ruined by water contaminated with rust. Tr. 537-540. Orestes Masdeu testified that PAWC forgot to bill him and then billed him a late fee. Tr. 541-543. David Dobrzyn questioned late fees for supposedly late bills. Tr. 547-550. Theresa Fagarlin testified that the water is cloudy, smells funny, and tastes like metal. Tr. 551-556. Joe Gilhooley testified that the water is unacceptable. Tr. 567-572. David Bergerhoff testified that the water is dirty, caused him stomach aches, and rate increases should be suspended until they rectify these issues. Tr. 573-580.

In Scranton during the 6:00 p.m. public input hearing on January 30, 2024, Dunmore Borough Council President Janet Brier testified that a water main break on Thanksgiving Day in 2023 destroyed basements and caused other disruptions, and PAWC was aware of the problem for years but did not fix it. Tr. 613-617. Scranton City Councilmember William King testified that he was contacted by constituents that did not get a December bill and were later hit with late fees. Tr. 627-638. Scranton City Councilmember Jessica Rothchild testified that PAWC paving projects were not properly done and PAWC has provided dirty water. Tr. 642-649. Paul Miller testified that his water has been dirty. Tr. 652-655. Fay Franus testified to not being billed then receiving a late fee, and that PAWC installed a new water line in her neighborhood but didn't return the street to the way it was and now when it rains water goes

into basements. Tr. 656-664. Greg Dombroski testified that he has dirty water. Tr. 665-668. Scranton School Board Director Sean McAndrew testified that many times in the summer he had dirty water or no water. Tr. 669-675. Doris Koloski testified that she has dirty water. Tr. 676-681. Elaine Sporko testified that she has poor water quality. Tr. 684-690, 761-762. Frank Serafini testified that he has dirty water. Tr. 691-698, 750-753. Linda Bonckiewicz testified that she has dirty water. Tr. 700-703. David Dobrzyn testified that he experiences poor water quality, and that PAWC removed a curb and replaced it with gravel. Tr. 703-707. Scranton City Councilmember Mark McAndrew testified that residents are afraid to consume the water because of the odor and appearance, and he has received complaints of people receiving late bills with late fees. Tr. 711-714. Thomas Coyne testified that the water has excessive chlorine, and he has experienced dirty water. Tr. 725-730. David Bergerhoff testified that the water quality is poor. Tr. 738-745. Joan Hodowanitz testified that the water is unpalatable, dirty, and smells. Tr. 745-750.

In Exeter Township during the 1:00 p.m. public input hearing on January 31, 2024, Amanda Johnsen testified that fluctuating billing cycles make it difficult to budget for high bills, and in some areas the water is undrinkable. Tr. 798-806. Kathleen Schwartz testified that the water pressure is poor, and she buys drinking water because water quality is garbage. Tr. 806-811. Diane Michalowski testified that line items on the invoices change. Tr. 811-814. Priscilla Gentry testified that the water quality is not good. Tr. 815-819. Keith Sauer questioned the billing period as anywhere between 27 and 35 days. Tr. 820-826. Ron Foy testified that he should be able to not wash clothes and still get full water pressure out of the sink. Tr. 827-832. Alice Shussett testified to changing billing periods, and that the water is hard and has a bad taste. Tr. 832-839. Judith Kraines testified that the water is hard and wears out appliances too soon. Tr. 844-848. Dorothy Pfeffer testified that PAWC provides inconsistent billing. Tr. 852-856. Sherri High testified that she has long waits on the phone to ask questions, and that she is not allowed to make payments over the phone. Tr. 862-865. Fiona Reiter testified that the water was atrocious before she put in a water softener. Tr. 866-868. Sheila Jones testified that the water quality is poor, necessitating the purchase of a water filtration system and to buy bottled water. Tr. 869-874. Stephen Anton testified to being billed sometimes for 4 weeks and sometimes for 5 weeks. Tr. 885-888. Michael Knoll complained about the billing cycle running

between 28 and 35 days. Tr. 897-901. Steven Taylor questioned the accuracy of his bills. Tr. 944-950. Shawn Schower testified that bills come sporadically. Tr. 950-955. Michelle Kircher, an Exeter Township Supervisor, testified that water quality is terrible and water pressure is up and down. Tr. 955-961.

In Exeter Township during the 6:00 p.m. public input hearing on January 31, 2024, Jordan Henning testified that the meter wasn't registering usage, and it took PAWC months to correct. Tr. 1016-1023. Cindy Murphy testified that she has to install a high-quality water filtration system because of the quality of the tap water. Tr. 1028-1033. Patricia Finley testified to varying billing cycles. Tr. 1034-1041. Eva Ross testified that PAWC does not provide adequate water pressure or quality, and that the number of days on bills varies each month. Tr. 1041-1047. William Clark testified that he keeps getting asked to inspect his property for lead pipes, but he is not a water customer. Mr. Clark also testified that PAWC bills by whatever days they want to. Tr. 1070-1076. Gail Coleman testified that PAWC has threatened to shut off her water even though she has a well. Tr. 1076-1081.

During the 1:00 p.m. telephonic public input hearing on February 5, 2024, Carla Moran testified that she doesn't use the water for drinking or cooking because there's a lot of dirt in the water. Tr. 1166-1172. Kendra Robinson testified that the water tastes bad, smells like chlorine, and hardness of water is damaging appliances. Ms. Robinson also testified to bill cycle fluctuations. Tr. 1267-1277. Kathleen Townsend testified that the water quality is hard and tastes horrible. Tr. 1277-1286.

In Harrisburg during the 1:00 p.m. public input hearing on February 6, 2024, Jodi Asay, with the Saw Creek Estates Community, testified that broken service lines are causing high bills and flooded basements. Ms. Asay also testified that water pressure is damaging her water system and result in higher bills. Tr. 1472-1523.

During the 1:00 p.m. telephonic public input hearing on February 7, 2024, Charles Wilson testified that water quality levels only seem to decline, and there is a chlorine odor and mineral deposits in his toilet water tanks. Tr. 1696-1703. Tacy Rutherford testified to intense

chlorine odor and taste. Tr. 1704-1714. Nereida Colon-Gonzales testified that the water tastes nasty, and hard water has damaged her appliances. Tr. 1742-1746.

During the 6:00 p.m. telephonic public input hearing on February 7, 2024, Shaun Keperling testified that customer service interactions have been awful, including long waits to speak with someone and little to no help. Tr. 1799-1812. Keith Sauer testified that the water quality is hard and has a strong chlorine smell and taste. Tr. 1843-1855. Joanna Stuck testified that to varying billing cycles, and that she has experienced hard water. Tr. 1856-1861. Ofamata Ejike testified that PAWC should improve communications of programs to customers. Tr. 1862-1868.

C. PAWC Supportive

In Port Vue during the 1:00 p.m. public input hearing on January 29, 2024, Jamie Colecchi testified that he supports PAWC's base rate filings to support infrastructure improvement. Tr. 168-174. Emanuel Paris testified that he supports the rate increase because infrastructure is outdated. Tr. 176-179. Jody Robertson, with Dollar Energy Fund, testified that PAWC has provided assistance to income-eligible households. Tr. 184-193. Joe Casilli testified that he is a utility contractor who supports the increase due to the need to replace aging infrastructure. Tr. 204-208. Jordan Grady, President of the Butler County Chamber of Commerce, testified to PAWC employees' volunteer service, the need for a rate increase for infrastructure improvements, and PAWC's customer assistance programs. Tr. 209-213. Chris Heck, with the Pittsburgh Airport Area Chamber of Commerce, testified in favor of the rate increase to improve aging infrastructure. Tr. 214-220. Will Thomeier, Director of Economic and Tourism Development with the Washington County Chamber of Commerce, testified to PAWC's partnership with economic development projects in Washington County. Tr. 221-224.

In Scranton during the 1:00 p.m. public input hearing on January 30, 2024, John Augustine, with Penn's Northeast, testified that adequate funding is imperative for infrastructure improvement and maintenance. Tr. 482-487. Eileen Ferretti, with the North Branch Land Trust, testified to working with PAWC for conservation of undeveloped land. Tr. 488-492. Bruce

Reddock, with the Scranton Lackawanna Industrial Building Company, testified that PAWC's infrastructure activities have created 50,000 jobs in Lackawanna County and attracted community investments in excess of \$2 billion. Tr. 493-501. William Hotaling, with Ixom Watercare, testified that he has worked with PAWC to make sure all constituents have safe, potable drinking water. Tr. 506-509. John Maday, with Riverfront Parks Committee, testified PAWC is a key community partner. Tr. 530-534. Richard Jenkins, with Pioneer Construction Company, testified that PAWC is critical to the growth and abilities of Pioneer Construction Company. Tr. 543-546.

In Exeter Township during the 1:00 p.m. public input hearing on January 31, 2024, Tim Fenchel, with the Schuylkill River Greenway National Heritage Area, testified that PAWC is a valued partner. Tr. 889-893.

In Exeter Township during the 6:00 p.m. public input hearing on January 31, 2024, Arthur Auchbach testified that he is an approved vendor for PAWC and asserted that PAWC is better equipped to handle problems than a municipality. Tr. 1048-1054.

During the 1:00 p.m. telephonic public input hearing on February 5, 2024, Gary Sanderson testified that it is important to maintain and improve potable water systems. Tr. 1143-1150. Brian Winslow, Watershed Conservation Director for Brandywine Red Clay Alliance, testified that PAWC has been a strong supporter of efforts to treat sourced water before it gets to the plant. Tr. 1174-1178. Robert Hughes, with the Eastern Pennsylvania Coalition for Abandoned Mine Reclamation, testified that PAWC helps with efforts to clean up abandoned mine lands and restore waterways that are impacted by mine drainage. Tr. 1187-1195. Richard Black, with Brownsville Fire Company Number 1, testified that PAWC helps with equipment maintenance. Tr. 1196-1201. Lisa Brown, with Watersheds of South Pittsburgh, testified that PAWC is a partner with clean water efforts. Tr. 1202-1207. Laura Manion, with the Chester County Chamber of Business and Industry, testified that PAWC provides necessary infrastructure improvements. Tr. 1208-1213. Evan Midler, with Cross Creek Township, testified that PAWC's development projects reflect pivotal investment in anticipated water infrastructure. Tr. 1215-1221. Justin Bruce, with Bruce & Merrilees Electric, testified that

PAWC has a robust and responsible program to maintain and upgrade its infrastructure. Tr. 1221-1229. James Gross, with York City Parks Conservancy, testified that PAWC is a great community partner. Tr. 1230-1233. John Brutz testified that granting PAWC rate increase request will allow PAWC to continue to provide the highest quality of product and service. Tr. 1243-1249. Katherine Hetherington Cunfer, with the Greater Reading Chamber Alliance, testified that PAWC is a member of her chamber, and that, while no one likes to see their rates go up, everyone expects to turn on their faucets and be provided with safe, clean, and reliable drinking water. Tr. 1287-1295. Jason Winey, with the Pennsylvania Envirothon, testified that PAWC is a valued partner. Tr. 1306-1314. Raelynn Cox, with the United Way of the Capital Region, testified that PAWC has aided the United Way's Early Education Program. Tr. 1316-1321.

During the 6:00 p.m. telephonic public input hearing on February 5, 2024, Nelly Jimenez, with Alcamo, testified that PAWC provides support for Alcamo, an organization that provides services to families and children around Montgomery County. Bob Bielich, with Disaster Restoration Services, testified that PAWC is a very good company to work for. Tr. 1379-1387.

In Harrisburg during the 1:00 p.m. public input hearing on February 6, 2024, Kathy Anderson-Martin, with Big West Food Bank Pennsylvania, testified that PAWC has been a wonderful supporter of her group. Tr. 1433-1446. Clarence Hitz, with the Harrisburg YMCA, testified that PAWC has helped the YMCA host races. Tr. 1447-1458. William Dingman, with the Manada Conservancy, testified that PAWC has partnered with the Manada Conservancy since 2013 to promote and improve the water quality of the Swatara Creek. Tr. 1459-1471. Michael Iskric, with the Steelton-Highspire School District, testified that PAWC has provided support to the Steelton-Highspire School District. Tr. 1524-1538.

In Harrisburg during the 6:00 p.m. public input hearing on February 6, 2024, Kevin Hall testified that New Cumberland's decision to sell its wastewater treatment plant to PAWC had positive outcomes for New Cumberland. Tr. 1594-1605. Jessica Kemmerer testified that she supported PAWC's rate increase request because she understands the challenges posed

by aging infrastructure. Tr. 1605-1608. Jason Beale, with the Central Pennsylvania Conservancy, testified that upgrading infrastructure improves the health of water quality. Tr. 1609-1611.

During the 1:00 p.m. telephonic public input hearing on February 7, 2024, State Representative Donna Oberlander testified to the positive activities of PAWC in her region (Clarion County and parts of Armstrong County). Tr. 1640-1646. State Representative Bud Cook testified that PAWC took control of the failing East Dunkard Water Authority and is providing safe drinking water to the residents and businesses in his district. Tr. 1647-1652. Vernon Ohler, with the City of Connellsville, testified that PAWC communicates well and provides infrastructure improvement. Tr. 1676-1679. Edward Powers, with Fire Service, testified that the ability to fight fire will be improved as the public water supply is expanded. Tr. 1681-1686. Steve Strange, with the East End United Community Center, testified that PAWC employees provide volunteer services. Tr. 1688-1695. Michael Grigalonis, with the Chester County Economic Development Council, testified that PAWC is a vital member of the business community. Tr. 1715-1722. William Kukurin applauded PAWC's infrastructure upgrades. Tr. 1723-1730. Daniel Feleck, with Low Kiski Water Rescue Team, testified that PAWC promotes volunteerism and community outreach. Tr. 1731-1736. Timothy Chamberlain, with Yardley-Makefield Fire Company, testified that PAWC's customer service is outstanding, and he supports PAWC's rate increase request because it will improve services and infrastructure. Tr. 1750-1753. John Papalia, with the Warren County Chamber of Commerce, testified that PAWC is a strong community supporter with infrastructure upgrades, community service, and assistance programs. Tr. 1754-1756. Daniel Beinhower, with EK Services, testified supporting PAWC's infrastructure improvements, which benefits the tradespeople his company employs. Tr. 1756-1761.

During the 6:00 p.m. telephonic public input hearing on February 7, 2024, William Adams with IBEW Local 654, testified supporting PAWC's infrastructure improvement activities because they provide jobs and public health benefits. Tr. 1813-1818. Kurt Henry, with the Conodoguinet Creet Watershed Association, testified that PAWC has provided support to his organization. Tr. 1825-1830. Diane Godshall, with Hyrdotech Environment, testified to a

positive experience bidding for work with PAWC. Tr. 1831-1834. Leonard Wilson, with Kentrel Corporation, testified that, due to PAWC's commitment to infrastructure improvements, his company has been able to hire additional employees. Tr. 1835-1838. Muriel Nuttal, with Fayette County Chamber of Commerce, testified that PAWC is a partner in building and growing Fayette County. Tr. 1880-1887.

D. Other

The public input hearings also included a variety of topics other than concerns over affordability and quality of service, or expression of support for PAWC. As can be seen below, frequent other topics included: customers questioning why wastewater isn't metered like water; concerns over allocation of costs between the water and wastewater divisions; objections to proposals for revenue decoupling and the Environmental Compliance Investment Charge (ECIC); and criticisms of Act 12.

In Port Vue during the 1:00 p.m. public input hearing on January 29, 2024, Mark D. Tortorice questioned why sewers don't have meters and why there are charges for wastewater service that hasn't been used. Tr. 141-149, 165-167.

In Port Vue during the 6:00 p.m. public input hearing on January 29, 2024, David Deliman expressed concern with the municipality's sewage being sold in the first place, and with the Commission approving the increase to Port Vue's water and sewer rates. Tr. 295-298. Julian Thomas testified that some people don't understand that they are receiving a sewage bill, but instead that they are paying a bill that covers both water and sewage. Tr. 299-309. Joseph Ingram questioned why customers are asked to pay for pipelines outside of their property. Tr. 330-331. Patrick Loera testified that the Commission awarded more than PAWC asked for in the previous base rate case, which the Commission should not have done. Tr. 348-351. Donna Priselac questioned why sewage isn't metered like water. Tr. 352-354. Deborah Thomas testified that she shouldn't pay for sewage she doesn't use, and that sewage should be metered. Tr. 355-356. Daniel Negley testified that PAWC relined every sewer line in Port Vue, but that it

wasn't absolutely necessary. Mr. Negley also asserted that PAWC should figure out the sewage actually used. Tr. 357-362.

In Scranton during the 1:00 p.m. public input hearing on January 30, 2024, Max Conway, Mayor of Dunmore, testified that there is a lack of clarity regarding the need for such significant rate hikes, and when PAWC purchased the Scranton wastewater system in 2016 they promised minimal rate hikes over a 10-year period which they have not honored. Tr. 431-444. Christopher Paone, Borough Manager of Blakely, testified that PAWC's activities repairing leaks on the Borough's roads cause a hardship to the municipality. Tr. 444-448. Larry Milliken testified that he was concerned that PAWC will reallocate their revenues between the two divisions without oversight or approval. Tr. 463-473. Thom Welby testified that he was paying more for wastewater than water. Tr. 473-479. David Phaneuf testified that water company customers shouldn't have to pay wastewater costs. Olivia Jackson questioned PAWC's wastewater calculations, stating "water in is not always water out." Tr. 509-513. Jahan Tabatbaie questioned why extra revenue leads to PAWC purchasing other water and/or wastewater systems. Tr. 517-521. Victoria Hannevig advocated returning to a seigniorage system. Tr. 521-527. James McDermott testified that he was billed for 34 days when he wasn't home for 7 of those days. Tr. 528-530. Richard Brill asserted that PAWC manipulated his bill by issuing bills for varying numbers of days, or issued identical bills for two billing periods, which he asserts is questionable. Tr. 534-537. David Dobrzyn testified that his water bill is being used to subsidize sewer systems and he gets nothing out of it. Tr. 547-550.

In Scranton during the 6:00 p.m. public input hearing on January 30, 2024, Moosic Borough City Council member Jane Sterling testified that PAWC's base rate filing will negatively impact the environment as people may feel that saving water is not worth it if it doesn't decrease their high water bills. Tr. 617-620. Paul Miller testified that he filled his pool up and had to pay for sewage service he didn't use as a result. Tr. 652-655. Doris Koloski expressed concern with PAWC's communications when they are doing work in her area. Tr. 676-681, 758-760. Marie Schumacher testified that people use water to clean, and if they have to cut back, that could create health issues. Tr. 681-683. Elaine Sporko testified that PAWC does not provide compensation when water is off or unusable. Tr. 684-690, 761-762. Frank

Serafini testified that he pays for sewage service for water where the water doesn't go into the sewer. Tr. 691-698. Linda Bonczkiewicz testified that PAWC shouldn't expect people to pay for repairs for other people. Tr. 700-703. Eva Siarniak testified that no credit is given for outages. Tr. 715-719. Stephen Planchock questioned the existence of the DSIC along with the proposed rate increase. Tr. 721-725. Thomas Coyne questioned why PAWC is replacing miles of pipes and asserted that PAWC are only doing small sections to repair a breach while leaving decaying pipes. Eli Verchuck agreed with Marie Schumacher's health concerns. Tr. 731-734. David Bergerhoff testified that the Commission needs to do its job and that he was blindsided by the last increase. Tr. 735-737. George Young testified that the Commission is either on the people's side of the corporatists' side. Tr. 754-758.

In Exeter Township during the 1:00 p.m. public input hearing on January 31, 2024, State Senator Judy Schwank testified that the ripple effects of Act 12 have been felt across the Commonwealth, and a wastewater decrease is masked by stipulations and alternative ratemaking practices. Tr. 788-797. Amanda Johnsen testified that she is charged for wastewater whether or not water goes down the drain. Tr. 798-806. Keith Sauer questioned why PAWC hasn't tapped into the \$55 billion allocated to safe drinking water through the bipartisan infrastructure bill. Tr. 820-826. Ron Foy testified that Act 12 allows PAWC to buy up small water companies and then charge all of us for it, and that decoupling is legalized price fixing. Tr. 827-832. Dorothy Pfeffer questioned why PAWC can't meter what goes in the sewer. Tr. 852-856. Christopher Cappuccitti testified that PAWC is not ethical in that they get paid for services they don't provide (water going into the sewer), customers should be permitted to install a "deduct meter," and Act 12 is horrible legislation. Tr. 857-862. Sherri High testified that there is no leeway in summer months for customers that have a pool, or cars being washed at home where the water doesn't go to the sewer. Tr. 862-865. Fiona Reiter questioned what improvements PAWC has done to the sewer. Tr. 866-868. Sheila Jones testified that there are hidden costs associated with water service, i.e., water that doesn't go into the sewer. Tr. 869-874. Michael Datko testified against cross-subsidization of water infrastructure costs across Pennsylvania and Act 12. Tr. 880-884. Michael Knoll questioned PAWC's commitments to keeping rates for Exeter Township customers the same. Tr. 897-901. Ruth Benderoth testified that she would prefer being charged for a sewer meter, that she didn't think water customers

should be held responsible for sewage costs. Ms. Benderoth also testified against Act 12 and that requests to uncouple sewage and water billing be denied. Tr. 913-917, 970-974. Steve Rimby testified that Exeter Township should never have sold the sewage system, that customers should not pay for improvement in other water or sewer facilities in other areas, and rates shouldn't go up if other are delinquent on their account. Charles Bauman testified that he only has sewer, and he is billed on every drop that comes out of his well. Tr. 930-934. Leroy Reinert testified that he is paying for something that he is not receiving, i.e., unmetered sewer service. Tr. 941-943. Shawn Schower criticized revenue decoupling, stating that if he does conserve, he could end up paying more. Tr. 950-955. Sean Hollis testified that Act 12 is a disgrace. Tr. 962-965. Sharon Winter objected to the revenue decoupling proposal because people who conserve will end up being penalized. Tr. 966-969.

In Exeter Township during the 6:00 p.m. public input hearing on January 31, 2024, State Senator Judy Schwank testified that revenue decoupling hurts those who try to conserve and that the ECIC allows PAWC to offset the cost of environmental compliance projects onto the consumer. Tr. 1004-1009. Cindy Murphy testified that billing wastewater off water usage is not appropriate. Tr. 1028-1033. Patricia Finley criticized revenue decoupling and the ECIC. Tr. 1034-1041. Eva Ross testified that PAWC requests rate increases to buy wastewater systems and then compensate executives, and that the revenue decoupling mechanism penalizes customers for saving water. Tr. 1041-1047. Scott Colquhoun testified that PAWC bills for water not going back into the wastewater system. Tr. 1055-1060. Jeffrey Greene testified that executive salaries are too high. Tr. 1060-1062. William Clark testified that he is paying PAWC so PAWC can buy other customers. Tr. 1070-1076. Gerald Erdman testified that Act 12 needs to be modified. Tr. 1081-1086. Andrew Kingsbury testified that not all water used is sewage, and that PAWC pricing is only justified when subsidizing their existing customer base or to further expansion and acquisitions. Tr. 1096-1101. Matthew Heligen testified that PAWC should put a meter on outgoing water. Tr. 1102-1107.

During the 1:00 p.m. telephonic public input hearing on February 5, 2024, Richard D'Angelo stated that he should not have to pay sewage treatment for other cities. Tr. 1161-1165. Leroy Watters testified that PAWC doesn't do anything to protect the resource

they draw from, i.e., the Schuylkill River. Tr. 1180-1186. Timothy Crellman testified that he is a water only customer and objects to subsidizing the wastewater system. Tr. 1250-1255. Kendra Robinson expressed concern that PAWC is profiting off water. Tr. 1267-1277.

During the 6:00 p.m. telephonic public input hearing on February 5, 2024, Raymond Sever testified that people who are only water customers shouldn't bear the burden of wastewater service. Tr. 1348-1351. Jeronimo Hernandez testified that as long as PAWC has to report quarterly earnings and appease shareholders fees and usage rates will continue to increase. Tr. 1369-1378.

In Harrisburg during the 1:00 p.m. public input hearing on February 6, 2024, Michael Langan testified that he doesn't want rates he pays to go towards the various programs PAWC sponsors. Tr. 1538-1548.

In Harrisburg during the 6:00 p.m. public input hearing on February 6, 2024, Gary Iorfido testified that water customers shouldn't be forced to pay wastewater costs. Tr. 1585-1593.

During the 1:00 p.m. telephonic public input hearing on February 7, 2024, Harry Liquore testified that since he doesn't get wastewater, he shouldn't have to pay for wastewater. Tr. 1660-1673. Charles Wilson criticized the sale of the Exeter Township wastewater system and Act 12. Tr. 1696-1703. Tacy Rutherford testified against the revenue decoupling mechanism. Tr. 1704-1714.

During the 6:00 p.m. telephonic public input hearing on February 7, 2024, State Representative Christina Sappey testified about actions taken to correct problems created by Act 12. State Senator Katie Muth criticized the ECIC. Tr. 1791-1797. Shaun Keperling testified that he's not allowed to install a deduct meter, so water used outside the home won't be counted for wastewater. Tr. 1799-1812. Phil Choff testified that PAWC needs to extend its main lines to people who desperately need water. Tr. 1839-1843. Keith Sauer testified that the ECIC is flawed, and customers should not have to pay for PAWC spending in another area. Tr. 1843-

1855. Carla Seidel testified that PAWC has not applied for federal infrastructure funds. Tr. 1873-1880.

V. LEGAL STANDARD/BURDEN OF PROOF

Under the Public Utility Code, rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301, 1304. PAWC bears the burden of proof to establish the justness and reasonableness of every element of its rate increase request. 66 Pa.C.S. § 315(a); *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00038805 (Opinion and Order entered Aug. 5, 2004). However, a public utility, in proving that its proposed rates are just and reasonable, does not have the burden to affirmatively defend claims made in its filing that no other party has questioned. As the Commonwealth Court has explained:

While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.

Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm'n, 570 A.2d 149, 153 (Pa. Cmwlth. 1990).

Although the ultimate burden of proof does not shift from the utility seeking a rate increase, a party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See, e.g., Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, Docket No. R-00891364 (Opinion and Order entered May 16, 1990); *Pa. Pub. Util. Comm'n v. Breezewood Tel. Co.*, Docket No. R-00901666 (Opinion and Order entered Jan. 31, 1991). Purely speculative assumptions are insufficient. *Pa. Pub. Util. Comm'n v. Pa. Power & Light Co.*, 85 Pa.P.U.C. 306 (Sept. 27, 1995).

Further, a party that raises an issue that is not included in a public utility's general rate case filing bears the burden of proof. *Pa. Pub. Util. Comm'n v. Metro. Edison Co.*, Docket No. R-00061366 (Opinion and Order entered Jan. 11, 2007). The proponent of a rule or order

bears the burden of proof pursuant to Section 332(a) of the Public Utility Code, which provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. 66 Pa.C.S. § 332(a). It is axiomatic that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990) (*Lansberry*). The preponderance of the evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 732 A.2d 1167 (Pa. 1999).

Additionally, any finding of fact necessary to support an adjudication of the Commission must be based on substantial evidence. *Met-Ed Indus. Users Group v. Pa. Pub. Util. Comm’n*, 960 A.2d 189 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm’n*, 942 A.2d 274 (Pa. Cmwlth. 2008). Substantial evidence must be “more than a scintilla and must do more than create a suspicion of the existence of the fact to be established.” *Kyu Son Yi v. State Bd. of Vet. Med.*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted). However, the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.” *Allied Mech. & Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

If the complainant has established a *prima facie* case, the burden of persuasion shifts to the utility to rebut with evidence that is at a minimum co-equal. *Waldron v. Phila. Elec. Co.*, Docket No. C-77100047 (Order entered Mar. 19, 1980). If the utility presents a sufficient rebuttal, the burden of persuasion then shifts back to the complainant to rebut the utility’s evidence by a preponderance of the evidence. *Hurley v. Hurley*, 754 A.2d 1283 (Pa. Super. 2000). However, the burden of proof remains on the party seeking affirmative relief with the Commission. *Milkie v. Pa. Pub. Util. Comm’n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

The Commission is not required to consider expressly and at length each contention and authority brought forth by each party to the proceeding. *Univ. of Pa. v. Pa. Pub.*

Util. Comm'n., 485 A.2d 1217 (Pa. Cmwlth. 1984). “A voluminous record does not create, by its bulk alone, a multitude of real issues demanding individual attention” *Application of Midwestern Fidelity Corp.*, 363 A.2d 892, 902, n.6 (Pa. Cmwlth. 1976). Further, a Commission decision is adequate where, on each of the issues raised, the Commission was merely presented with a choice of actions, each fully developed in the record, and its choice on each issue amounted to an implicit acceptance of one party's thesis and rejection of the other party's contention. *Popowsky v. Pa. Publ. Util. Comm'n.*, 706 A.2d 1197 (Pa. 1997).

VI. RATE BASE

A. Utility Plant In Service

1. PAWC's Position

PAWC asserts that the increase in its utility plant-in-service since its last base rate case is the single largest factor driving the Company's need for an increase in revenues. Since the end of the FPFTY in its last case (December 31, 2023), through the end of the FPFTY in this case (June 30, 2025), PAWC states it will have invested over \$1 billion in new or replacement plant, and the overwhelming portion of this investment is in source of supply, treatment, distribution and collection assets.⁶ PAWC asserts that part of this investment is also being used to improve service to small and troubled water and wastewater systems that PAWC has acquired in furtherance of the Commission's policy that larger, viable water and wastewater companies acquire small, troubled systems and make the necessary improvement to provide safe and reliable service.⁷ To address these diverse capital needs, PAWC states it must raise substantial amounts of debt and equity and, in the process, demonstrate its ability to provide a reasonable

⁶ PAWC St. 1, p. 8; PAWC St. 3, pp. 9-11.

⁷ PAWC St. 1, p. 8.

return in order to convince investors to commit their funds to the Company.⁸ PAWC MB at 11-12.

PAWC submits that its requested revenue requirement properly includes the AWC, BASA, Farmington and Sadsbury acquisitions that Company witness Abruzzo testified are expected to close before the end of the FPFTY. PAWC argues there is no reason to treat an acquisition any differently than any other plant that the utility places in service during the FPFTY.⁹ In fact, PAWC avers, in April 2020, PAWC filed a rate case that included the not-yet-completed acquisitions of systems owned by the Borough of Kane Authority,¹⁰ the Winola Water Company¹¹ and the Delaware Sewer Company.¹² The PUC allowed all of these acquisitions to be included in PAWC's rates.¹³ Similarly, in April 2022, PAWC filed a rate case that included the pending acquisitions of systems owned by the York City Sewer Authority,¹⁴ Upper

⁸ *Id.*

⁹ See 66 Pa.C.S. § 315(e); *Use of Fully Projected Future Test Year*, 52 Pa. Code Chapter 53.51-53.56a, Docket No. L-2012-2317273 (Notice of Proposed Rulemaking Order entered June 17, 2021), p. 8 (citations omitted).

¹⁰ *Application of Pa.-American Water Co., Pursuant to the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1102(a) and 1329, for Approval of the Transfer, by Sale, of the Wastewater Collection and Treatment System of the Borough of Kane Auth.*, Docket No. A-2019-3014248 (Order entered June 18, 2020).

¹¹ *Pa. Pub. Util. Comm'n v. Winola Water Co.*, Docket No. P-2018-3006216 (Order entered Aug. 6, 2020) (a Section 529 acquisition).

¹² *Investigation Instituted per Section 529 Into Whether the Commission Shall Order a Capable Public Utility to Acquire Delaware Sewer Company*, Docket No. I-2016-2526085 (Opinion and Order entered Mar. 26, 2020).

¹³ Tr. 1971.

¹⁴ *Application of Pa.-American Water Co. to Acquire the Wastewater Collection and Treatment System Owned by the York City Sewer Auth.*, Docket No. A-2021-3024681 (Order entered Apr. 14, 2022) (a Section 1329 transaction).

Pottsgrove Township,¹⁵ Foster Township¹⁶ and the Creekside Homeowners Association.¹⁷ The Commission again allowed all of the acquisitions to be included in PAWC's rates.¹⁸ PAWC asserts there is no reason why the Commission should treat the acquisitions in this base rate case any differently than it treated the acquisitions in PAWC's 2020 and 2022 base rate cases. PAWC MB 12-14.

PAWC states that when the Commission enters its order in this proceeding, the Commission should take official notice of the status of the BASA, Sadsbury, Farmington, and AWC acquisition proceedings at that time. If the Commission or a court of competent jurisdiction has entered a final, unappealable order approving any of these acquisitions, the Commission should allow that acquisition to be placed into rates, even if closing has not yet occurred. If a final, unappealable order has been entered by that time, the Commission can be reasonably certain that the transaction will close by the end of the FPFTY. PAWC asserts that no party to this proceeding could identify a single recent transaction in which closing did not occur after the Commission or a court of competent jurisdiction entered a final, unappealable order approving the acquisition. Moreover, Mr. Abruzzo estimated that each of the acquisitions discussed above could be closed within a few weeks following approval.¹⁹ Consequently, PAWC avers that the Commission could be reasonably certain that the transactions would close by the end of the FPFTY. PAWC MB at 14.

PAWC argues that, to date, the Commission has not held that an acquisition must close before the Commission enters its order in a base rate case, and there is no need for the

¹⁵ *Application of Pa.-American Water Co. under Sections 1102 and 1329 of the Pa. Pub. Util. Code, to Acquire the Wastewater Collection and Conveyance System of Upper Pottsgrove Twp.*, Docket No. A-2020-3021460 (Order entered Sept. 15, 2021).

¹⁶ *Application of Pa.-American Water Co. to Acquire Certain Wastewater Assets from Foster Twp.*, Docket No. A-2021-3028676 (Order entered July 14, 2022) (a Section 1102 acquisition).

¹⁷ *Application of Pa.-American Water Co. to Acquire Certain Water System Assets from Creekside Homeowners Ass'n*, Docket No. A-2022-3031020 (Order entered May 18, 2023) (a Section 1102 acquisition).

¹⁸ Tr. 1971.

¹⁹ PAWC St. 6-R, pp. 3-5.

Commission to do so now. Such a holding would be bad public policy because it would create a lag in recovery on and of legitimate investment by utilities, which in turn creates a disincentive for public utilities to acquire systems (especially small or troubled systems like AWC).²⁰ It could also lead to more frequent rate cases for utilities to reduce this lag in recovery. Excluding these systems in this case would be one factor that PAWC considers in determining when it will file another rate case.²¹ PAWC MB at 15.

In its Reply Brief, PAWC confirmed that in oral rejoinder offered at the evidentiary hearings, PAWC agreed to remove the Brentwood system from its rate claim.²² PAWC states that its remaining disputes with I&E, the OSBA, and the OCA regarding the Acquisitions concerns timing. PAWC states that as explained in its Main Brief, including assets in a rate case is appropriate if those assets will be used and useful by the end of the FPFTY.²³ The Commission should not find that closing on an acquisition must occur prior to the closing of the record in a rate case. Instead, when the Commission enters its final order in this proceeding, it should review the status of the Acquisition proceedings and determine whether closing is reasonably certain to occur before the end of the FPFTY. PAWC RB at 10-11.

In its Main Brief, the OCA discusses several examples of acquisitions that did not close after the Commission issued an order approving the acquisition. The OCA also argues that most acquisition agreements allow parties to terminate the transaction before closing.²⁴ PAWC avers that these arguments, however, miss the mark. The record contains no examples of an acquisition in which the buyer and seller pursued an acquisition to the point of achieving a final unappealable Commission or Court order approving the transaction, and then walked away from

²⁰ Tr. 1993.

²¹ PAWC St. 6-R, p. 13.

²² Tr. 1970. In its Reply Brief, PAWC referred to the remaining acquisitions (BASA, Sadsbury, AWC and Farmington) as the “Acquisitions.”

²³ See also *Use of Fully Projected Future Test Year*, 52 Pa. Code Chapter 53.51-53.56a, Docket No. L-2012-2317273 (Notice of Proposed Rulemaking Order entered June 17, 2021), p. 8.

²⁴ OCA MB at 27-28.

the deal and failed to close on the transaction. PAWC states that additionally, Mr. Abruzzo testified that PAWC and all of the sellers in the acquisitions listed above continue to be committed to the transaction.²⁵ PAWC RB at 12.

PAWC states that if, however, the Commission agrees with OCA, I&E and OSBA with respect to the certainty of closing the BASA acquisition, PAWC's proposed two-step rate increase structure addresses this concern.²⁶ Step 1 rates would become effective on August 7, 2024 (the end of the normal suspension period in this case). Step 2 rates would become effective on one day's notice, no earlier than August 7, 2024, and only after the Company has certified to the Commission that it closed on the BASA acquisition. If, for any reason, the BASA acquisition does not close, Step 2 rates would never become effective. PAWC states that this step methodology ensures that customers are protected by not allowing any rate changes to occur until the Company has closed on the purchase of the BASA system. PAWC RB at 12-13.

2. I&E's Position

I&E states that PAWC has included in this filing various water and wastewater acquisitions that are currently pending before the Commission; however, it does not yet have Commission approval to acquire these systems and, as a result, it does not currently own them. These systems include the Bulter Area Sewer Authority wastewater system (BASA), Brentwood wastewater system, the Farmington Township (Farmington) water and wastewater system, the Sadsbury wastewater system, and the Audubon Water Company (AWC) water system. I&E recommends that all costs be denied with respect to the remaining systems identified above. I&E states that PAWC has the burden to demonstrate that the property is actually used and useful in the public service.²⁷ The Brentwood, Farmington, Sadsbury and Audubon acquisitions have not closed as they have not been approved by this Commission. Property that is not owned by PAWC is not used and useful in service to its customers. Therefore, PAWC has not met its

²⁵ Tr. 1992.

²⁶ PAWC St. 1-R, p. 4; Tr. 1970.

²⁷ *Bell Tel. Co. v. Pa. Pub. Util. Comm'n*, 408 A.2d 917, 925 (Pa. Cmwlth. 1979).

burden of proving that ratemaking recovery is in the public interest. I&E MB at 10-11.

I&E is recommending a total fair value for PAWC's water rate base of \$4,688,960,669.²⁸ In determining the appropriate water rates base, I&E disagrees with PAWC proposal to include the Farmington and AWC water distribution systems as the acquisitions have not yet been approved by the Commission. I&E argues that requesting rate recovery in this proceeding is improper because there is no way to know whether and when those transactions will be approved. The public interest requires that ratepayers pay a return of and on assets that are used and useful in the public service. If PAWC does not yet own the assets, they are not used and useful in the public service to PAWC ratepayers. I&E asserts that treating potential acquisitions as a fait accompli regardless of the status of the actual acquisition to begin recovering costs as early as possible is not in the public interest and is harmful to ratepayers.²⁹ I&E MB at 11-12.

I&E argues that including these systems in rates now is inappropriate because the Commission might require a change in the purchase price or deny the proposed transaction in its entirety. Therefore, PAWC ratepayers would pay for a return of and a return on the Farmington and AWC assets and expenses that could be inaccurate for the entire period between the implementation of rates in this case and the implementation of rates in the next subsequent case. I&E states that it is unreasonable and contrary to sound ratemaking principles to allow rate recovery for acquisitions where the acquisition dockets are currently pending, and no closing dates have been established. I&E MB at 12-13.

Further, I&E argues, prematurely including these pending acquisitions in rates severely limits the effectiveness of any public input hearings as it essentially preapproves the request and removes the opportunity for customers to make their voices heard regarding the potential sale of their water or wastewater utility. I&E asserts that no incentive exists for a customer to speak up regarding an acquisition if the Commission has already allowed it to be

²⁸ Appendix A, I&E Table I - Water Operations, column F, line 22.

²⁹ I&E St. 4, pp. 5-6.

included for rate recovery before issuance of an order approving PAWC's ownership. This stands directly opposed to the public interest. I&E MB at 13.

I&E witness Kubas recommends that the rate base, expenses, taxes, revenue, and corresponding revenue shortfall from the Brentwood system be excluded from this case.³⁰ In addition, Mr. Kubas recommended that the rate base, expenses, taxes, and revenue from the BASA system be excluded from this case.³¹ His recommendation is based largely on the fact that PAWC does not own the system, and the transaction closing date, if any, is unknown.³² For the same reason, Mr. Kubas recommends the rate base, expenses, taxes, and revenue from the Farmington wastewater system³³ and Sadsbury wastewater system³⁴ be excluded from this case. I&E MB at 14-15.

In its Reply Brief, I&E states that PAWC has characterized the closing of these systems as "likely" to occur before the end of the FPFTY. In its Main Brief, the Company says that there is no reason to treat these systems any differently than any plant the utility places in service during the FPFTY. I&E submits, however, that there are good reasons to treat these systems differently than plant place in service in the FPFTY. First, and foremost, there is no law that allows them to place these systems they do not own into rate base, while current law does allow for the inclusion in rate base of plants that will be placed in service in the FPFTY. I&E further avers that the Company's argument ignores a glaring difference. This plant to be placed in service in the FPFTY that is being discussed is all related to systems that it already owns. I&E RB at 2-3.

I&E asserts that while it is true that PAWC was allowed to include pending acquisitions in its 2020 and 2022 base rate cases, PAWC has failed to include what separates

³⁰ I&E St. 3, p. 4.

³¹ I&E St. 3, p. 6.

³² *Id.*

³³ *Id at 7.*

³⁴ *Id at 8.*

those acquisitions from the ones in the instant case. Regarding PAWC's 2020 base rate case, the case was filed on or about March 31, 2020. Other parties' direct testimony was due September 2, 2020. The Recommended Decision in the Borough of Kane proceeding, which approved the unopposed settlement, was issued on May 7, 2020, and the Commission's final Order was adopted on June 18, 2020.³⁵ This was almost three months before the other parties direct was due and the appeal period, which was unlikely to be used because the Commission approved an unopposed settlement, had expired. On August 6, 2020, the Commission entered an Order approving an unopposed settlement by which PAWC, which was already the receiver of Winola Water, would purchase the system.³⁶ This was approximately one month before the other parties direct was due in the base rate case, and being an approved unopposed settlement was unlikely to be appealed. I&E states that Delaware Sewer was another Section 529 acquisition and once again, this acquisition was the product of an unopposed settlement which was approved by the Commission. The Commission's final order in the Delaware Sewer acquisition was entered June 13, 2019.³⁷ I&E avers that the above-referenced acquisitions were clearly different than the acquisitions included in the instant filing. Further, there was reasonable degree of certainty that they would be closed within the FPFTY that we do not have here. I&E RB at 3-4.

I&E states that PAWC's 2022 base rate case was filed on March 20, 2022.³⁸ An Order approving the settlement in that proceeding was entered on December 8, 2022. In that proceeding, non-company direct testimony was due July 29, 2022. In that proceeding, the York acquisition³⁹ was included in rate base. The unanimous settlement of all issues approving the

³⁵ *App. of Pa. American Water for Approval of the Transfer, by Sale, of the Wastewater Collection and Treatment System of the Borough of Kane Auth.*, Docket No. A-2019-3014248 (Order entered June 18, 2020).

³⁶ *Pa. Public Util. Comm'n v. Winola Water Co.*, Docket No. P-2018-3006216, pp. 1-2, (Order entered Aug. 6, 2020).

³⁷ *Investigation Instituted per Section 529 Into Whether the Commission Shall Order a Capable Public Utility to Acquire Delaware Sewer Co.*, Docket No. I-2016-2526085 (Order entered June 13, 2019).

³⁸ *Pa. Pub. Util. Comm'n v. Pa. American Water Co.*, Docket No. R-2022-3031672 (Order entered Dec. 8, 2022).

³⁹ *App. of Pa. American Water Co. to Acquire the York City Sewer Auth.*, Docket No. A-2021-3024681 (Order entered Apr. 14, 2022).

York Sewer Authority acquisition was approved in an Order entered April 14, 2022. I&E avers that like most of the acquisitions above, it was unlikely that this Order would be appealed since all parties to the proceeding joined in the approved settlement. Regarding the Upper Pottsgrove Acquisitions, the Commission's Order approving the non-Unanimous settlement was entered on September 15, 2021.⁴⁰ On June 30, 2022, PAWC closed on the acquisition. The was approximately a month before the parties direct testimony was due in the 2022 base rate case. I&E RB at 5.

I&E states that PAWC's acquisition of the Creekside Development involved the acquisition of a system that at the time served 49 residential customers, and when the subdivision was fully developed, would serve approximately 102 single-family homes and 17 townhomes.⁴¹ The Commission's Bureau of Technical Utility Services (TUS) reviewed the filing, and no other parties were involved. I&E states that in this case, although the opportunity was available, no parties (not I&E, OCA or OSBA, among others) were involved in this proceeding seemingly suggesting that there was no large opposition or major concern with this acquisition. I&E avers that furthermore, of all the acquisitions discussed, this was by far the smallest and would have the least impact on PAWC's customers and rate base. I&E RB at 5-6.

I&E concludes that a quick review of the acquisitions involved shows that all those that were allowed to be included in rate base were vastly different than the acquisitions included in the instant base rate case. The prior acquisitions could all reasonably be assumed to be closed at some point within the FPFTY, whereas the various acquisitions included in this base rate case have generally either barely started or are working through various different appeal processes. Therefore, while in some instances, PAWC has been allowed to include in rate base some systems that it does not outright own at the filing of the case, it is clear that in this case, it would be inappropriate to include systems that PAWC cannot say with any level of certainty it will own by the end of the FPFTY. I&E RB at 6.

⁴⁰ *App. of Pa. American Water to Acquire Upper Pottsgrove Twp.*, Docket No. A-2020-3021460 (Order entered Sept. 15, 2021)

⁴¹ *App. of Pa. American Water to Acquire the Water System Assets from Creekside Homeowners Assoc.*, Docket No. A-2022-3031020, p. 2 (Order entered May 18, 2023).

3. OCA's Position

The OCA states that PAWC's revenue requirement as presented in PAWC's Exhibit 3-A reflects in "utility plant in service" in the FPFTY a ratemaking rate base claim for each of the six not yet completed acquisitions.⁴² The OCA argues that the Commission should deny PAWC's "utility plant in service" claims for property PAWC aspires to own but does not yet own because PAWC has failed to demonstrate by a preponderance of evidence that there is reasonable certainty that the property will be acquired and used and useful by PAWC by the end of the FPFTY. The six aspirational acquisitions include: (1) Audubon water, (2) Farmington water, (3) Farmington wastewater, (4) Sadsbury wastewater, (5) BASA wastewater (Section 1329), and (6) Brentwood wastewater (Section 1329).⁴³ OCA MB at 22.

The OCA avers that what constitutes "used and useful property" is committed to the wide discretion of the Commission, and if the Commission reasonably finds that the property will not be used and useful in serving the public, it may make adjustments to exclude the value of the property from rate base and disallow the utility's return on that property.⁴⁴ The adjustments must be supported with a reasonable degree of specificity in findings and reasoning.⁴⁵ OCA MB at 22.

The OCA asserts that, to determine whether property will be "used and useful" in the FPFTY, a utility must sufficiently demonstrate by the close of the record that the utility property is reasonably certain to be used and useful in the FPFTY.⁴⁶ In *UGI 2018*, the

⁴² OCA St. 2SR, p. 24.

⁴³ OCA St. 2, p. 18.

⁴⁴ *Pa. Power & Light Co. v. Pa. Pub. Util. Comm'n*, 516 A.2d 426, 430 (Pa. Cmwlth. 1985) (citations omitted); see also *UGI Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923, 929 (Pa. Cmwlth. 1980).

⁴⁵ *Phila. Suburban Water Co. v. Pa. Pub. Util. Comm'n*, 394 A.2d 1063, 1066-67 (Pa. Cmwlth. 1978).

⁴⁶ *Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Elec. Div.*, Docket No. R-2017-2640058, (Opinion and Order entered Oct. 25, 2018) (*UGI 2018*) at 27-31.

Commission agreed with the ALJ's recommendation to reject the utility's \$17.3 million utility plant in service claim and related expenses associated with the planned construction of a new operations center by the end of the FPFTY because: (1) the utility did not demonstrate that its planned operations center would be in operation by the end of the FPFTY; and (2) there was no "reasonable certainty that it [would] be in operation in the FPFTY."⁴⁷ In affirming the Commission's decision in *UGI 2018*, the Commonwealth Court in *McCloskey 2020* observed that the Commission properly excluded the proposed operations center and reduced the utility's rate base by over \$17.3 million "on the basis that there was insufficient evidence to support that it would be in service during the FPFTY."⁴⁸ OCA MB at 22-23.

The OCA argues that here, like the property excluded in *UGI 2018*, the Commission should exclude PAWC's utility plant in service claims related to the six proposed acquisitions because it has not affirmatively demonstrated by a preponderance of evidence that (1) the claimed plant will be acquired and used and useful by the end of the FPFTY but rather PAWC has merely demonstrated that the acquisitions are in preliminary planning and litigation stages; and (2) there is reasonable certainty that the property that PAWC aspires to own will actually be acquired and used and useful by the end of the FPFTY.⁴⁹ OCA MB at 23.

OCA witness Ralph Smith offered two objective and bright line criteria to determine the certainty of potential acquisitions in the FPFTY: that,

[B]y the close of the record in this base rate proceeding, (1) the Commission has issued a final, unappealable order approving the transaction, and (2) there is no uncertainty as to whether the closing will occur.^[50]

⁴⁷ *UGI 2018* at 27-31 (citing R.D. at 22-24), 79.

⁴⁸ *McCloskey v. Pa. PUC*, 225 A.3d 192 (Pa. Cmwlth. 2020) (*McCloskey 2020*) at 207, n.9.

⁴⁹ *UGI 2018* at 27-31; 66 Pa.C.S. §§ 315(a), (e); *Pa. PUC v. Pa. American Water Co.*, 2004 Pa. PUC LEXIS 29 at *16-18 (Order Jan. 29, 2004) (*PAWC 2004*) at *16-18; *Burleson v. Pa. PUC*, 461 A.2d 1234, 1236 (Pa. 1983) (*Burleson*) at 1236; *Lansberry* at 602; PAWC St. 6, pp. 3-22; PAWC St. 6R, pp. 2-18; OCA St. 2, pp. 18-46; OCA St. 2SR, pp. 4-21.

⁵⁰ OCA St. 2, p. 19; OCA St. 2SR, pp. 5-6.

The OCA asserts that including the aspirational acquisitions in the FPFTY for purposes of establishing a revenue requirement is fundamentally different from including capital expenditures for systems that are already owned by a utility. This is the case because (1) the assets proposed to be acquired are not owned by PAWC, and (2) the Commission has not yet ruled on whether PAWC can own them by granting Certificate of Public Convenience (CPC) in accordance with Sections 1102-1103 of the Code.⁵¹ OCA MB at 23-24.

The OCA states that to include the aspirational acquisitions in rate base, the Commission would have to assume that (1) the acquisitions will at some point inevitably be determined by the Commission to meet the requirements of Code Sections 1102-1103, and Section 1329 (for applicable acquisitions), based on the applications as filed, regardless of the positions of parties in the separate application dockets, and (2) none of the things that could prevent the acquisitions from closing by the end of the FPFTY will occur.⁵² The OCA states that while PAWC may hope this to be the reality, PAWC has not demonstrated this in the record, and it is not entitled to the presumption, that its desire to acquire a system will mean that the acquisition will satisfy the legal requirements of the Code and all impediments to closing will be resolved. Moreover, reliance on such assumptions is inappropriate and would improperly signal to the general public, to the system seller, and to the management and shareholders of public utility companies that the Commission is expected in the future to adjudicate the utility acquisition in favor of the utility (*i.e.*, effectively “pre-judging” the outcome of the acquisition application in a base rate proceeding).⁵³ OCA MB at 24.

The OCA asserts that history teaches that it is speculative to predict whether the terms of the transaction will be approved by the Commission or modified on appeal, which can affect the ratemaking and tariff assumptions in the FPFTY.⁵⁴ Mr. Smith gave the real examples

⁵¹ OCA St. 1SR, p. 6; 66 Pa.C.S. §§ 1102-1103.

⁵² OCA St. 1SR, p. 7.

⁵³ OCA St. 2, p. 21.

⁵⁴ OCA St. 2SR, pp. 8-9.

of Delaware County Regional Water Quality Control Authority (DELCORA) (A-2019-3015173), City of Beaver Falls (A-2024-3033138), and Willistown Township (A-2021-3027268), as real examples of transactions that encountered pitfalls, delays, or termination.⁵⁵ OCA MB at 24-25.

The OCA states that one need only look at the proposed Brentwood acquisition to see the unreasonableness of the Company's position to include utility plant in service in the FPFTY based on uncertain acquisitions. In rebuttal, submitted one day before the February 22, 2024 Public Meeting, Mr. Abruzzo painted a picture of a straight path to final approval of the Brentwood acquisition and the Company's closing of the transaction by the close of the FPFTY.⁵⁶ PAWC witness Everette similarly testified that the BASA and Brentwood acquisitions are likely to close prior to the end of the FPFTY.⁵⁷ These predictions were upended when the Commission affirmed the R.D. and denied the acquisition by notational vote on February 22, 2024.⁵⁸ This outcome demonstrates that what PAWC hopes or says will happen in the future, does not make it so. OCA MB at 25-26 (emphasis in original).

In fact, the OCA states that the only thing that Mr. Abruzzo did predict was the outcome that PAWC desired: that is, he predicted that the Commission would approve the Brentwood transaction, and if the Commission's decision were to be appealed, he predicted that the Commonwealth Court would approve the Brentwood transaction.⁵⁹ The OCA argues that the Brentwood example is the "poster child" for demonstrating that PAWC's aspirational wishes should not and cannot be relied upon as sufficient evidence to overcome the uncertainty related

⁵⁵ OCA St. 2SR, pp. 11-13.

⁵⁶ PAWC St. 6R, pp. 2-11.

⁵⁷ PAWC St. 1R, p. 4.

⁵⁸ OCA St. 2SR, pp. 8, 18-20.

⁵⁹ PAWC St. 6R, p. 3.

to the transactions. The OCA avers that the myriad of uncertainties is spelled out in OCA witness Smith's testimony.⁶⁰ OCA MB at 26-27 (emphasis in original).

Furthermore, the OCA states that Mr. Abruzzo testified that the close of the record in this proceeding should not be the cut-off point because PAWC can petition to reopen the record in the rate case after the Commission issues an order in the application docket. However, the OCA states that petitioning to reopen a record should not be presumed that it will produce PAWC's desired outcome. Other parties to a base rate case have due process rights, and the outcome may not be the clear path Mr. Abruzzo assumes. Indeed, the OCA avers that in petitioning to reopen the record, PAWC would have to (1) prevail in its petition to reopen the record, and (2) prevail in making its case to the Commission on the merits that the acquisitions should be included in the FPFTY for ratemaking purposes.⁶¹ OCA MB at 27.

Moreover, the OCA asserts that a Commission final order granting CPC authority to PAWC to acquire a system does not mean that PAWC and the buyer must close the acquisition. Rather, the order granting CPC authority functions as permission for the utility to proceed with closing the transaction. This reality is recognized by function of Commission orders which typically require first, the utility to notify the Commission when the closing takes place and second, the Secretary to then issue the CPC evidencing the utility's authority to acquire the assets and serve the customers of the acquired system.⁶² Hence, the OCA argues that the existence of a final, unappealable Commission Order is not sufficient alone to determine the likelihood of utility plant being acquired and used and useful in the FPFTY, as the parties still could exercise their rights under the APAs to terminate the transactions. And hence, the purpose of Mr. Smith's second criterion: that there be no uncertainty as to whether the closing will occur.⁶³ OCA MB at 27-28 (emphasis in original).

⁶⁰ OCA St. 2, pp. 18-46; OCA St. 2SR, pp. 4-21.

⁶¹ OCA St. 1SR, p. 7.

⁶² 66 Pa.C.S. §§ 1102, 1103; See OCA St. 2SR, p. 11; *Application of Aqua Pa. Wastewater, Inc.*, A-2021-3027268 (Letter re: Termination of APA May 12, 2023).

⁶³ OCA St. 2SR, p. 12.

In OCA surrebuttal, Mr. Smith rejected PAWC witness Everett's multi-step revenue requirement for two main reasons. First, Step 1 of the proposal allows the proposed acquisitions for Audubon water, Farmington water and wastewater, or Sadsbury wastewater to be included for ratemaking purposes. However, the OCA states that the Commission has not ruled on the merits of these proceedings and PAWC attempts to usurp the Commission's authority by including them in FPFTY rate base and expenses as if it already had the Commission's approval. Second the OCA states that it is not known under what terms or conditions any of these acquisitions would close, or if they will close. The OCA avers this applies to all the pending acquisitions, including BASA, because none of them have a final, unappealable order. For example, BASA could be remanded by an appellate court and conditions or renegotiations could impact ratemaking rate base or result in other costs (transaction and closing costs, for example). But under PAWC's multi-step proposal, rates would increase in Step 2 as claimed in PAWC's filing, with no recognition of those changes.⁶⁴ The OCA argues this presents due process concerns because parties present evidence in response to the Company's proposal regarding utility property in an acquisition proceeding only to have to respond to the Company's different proposal about the same utility property in the parallel rate proceeding. The OCA argues that it also has the effect of usurping the Commission's authority to make decisions on legal issues as the Company presents its position in one proceeding (e.g. an acquisition proceeding) only to pull the rug out from under that position in a parallel proceeding (e.g. the base rate case). Additionally, the OCA states that the Company's rebuttal proposal, as modified in rejoinder, would circumvent the procedural due process afforded to parties by PAWC needing to petition to reopen the record.⁶⁵ OCA MB at 30-31.

The OCA asserts there are virtually no bounds if PAWC prevails with its arguments. The OCA argues that by PAWC's standards, PAWC would be able to include utility plant in service claims as soon as PAWC signs an APA with a seller.⁶⁶ The OCA avers that

⁶⁴ OCA St. 2SR, pp. 16-17.

⁶⁵ OCA St. 2SR, p. 18.

⁶⁶ OCA St. 2SR, p. 21.

PAWC's approach abuses the FPFTY as a ratemaking concept and raises serious legal concerns, including potentially usurping the Commission's statutory authority to render decisions in parallel proceedings regarding the same utility property and potentially violating due process rights of the parties in the parallel acquisition and rate proceedings where PAWC may make different ratemaking claims and tariff requests regarding the pending acquisitions in the separate proceedings. OCA MB at 31 (emphasis in original).

In its Reply Brief, the OCA maintains that PAWC has not met its burden of proving with substantial evidence by the close of the record in this proceeding that the desired-but-not-yet-acquired property will be used and useful by the close of the FPFTY, and therefore the Commission should exclude such property from PAWC's ratemaking rate base claims in the FPFTY.⁶⁷ The OCA asserts that PAWC's argument that it was permitted to include desired-but-not-yet-acquired property in its 2020 and 2022 rate cases, "there is no reason why the Commission should treat the acquisitions in this [case] any differently than it treated the acquisitions" in those cases⁶⁸ is meritless. Both the 2020 and 2022 cases were resolved by "black-box" settlements, which need not be followed, distinguished, or overruled in the decision to be made by the Commission in this case, as the settlements cannot be used as Commission precedent in this proceeding.⁶⁹ OCA RB at 17-18.

The OCA asserts that for PAWC to even refer to those prior decisions in its Main Brief, PAWC breaches its contract with all parties to those settlements and violates the terms of those settlements. The OCA also avers that as black-box settlements, neither the 2020/2022 settlements nor the Commission's Orders approving those settlements addressed the issue of PAWC's 2020 and 2022 ratemaking claims regarding desired-but-not-yet-acquired property. The OCA asserts that furthermore, as a matter of law, a prior rate is not res judicata on the

⁶⁷ UGI 2018 at 27-31, *aff'd* by McCloskey 2020 at 207, n.9; *Pa. Power & Light Co. v. Pa. Pub. Util. Comm'n*, 516 A.2d 426, 430 (Pa. Cmwlth. 1985); *UGI Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923, 929 (Pa. Cmwlth. 1980); *Phila. Suburban Water Co. v. Pa. Pub. Util. Comm'n*, 394 A.2d 1063, 1066-67 (Pa. Cmwlth. 1978).

⁶⁸ PAWC MB at 13-14.

⁶⁹ See *Pa. Pub. Util. Comm'n, v. Pa. Am. Water Co.*, Docket No. R-2020-3019369 at 93-94 (Opinion and Order entered Feb. 25, 2021) .

question of reasonableness.⁷⁰ Hence, the Commission’s prior approval of the 2020/2022 black-box settlements does not tie its hands in this case on the question of rate base adjustments (or any issue for that matter). The OCA states that additionally, beyond PAWC’s bald assertion that the 2020/2022 rate cases included certain acquisitions in rate base, PAWC did not develop the record in this case to explain how the desired-but-not-yet-acquired property claimed in this case is either like or distinguishable from the property claimed in the prior cases (hence, there is no testimony in the record to rely upon for comparisons/contrasts), and PAWC does not cite to any prior reasoning by the Commission in a prior cases that could be applied in this case. OCA RB at 18-19 (emphasis in original).

In its Main Brief, (even though PAWC does not acknowledge *UGI 2018*) PAWC effectively argues that the Commission should distinguish *UGI 2018* by arguing that “the Commission should take official notice of the status of the BASA, Sadsbury, Farmington, and Audubon water acquisition proceedings....”⁷¹ PAWC states that, with the record now closed, if a final, unappealable order gets put into place (after the record close date), “the Commission should allow the acquisition to be placed into rates, even if closing has not yet occurred...[because] the Commission can be reasonably certain that the transaction will close by the end of the FPFTY.”⁷² The OCA asserts that this argument is absurd and, if adopted, would abandon appropriate and reasonable guardrails to the FPFTY as a ratemaking concept, increase uncertainty in ratemaking, and would run afoul of party litigants’ due process rights. OCA RB at 20-24.

The OCA avers that on the issue of regulatory lag, the FPFTY is designed to reduce regulatory lag for utilities; however, for the concept to not be abused, there must be reasonable certainty by the close of the record in the rate case that the property claimed in rate

⁷⁰ *U.S. Steel Corp. v. Pa. PUC*, 456 A.2d 686 (Pa. Cmwlth. 1983) at 692.

⁷¹ PAWC MB at 14.

⁷² PAWC MB at 14.

base will be used and useful by the end of the FPFTY.⁷³ The OCA states that PAWC's assertion that the frequency of its rate cases may increase by the Commission following its *UGI 2018* decision here rings hollow in light of the frequency of PAWC's filings. PAWC uses the DSIC and the FPFTY, and both tools were supposed to reduce rate case frequency; yet this is PAWC's third case in four years. PAWC received rate increases in March 2021, January 2022, and January 2023, even though it was allowed to include desired-but-not-yet-acquired property in the 2020/2022 rate case settlements. The OCA states that PAWC files rate cases when it wants and needs to do so and a decision by the Commission to follow applicable law and precedent will not speed up its decision to do so. OCA RB at 24-25.

The OCA states that finally, as explained in the OCA's Main Brief, given that there is no reasonable certainty that the BASA and Brentwood systems will be acquired and used and useful by the end of the FPFTY, the Commission should exclude PAWC's claim for \$18.89 million in rate base additions for improvements to those systems. The reason is simple: a utility cannot add plant to a system it does not own and there is no reasonable certainty that the BASA and Brentwood systems will be acquired and used and useful by the end of the FPFTY.⁷⁴ Excluding the \$18.89 million in rate base additions reduces PAWC's proposed \$1.286 billion amount of plant additions net of retirements through June 30, 2025, to \$1.267 billion, an amount that represents planned improvements to PAWC's Water, Wastewater SSS, and CSS Wastewater Operations.⁷⁵ OCA RB at 26-27.

4. ALJs' Recommendation

We agree with the positions of I&E and the OCA and recommend that PAWC's rate base exclude utility plant-in-service related to AWC, BASA, Farmington, and Sadsbury.

⁷³ *UGI 2018* at 27-31.

⁷⁴ *UGI 2018* at 27-31; 66 Pa.C.S. §§ 315(a), (e); *PAWC 2004* at *16-18; *Burleson* at 1236; *Lansberry* at 602.

⁷⁵ OCA St. 2SR, pp. 25-27; OCA MB at 32.

Additionally, as PAWC itself has confirmed, the Brentwood acquisition should be removed from Rate Base.⁷⁶

PAWC suggests that Commission establish a standard to include the Acquisitions in Rate Base if they “are reasonably certain to close during the FPFTY.”⁷⁷ PAWC confirmed the status of the disputed Acquisitions in its Main Brief as follows:⁷⁸

- **BASA.** As of the date of the hearing, this acquisition had been approved by the Commission but was pending in the Commonwealth Court of Pennsylvania (“Commonwealth Court”). Based on the expedited litigation schedule that the Commonwealth Court has established, PAWC anticipates a decision will be rendered in April or May 2024. If that decision is favorable and is not appealed to the Supreme Court of Pennsylvania, PAWC will close on the transaction before the end of the FPFTY. If the decision is appealed to the Supreme Court, it is unlikely that the Supreme Court will accept the case.⁷⁹ As previously discussed, PAWC has also proposed Step 2 Rates for the BASA acquisition to ensure that customers do not pay higher rates reflecting the PUC-approved BASA ratemaking rate base until that transaction closes.
- **Sadsbury.** A unanimous settlement was submitted to the presiding ALJ on February 21, 2024. PAWC believes it is very likely that the Commission will approve the unanimous settlement this summer. If so, the transaction will close well before the end of the FPFTY.⁸⁰
- **Farmington.** The parties are continuing to engage in informal discovery and settlement discussions. A status conference was held on March 13, 2024.⁸¹
- **AWC.** PAWC and opposing parties have submitted direct testimony.⁸²

⁷⁶ PAWC RB at 10.

⁷⁷ PAWC RB at 12.

⁷⁸ PAWC MB at 12-13.

⁷⁹ PAWC St. 6-R, pp. 2-3.

⁸⁰ *Id.* at 4.

⁸¹ *Id.*

⁸² *Id.* at 4-5.

We agree with I&E and the OCA that it would be premature to include these Acquisitions in PAWC's FPPTY rate base. With the exception of BASA, which is discussed below, the Acquisition dockets are currently pending before the Commission, and Commission action could necessitate a change to depreciated original cost or any acquisition adjustment for the difference between purchase price and depreciated original cost, or may deny the proposed transaction in its entirety.⁸³ If these Acquisitions are included in rate base in this proceeding without certainty of full Commission approval, PAWC ratepayers may pay for inaccurate costs in rates going forward as approved in this case.⁸⁴

PAWC avers that the Commission allowed pending acquisitions in PAWC's 2020 and 2022 rate cases (i.e., Borough of Kane Authority, Winola Water Company, and the Delaware Sewer Company in 2020; York City Sewer Authority, Upper Pottsgrove Township, Foster Township, and the Creekside Homeowners Association in 2022) and therefore the Commission should likewise allow pending acquisitions into rate base in this case.⁸⁵

We find that I&E and the OCA adequately distinguished the disputed Acquisitions from the pending acquisitions that were allowed in PAWC's 2020 and 2022 base rate cases. First, I&E detailed how the Commission had entered orders approving the acquisitions for the Borough of Kane Authority, Winola Water Company, Delaware Sewer Company, York City Sewer Company, and Upper Pottsgrove Township before the record had closed in the relevant rate cases.⁸⁶ Although not included in I&E's Reply Brief, the Commission similarly approved the Foster Township acquisition by an order entered on July 14, 2022, which was before the record closed in PAWC's 2022 base rate proceeding. In this proceeding, as shown by PAWC's status descriptions above, the Commission has not approved any of the disputed Acquisitions, except BASA. The Commission did not approve the Creekside Development acquisition until May 2023, which was after 2022 base rate case record had closed.

⁸³ See I&E MB at 12-13; OCA RB at 22-23.

⁸⁴ See I&E MB at 12-13.

⁸⁵ PAWC MB at 13-14.

⁸⁶ I&E RB at 3-6.

However, we agree with I&E that this case is distinguishable as a non-litigated proceeding involving only 49 residential customers.⁸⁷ We also agree with the OCA that the acquisitions included in the 2020 and 2022 rate cases are distinguishable because acquisitions in those proceeding were in the context of cases where there were settlements.⁸⁸

Although the Commission approved the BASA acquisition, we do not believe that PAWC met its burden of proving that BASA should be included in rate base in the FPFTY. Although PAWC expects the transaction to close before the end of the FPFTY, there is no certainty that it will. As PAWC's own status update above provides, first the Commonwealth Court must find in its favor, then, if the case is appealed, it must be seen whether the Pennsylvania Supreme Court will accept the case. As the OCA persuasively asserts, PAWC's predictions for the outcome of its acquisitions may not always come true.⁸⁹ In fact, OCA noted that Aqua Pennsylvania Wastewater, Inc. (APW) had a Commission Order approving its acquisition of Willistown Township's wastewater system assets, and while the Order was on appeal, APW filed a letter notifying the Commission that Willistown Township had exercised the seller's rights to terminate the transaction and that the transaction would not close as a result.⁹⁰

PAWC proposes that if the BASA acquisition is not included in rate base, a two-step rate increase be allowed.⁹¹ We agree with the concerns outlined by the OCA and recommend that the proposed two-step rate increase not be approved.⁹² Although the Commission has approved the BASA acquisition, it cannot be predicted with certainty that the BASA acquisition will close with the same terms approved by the Commission, e.g., as the OCA

⁸⁷ I&E RB at 5-6.

⁸⁸ OCA RB at 17-19.

⁸⁹ *See* OCA MB at 25-27.

⁹⁰ OCA MB at 28.

⁹¹ PAWC RB at 12.

⁹² OCA MB at 30-31.

asserts, an appellate court could remand the BASA acquisition proceeding to the Commission.⁹³ Although PAWC argues the standard should be whether it is “reasonably certain” a transaction will close in the FPFTY, we have no basis to predict how the Commonwealth Court or, if the case is appealed, the Supreme Court will act on the BASA acquisition with any certainty. The Commission’s action in denying the Brentwood acquisition already demonstrates the tenuous basis to PAWC’s step proposal, where PAWC originally included the Brentwood acquisition because it was “likely to close prior to the end of the FPFTY.”⁹⁴ We also agree with the OCA and recommend that, since the BASA and Brentwood system should be excluded from the FPFTY rate base, PAWC’s claims for rate base additions for improvements to these systems should similarly be excluded.⁹⁵

Removing these acquisitions from rate base results in the proposed adjustments in Rate Base for AWC Plant, Farmington Plant, and Sadsbury Plant detailed in Table II Water and Wastewater SSS (WW SSS).

Finally, we do not make a recommendation concerning OSBA’s advocated BASA mitigation adjustment because we do not recommend that BASA be included in PAWC’s FPFTY rate base.

B. Depreciation Reserve

1. PAWC’s Position

PAWC’s claim for accrued depreciation related to its utility plant-in-service was developed and presented by PAWC witness John J. Spanos, President of Gannett Fleming Valuation and Rate Consultants, LLC (“Gannett Fleming”). The details underlying the methodology employed by Mr. Spanos, together with all supporting calculations and

⁹³ See OCA MB at 30-31.

⁹⁴ PAWC St. 1-R, p. 4.

⁹⁵ See OCA RB at 26-27.

documentation, are set forth in PAWC's Exhibits 11-A through 11-M. Mr. Spanos completed depreciation studies to estimate the annual depreciation accruals related to water and wastewater plant-in-service for ratemaking purposes and, using PUC-approved procedures, to estimate the Company's book reserve as of June 30, 2023, June 30, 2024, and June 30, 2025.⁹⁶ PAWC's annual depreciation accrual applicable to plant-in-service at June 30, 2025, is \$265,476,224. PAWC MB at 17-18.

PAWC states that service life studies were the basis for the service lives and survivor curves Mr. Spanos used to calculate annual accruals. PAWC's most recent service life studies were performed in 2022 for the Company's water assets (based on plant data through 2021) and in 2020 for its wastewater assets (based on plant data through 2019).⁹⁷ OCA witness Smith objects to PAWC's use of service life/survivor curve information (1) from the most recent water asset service life study (the "2021 Water Service Life Study") for three water accounts and (2) for the BASA wastewater facilities that differed from information presented in the Section 1329 acquisition proceeding.⁹⁸ Based on these objections, he proposed downward adjustments to depreciation expense (a reduction of \$15.479 million for water and \$877,000 for BASA).⁹⁹ PAWC MB at 18.

PAWC asserts that OCA witness Smith's objections have no reasonable basis and should be rejected by the Commission. First, regarding water accounts 304.15 (Other Water Source Structures), 331.00 (Mains and Accessories), and 335.00 (Fire Hydrants), Mr. Smith argues that information from the 2021 Water Service Life Study should not be used solely because the life parameters were "drastically shortened" as compared to the service life information presented in PAWC's 2022 rate case proceeding (Docket No. R-2022-3031673) that was taken from an earlier service life study (the "2016 Water Service Life Study"). For these three water accounts only, he recommends use of the outdated service life information from the

⁹⁶ See generally PAWC St. 11.

⁹⁷ PAWC St. 11, p. 7.

⁹⁸ OCA St. 2, pp. 64-66 (water asset accounts), 38-42 (BASA).

⁹⁹ *Id.* at 66 (water asset accounts), pp. 41-42 (BASA).

2016 Water Service Life Study.¹⁰⁰ In his rebuttal testimony, Mr. Spanos provides detailed survivor curve information for the three water accounts at issue and shows that, for each account, the updated information from the 2021 Water Service Life Study was a better statistical fit with the most current historical data than the 2016 Water Service Life Study.¹⁰¹ PAWC MB at 18-19.

Second, regarding the BASA wastewater assets, PAWC states that Mr. Smith argues that the service life/survivor curve information presented by the Company in this case was improper because it was “dramatically inconsistent” with service life/survivor curve information presented in the related Section 1329 acquisition proceedings for these systems.¹⁰² The life estimates utilized in the Company’s Section 1329 were based on different concepts that were not intended for determining depreciation recovery patterns for existing and future assets. In this proceeding, the Company avers that it properly developed life estimates and depreciation expense for BASA using standard practices and, unlike the Section 1329 proceedings, the life analysis included information about how PAWC plans to operate all of the existing and future wastewater systems.¹⁰³ PAWC MB at 19.

2. I&E’s Position

I&E did not provide testimony specifically related to depreciation reserve. I&E MB at 15.

3. ALJs’ Recommendation

We agree with PAWC that it demonstrated that its 2021 Water Service Life Study was a better statistical fit with the most current historical data than the 2016 Water Service Life

¹⁰⁰ OCA St. 2, pp. 64-66.

¹⁰¹ PAWC St. 11-R, pp. 5-10.

¹⁰² OCA St. 2, pp. 38-42.

¹⁰³ PAWC St. 11-R, pp. 10-11.

Study.¹⁰⁴ Therefore, we recommend that the Commission adopt PAWC's claim for accrued depreciation related to its utility plant-in-service. However, consistent with our recommendation in Utility Plant in Service, above, depreciation reserve associated with utility-plant-in-service related to AWC, BASA, Farmington, and Sadsbury should be excluded.

C. Cash Working Capital

1. PAWC's Position

PAWC states that cash working capital represents the funds needed to pay O&M expenses and taxes that, on average, are incurred in advance of the utility's receipt of revenues. PAWC calculated its cash working capital requirement using the accepted, PUC-approved lead-lag method.¹⁰⁵ No party disputed the methodology the Company employed or challenged its proposed revenue lag, expense lag or net lag (revenue lag minus expense lag). However, O&M expenses are an input to the calculation of cash working capital. Therefore, I&E witness Okum and OCA witness Smith propose adjustments to the Company's requested cash working capital that are concomitant to their proposed adjustments to O&M expenses. If any changes are made to the Company's proposed O&M expenses, its cash working capital would need to be recalculated. PAWC MB at 19-20.

In its Reply Brief, PAWC states that I&E's and the OCA's Main Briefs confirm that they do not dispute the methodology PAWC used to establish its cash working capital requirements.¹⁰⁶ PAWC RB at 14.

¹⁰⁴ PAWC MB at 18-19.

¹⁰⁵ PAWC St. 4, pp. 13-15.

¹⁰⁶ See I&E MB at 15; OCA MB at 33.

2. I&E's Position

I&E accepts the Company's use of the lead/lag method but disagrees with the Company's CWC claim. I&E ultimately recommended that PAWC's O&M expense claims be reduced by \$8,111,532 for water operations and \$504,709 for wastewater SSS operations, which reduced the Company's CWC allowance by \$1,119,556. No O&M adjustments were made by I&E to Wastewater CSS operations, therefore, there is no corresponding CWC adjustment shown in the above table. I&E avers that because its recommended expense adjustments are prudent for the reasons discussed herein, I&E's recommended CWC allowance of \$26,149,755 (\$27,269,311-\$1,119,556)¹⁰⁷ is reasonable. I&E MB at 16-17.

However, as explained by Ms. Okum "[a]ll adjustments to the Company's claims for revenues, expenses, taxes, and rate base must be continually brought together for each operating unit in the Administrative Law Judge's Recommended Decision and again in the Commission's Final Order. I&E states that this process, known as iteration, effectively prevents the determination of a precise calculation until all adjustments have been made to the Company's claims."¹⁰⁸ As a result, this number would be subject to change based on any other expense adjustments the ALJs may adopt in their Recommended Decision, or those that the Commission may adopt in their final Order. I&E MB at 17-18.

3. OCA's Position

The OCA states that given that the Commission should remove the BASA and Brentwood revenue requirements in their entirety for the reasons above, the Commission should exclude PAWC's CWC claims for the BASA and Brentwood systems.¹⁰⁹ As it relates to Water and Wastewater, OCA witness Smith made resulting adjustments to PAWC's CWC claim¹¹⁰

¹⁰⁷ I&E St. 1-SR, p. 4.

¹⁰⁸ I&E St. 1-SR, p. 37.

¹⁰⁹ OCA St. 2, p. 47, n.8.

¹¹⁰ PAWC Ex.3-A; OCA St. 2, pp. 46-47.

based on his adjustments to PAWC's O&M expenses and interest and dividend expenses, and the capital structure recommended by OCA Witness Garrett. Specifically, Mr. Smith recommended: (1) negative adjustment to CWC for Water by \$1.761 million; (2) negative adjustment to CWC for Wastewater SSS by \$150,794; and (3) negative adjustment to CWC for CSS Wastewater by \$98,811.¹¹¹ The OCA states that should the Commission adopt the OCA's recommended adjustments to expenses, the Commission should adopt the OCA's resulting adjustments to CWC for PAWC's existing systems. OCA MB at 33.

4. ALJs' Recommendation

No party challenged PAWC's methodology of calculating CWC. However, as the parties acknowledge, CWC is concomitant to adjustments elsewhere to PAWC's claims.¹¹² Therefore, based on our other recommendations in this Recommended Decision, we recommend that PAWC's claim for CWC should be adjusted for Interest and Dividends, Taxes, and O&M Expenses detailed in Tables II, IV, V, and VI for Water, WW SSS, and Wastewater CSS (WW CSS).

D. Acquisition Adjustment and Amortization Expense

1. I&E's Position

PAWC is claiming \$3,749,235 of Acquisition Adjustment in the FPFTY. I&E MB at 18. For the Sadsbury system, the Company is projecting that the purchase price will be \$945,612 less than the net book value of the Sadsbury plant.¹¹³ Because it is a negative Acquisition Adjustment, the Company is required to amortize the adjustment as a credit back to customers over 10 years. While there is no rate base adjustment, the Company is claiming a negative \$94,561 (\$945,612 /10) Acquisition Adjustment expense be credited back to customers

¹¹¹ OCA St. 2, pp. 47-48; OCA Ex. LA-2, Schs. B-5.B, B-5.C, B-5.D.

¹¹² PAWC MB at 19-20; I&E MB at 17-18; OCA MB at 33.

¹¹³ PAWC Initial Filing Volume 4; PAWC Ex. 3-B, p. 344.

over 10 years. As I&E has recommended the Sadsbury acquisition be removed from this proceeding in total, I&E states that it will also be necessary to remove this negative acquisition adjustment.¹¹⁴ I&E MB at 18.

I&E witness Kubas recommends that \$83,085 of Transaction Costs related to the Sadsbury system and \$51,761 of Transaction Costs related to the Farmington system included in the Acquisition Adjustments be removed from the total Acquisition Adjustment claimed in rate base. These systems are not yet owned by PAWC, therefore I&E argues that PAWC should not be able to include the corresponding Transaction Costs incurred to acquire these systems as part of the total Acquisition Adjustment in rate base from these systems in the SSS Operations. I&E MB at 18-19.

If the Commission adopts I&E's recommendation to exclude the Sadsbury and Farmington system, there should be a corresponding \$9,147 reduction of amortization expense claimed for the Sadsbury system and \$5,699 claimed for the Farmington System.¹¹⁵ As described above, I&E avers that these systems are not yet owned by PAWC, and it is premature to allow PAWC to recover these corresponding transaction expense in this case. In addition, if the \$83,085 of Transaction Costs related to the Sadsbury system and \$51,761 of Transaction Costs related to the Farmington system be removed from the total Acquisition Adjustment claimed in rate base, there should be a corresponding reduction of \$8,358 of Annual Amortization related to the Sadsbury system and a reduction of \$5,224 of Annual Amortization related to the Farmington system.¹¹⁶ I&E MB at 19.

¹¹⁴ I&E St. 3, p. 83.

¹¹⁵ PAWC Initial Filing Volume 3, SSS Operations, page 130.

¹¹⁶ I&E St. 3, pp. 84-85, citing I&E Ex. 3, Sch. 28, lines 10 and 18.

2. OCA's Position

The OCA states:

“...the Commission should exclude from revenue requirement all expenses related to the six aspirational acquisitions. In summary:

1. Audubon water: \$1.586 million of O&M expense and taxes other than income expense, \$763,977 amortization expense, and \$269,599 depreciation expense should be removed from Water in the FPFTY. OCA St. 2 at 26, 44, 49-50, 52.
2. Farmington water: \$152,385 of O&M expense and taxes other than income expense, \$21,549 amortization expense, and \$101,751 of depreciation expense should be removed from Water in the FPFTY. OCA St. 2 at 29, 44-45, 50, 52-53.
3. Farmington wastewater: \$264,176 of O&M expense and taxes other than income expense, \$5,699 amortization expense, and \$137,987 depreciation expense should be removed from Wastewater SSS in the FPFTY. OCA St. 2 at 29, 45, 51, 53.
4. Sadsbury wastewater: \$249,288 of O&M expense and taxes other than income expense, \$85,414 amortization expense, and \$51,847 depreciation expense should be removed from Wastewater SSS in the FPFTY. OCA St. 2 at 30-31, 45-46, 51-52, 53-54.
5. BASA wastewater: revenue requirement should be removed entirely. OCA St. 2 at 33; Exh. LA-1, Sch. A at 1.
6. Brentwood wastewater: revenue requirement should be removed entirely. OCA St. 2 at 37; Exh. LA-1, Sch. A at 1. OCA St. 2SR at 28-29, 30-32.”^[117]

3. ALJs' Recommendation

We agree with I&E and OCA and recommend that, if the disputed Acquisitions are removed from rate base, the Commission also remove the acquisition adjustments,

¹¹⁷

OCA MB at 41-42.

transaction costs, and related amortization expenses, for the AWC, Sadsbury, and Farmington systems.¹¹⁸ This results in the proposed adjustments in Rate Base for AWC, Sadsbury, and Farmington Acquisition Adjustments and Transaction Costs detailed in Table II Water and WW SSS. Adjustments for amortization expense are discussed in the Amortization Expense section below.

E. Annual Depreciation Expense

1. I&E's Position

I&E witness Kubas recommends that \$24,342 of annual depreciation expense associated with the Sadsbury wastewater system and \$11,611 associated with the Farmington wastewater system be removed from the SSS Operations annual depreciation expense.¹¹⁹ Mr. Kubas explains that the filing did not contain a breakdown of annual depreciation expense for the Farmington System; therefore, he applied the approximately 1.26% composite depreciation rate applicable in the Sadsbury system to the Farmington system net plant to arrive at the \$11,611 ($\$923,272 \times 0.012576$) of Farmington annual depreciation expense.¹²⁰ I&E MB at 19-20.

This recommendation is consistent with the I&E recommendation that these systems be removed from this filing as there is no certain date when PAWC will actually own them. As PAWC is not currently the owner of the systems, PAWC should not be able to include the annual depreciation expense therefrom. I&E MB at 20.

2. ALJs' Recommendation

We agree with I&E and recommend that, if the disputed Acquisitions are removed from rate base, the Commission also remove annual depreciation expense for the AWC,

¹¹⁸ I&E MB at 18-19; OCA MB at 25.

¹¹⁹ I&E St. 3, pp. 80-81; *see also* I&E Ex. 3, Sch. 28, lines 6-8.

¹²⁰ I&E St. 3, p. 81.

Sadsbury, and Farmington systems.¹²¹ Adjustments for depreciation expense are discussed in the Depreciation Expense section below.

F. Reporting – Utility Plant in Service

1. I&E’s Position

I&E recommends that the Company provide I&E and the Office of Consumer Advocate (OCA) with updates to PAWC Ex. 3-A, pp. 26, 97, 146, 179, and 218 no later than December 1, 2025, under this docket number. I&E states that PAWC’s updates should include actual plant additions and retirements for the twelve months ending June 30, 2024, and for the twelve months ending June 30, 2025. I&E MB at 20.

The Company is estimating that it will add approximately \$742,020,7140 of plant additions in the FTY ending June 30, 2024, and approximately \$797,874,110 of plant additions in the FPFTY. I&E avers that there is value in determining how closely PAWC’s projected investments in future facility comport with the actual investments that are made by the end of the FTY and the FPFTY. Determining the correlation between PAWC’s projected and actual plant additions and retirements will help verify the validity of PAWC’s projections. I&E MB at 20.

PAWC has indicated that it agrees with I&E’s reporting requirement recommendation and that it will provide the updates as I&E requested.¹²² I&E MB at 21.

2. ALJs’ Recommendation

PAWC has indicated that it agrees with I&E’s reporting requirement recommendation and that it will provide the updates as I&E requested.¹²³ Therefore, we

¹²¹ I&E MB at 18-19.

¹²² PAWC St. 4-R, p. 7.

¹²³ PAWC St. 4-R, p. 7.

recommend that the Company provide I&E and the OCA with updates to PAWC Ex. 3-A, pp. 26, 97, 146, 179, and 218 no later than December 1, 2025, under this docket number, and PAWC's updates should include actual plant additions and retirements for the twelve months ending June 30, 2024 and for the twelve months ending June 30, 2025.¹²⁴

VII. REVENUES

A. Present Rate Revenue / Revenues Related to the Six Proposed Acquisitions

1. PAWC's Position

PAWC states that, as shown in Appendix A to its Main Brief, PAWC's pro forma revenues, at present rate levels, equal \$1,213,394,607 for the FPPTY. The Company states that it developed this claim using the level of water and wastewater sales revenue generated during the historic test year ("HTY") ended June 30, 2023, and, in accordance with well-established PUC practice, making appropriate adjustments to eliminate non-recurring items and to annualize the effect of known or anticipated changes. PAWC states that all the adjustments made in developing the Company's pro forma revenue claims are described in the direct and rebuttal testimony of Mr. Rea (PAWC Statements 10 and 10-R) and further detailed in PAWC Exhibit 3-A Revised. PAWC MB at 20-21.

In its Reply Brief, PAWC states that the Commission should reject OCA and I&E's proposed exclusion of revenues from the AWC, BASA, Farmington, and Sadsbury systems. PAWC states that I&E also proposes an increase in the Company's Other Operating Revenue to reflect additional late payment revenue.¹²⁵ PAWC states that its response to the OSBA's proposed mitigation adjustment is addressed in the Rate Base – Utility Plant-In-Service section of its Reply Brief. The Company also continues to oppose OCA's proposal to "impute" revenue from American Water Resources ("AWR") for the reasons set forth in Section XII.E.2.e.

¹²⁴ See I&E MB at 20.

¹²⁵ I&E MB at 23.

of PAWC’s Main Brief. PAWC states that if the Commission determines that PAWC cannot continue its long-standing on-bill arrangement with AWR (which PAWC avers should be denied for the reasons set forth in Section XII.E. of PAWC’s Main Brief and its Reply Brief), the associated revenues must also be removed from the Company’s revenue requirement.¹²⁶ CAUSE-PA recommends that the Commission reject PAWC’s revenue proposal in its entirety.¹²⁷ PAWC states that CAUSE-PA makes this recommendation despite stating that it “did not take a specific position as to the revenue requirement in this proceeding,” and without providing any support (or even one citation to the record).¹²⁸ PAWC asserts that this recommendation should therefore be denied. PAWC RB at 15-16.

2. I&E’s Position

I&E recommends that \$12,814,193 of present rate revenue from BASA and \$1,824,191 of present rate revenue from Brentwood be excluded from rate recovery. I&E also recommends that \$322,926 of present rate revenue from Farmington and \$471,228 of present rate revenue from Sadsbury be excluded from this case.¹²⁹ As explained above, these are systems that PAWC does not currently own, and it is unclear at what point PAWC will actually own these systems. As such it is I&E’s recommendation that all inclusion of these pending acquisitions be removed from the instant proceeding. I&E MB at 22.

3. OCA’s Position

Consistent with its recommendation to remove the utility plant in service related to the not-yet-acquired property associated with the six proposed acquisitions, the OCA argues that the Commission should: (1) exclude from Water the \$2.965 million and \$266,371 in operating revenues related to Audubon water and Farmington water, respectively; (2) exclude from

¹²⁶ See PAWC St. 1-R, pp. 20-21.

¹²⁷ CAUSE-PA MB at 18.

¹²⁸ See *Id.*

¹²⁹ I&E St. 3-R, p. 17.

Wastewater SSS the \$322,926 and \$471,228 in operating revenues related to Farmington wastewater and Sadsbury wastewater, respectively; and (3) remove BASA and Brentwood entirely including the revenues.¹³⁰ OCA MB at 34.

4. OSBA's Position

The OSBA states that, on March 4, 2024, the Commission entered an Opinion and Order at Docket No. A-2021-3024058 denying PAWC's acquisition of the Borough of Brentwood's wastewater collection system assets. The OSBA argues that therefore, the Brentwood-related revenue requirement increase that PAWC proposes for Brentwood wastewater customers of \$369,405 must be eliminated. The OSBA asserts that furthermore, PAWC's proposed Act 11 revenue shift related to Brentwood of \$1.6 million must also be eliminated. The Company has agreed to remove the Brentwood revenue requirement from its claims in this case.¹³¹ OSBA MB at 9.

The Joint Application of Pennsylvania-American Water Company and Audubon Water Company, at Docket Nos. A-2023-3043194, A-2023-3043196, has scheduled evidentiary hearings for April 23 and 24, 2024. PAWC is proposing to acquire Audubon's water assets through a merger transaction valued at \$8.0 million, even though the net book value of the Audubon assets is only \$360,229 as of December 31, 2024.¹³² If the Audubon acquisition is rejected by the Commission, or if the Commission does not issue a final order in the Audubon acquisition proceeding prior to the record closing in the instant proceeding, all costs related to Audubon should be removed from the revenue requirement in this case. At a minimum, OSBA recommends removing the costs associated with the Audubon acquisition premium above net book value, which reduces the revenue requirement by approximately \$1,913,386. OSBA MB at 10.

¹³⁰ OCA St. 2, pp. 33-37, 49-50, 51-52; OCA St. 2SR, pp. 30-31.

¹³¹ Tr. 1970.

¹³² OSBA St. 1-S, p. 14.

In its Reply Brief, the OSBA asserts that PAWC’s argument that the Company’s “revenue requirement (rate base, revenues, expenses and taxes) properly includes water or wastewater systems that PAWC expects to acquire from Audubon Water Company” should be rejected by the Commission. The OSBA states that once the Commission decides the PAWC / Audubon case, that result can be addressed in the Company’s next rate case. OSBA RB at 7-8.

5. CAUSE-PA’s Position

CAUSE-PA did not take a specific position as to the revenue requirement in this proceeding. However, CAUSE-PA is highly concerned about how PAWC’s proposal to dramatically increase rates of basic water/wastewater services will negatively affect the accessibility of service for residential customers, especially low-income customers who already struggle to maintain service to their home. CAUSE-PA requests that that PAWC’s revenue proposal is rejected in its entirety, as PAWC has failed to show that its tariff proposals are – as a whole – just, reasonable, and in the public interest. CAUSE-PA MB at 18.

6. ALJs’ Recommendation

Both I&E and the OCA recommended that PAWC’s operating revenues should be adjusted downwards to account for not including the Acquisitions in rate base. I&E MB at 22; OCA MB at 34. Since we recommend above that the Acquisitions not be included in rate base, we also recommend that PAWC’s operating revenues should be adjusted downwards consistent with I&E’s and the OCA’s positions.¹³³ This results in the proposed adjustments for Revenues identified Table II Water and WW SSS. These revenue adjustments require concomitant adjustments for bad debt and general assessment expenses (Table IB Water, WW SSS, and WW CSS) and forfeited discounts / late payment fee / penalties revenues (PAWC Ex. 3-A Revised, Pg. 24R, 95R, and 216R) that are determined as a percentage of revenues. Concomitant revenue

¹³³ Similarly, although the OSBA did not extensively brief rate base issues, the OSBA did argue for the elimination of the Brentwood and Audubon Water Company acquisitions from PAWC’s revenue requirement. OSBA MB at 9; OSBA RB at 7-8.

is then subject to the same adjustment, as detailed in the Concomitant Revenue rows in Table II Water, WW SSS, and WW CSS.

B. Late Payment Revenue

1. I&E's Position

I&E witness Kubas recommends that Other Operating Revenue be increased by \$154,448, from \$3,241,057 to \$3,395,504 to appropriately reflect additional late payment revenue.¹³⁴ To arrive at this amount, Mr. Kubas multiplied the present rate late payment revenue of \$463,681 by the 35.1% increase in tariff rates to arrive at the \$162,780 (\$463,681 X 35.106%), and then subtracted the \$8,332 increase the Company reflected to arrive at I&E's late payment revenue increase of \$154,448.¹³⁵ I&E MB at 23.

2. ALJs' Recommendation

The Company does not oppose I&E's method of calculating late fee revenues but asserts that the proposed increase in Other Operating Revenues should be rejected if the Commission rejects I&E's proposed increases in rates for SSS and CSS customers.¹³⁶ Since we do not recommend adoption of I&E's proposed increases in rates for SSS and CSS customers, we do not recommend adoption of I&E's proposed adjustment to Late Payment Revenue. PAWC's proposed ratio of 0.5027% of penalties to total billed water/wastewater sales revenues specified in PAWC Ex. 3-A Revised, Pgs. 24R, 95R, and 216R, is adopted to calculate PAWC's late payment fee revenues at present and proposed rates. This ratio should also be used to calculate concomitant late payment fee revenues when adjusting present rate revenues, consistent with the adjustment recommended in subsection a. above, and to calculate late payment fee

¹³⁴ *Id* at 54.

¹³⁵ *Id.*

¹³⁶ PAWC RB at 15-16.

revenues at allowable rates, consistent with the Commission's final authorized increase in billed water/wastewater sales revenues.

C. Miscellaneous Revenues (AWR)

1. OCA's Position

The OCA has not challenged PAWC's miscellaneous revenue claims. In rebuttal, Ms. Everett states that PAWC's \$659,624 miscellaneous revenue claim related to AWR for billing and marketing services that PAWC provides to this entity should be removed from PAWC's revenue requirement in the FPFTY if the Commission determines that PAWC cannot continue to bill for AWR going forward.¹³⁷ The OCA disagrees with PAWC's position because (1) the \$659,624 revenue that PAWC receives from AWR and is fully substantiated by PAWC for the FPFTY, and (2) reflecting this miscellaneous revenue benefits consumers by offsetting the Company's proposed revenue requirement.¹³⁸ The OCA states that no PAWC witness testified that PAWC should stop the billing and marketing arrangement with AWR based on the concerns stated in Ms. Alexander's direct testimony.¹³⁹ Furthermore, Ms. Alexander has only recommended an investigation and the pause on any new enrollments.¹⁴⁰ Thus, if the Commission adopts Ms. Alexander's recommendation to open an investigation, it would be speculative to say what the outcome of that Commission investigation would be, how it would impact rates, or when the outcome will occur. Given this uncertainty and given that the amount of miscellaneous revenue that PAWC has been collecting from AWR is fully substantiated and benefits consumers, the \$659,624 revenue should remain included in the revenue requirement for the FPFTY.¹⁴¹ OCA MB 34-35.

¹³⁷ PAWC St. 1SR, p. 21; OCA St. 2SR, p. 49.

¹³⁸ OCA St. 2SR, pp. 49-50.

¹³⁹ OCA St. 2SR, p. 50.

¹⁴⁰ OCA St. 6, p. 41; OCA St. 6SR, pp. 23-24.

¹⁴¹ OCA St. 2SR, p. 50.

2. ALJs' Recommendation

Since we do not recommend adoption of the OCA's position to open an investigation into PAWC's relationship with AWR, we do not recommend any corresponding adjustment to PAWC's claim for Miscellaneous Revenues related to AWR.

D. Butler Area Sewer Authority ("BASA") Mitigation Adjustment

1. OSBA's Position

The OSBA asserts that a condition that the OSBA insisted on, and PAWC agreed to, in the Settlement Agreement approved at Docket No. A-2022-3037047 ("BASA Settlement"), is that the Company would move BASA rates to 1.40 times the current BASA rates or PAWC's proposed Rate Zone 1 system-average wastewater rates, whichever is lower, upon the later of (a) the first anniversary of Closing or (b) January 1, 2025.¹⁴² The OSBA states that PAWC has adhered to this condition, but in this proceeding the Company has proposed to recover \$21.6 million in annual Act 11 revenues from water customers associated with the acquisition of BASA. The OSBA argues that his recovery should be denied. OSBA MB at 8.

The OSBA argues that it is unreasonable to shift this cost burden to water customers in this case. PAWC "negotiated" the BASA acquisition price and negotiated with the OSBA and other parties to mitigate the impact on BASA customers in this rate case. Consequently, the OSBA recommends setting the BASA-related revenue requirement increase at the 40% capped increase for BASA wastewater customers, or \$4,735,610, with no Act 11 revenue shift to water customers. This adjustment would decrease PAWC's proposed revenue requirement by \$21.6 million, which is PAWC's proposed Act 11 revenue shift related to the BASA acquisition.¹⁴³ OSBA MB at 8-9.

¹⁴² OSBA St. 1, p. 20.

¹⁴³ OSBA St. 1, p. 25.

In its Reply Brief, the OSBA responds to PAWC’s Main Brief by stating that the proposal offered by the OSBA does *not* “force shareholders to commit investment capital to furnish safe and reliable service ... while denying shareholders any compensation for the use of their funds.” The OSBA is *not* proposing disallowance of recovery of any funds that are expended to improve the BASA systems, and the OSBA is certainly *not* proposing the *permanent* disallowance of those expended funds. OSBA RB at 6 (citing PAWC MB at 17) (emphasis in original).

2. ALJs’ Recommendation

We do not make a recommendation concerning OSBA’s advocated BASA mitigation adjustment because we do not recommend that BASA be included in PAWC’s FPFTY rate base.

VIII. EXPENSES

A. Payroll Costs – Vacancy Rate

1. PAWC’s Position

The Company’s payroll allowance for the FPFTY was developed based on PAWC’s authorized complement of 1,294 equivalent employees.¹⁴⁴ OCA witness Smith proposes an adjustment to reflect on a 1.76% vacancy rate.¹⁴⁵ In rebuttal testimony, PAWC accepted Mr. Smith’s vacancy rate adjustment and updated payroll expense to reflect a merit increase that became effective January 8, 2024, for non-collective bargaining unit hourly employees and exempt employees (the “2024 Merit Increase”).¹⁴⁶ PAWC states that, with the

¹⁴⁴ *Id.* at 4-7; *see also* PAWC St. 2, p. 39.

¹⁴⁵ OCA St. 2, p. 59.

¹⁴⁶ PAWC St. 5-R, pp. 2-3; PAWC Ex. 3-A Revised.

accepted adjustment and 2024 Merit Increase, PAWC's final payroll expense claim is \$78,161,527. PAWC MB 21-22.

2. OCA's Position

The OCA recommends an adjustment to salaries, wages and related benefits for Water based on a 1.76% vacancy rate. The OCA states that PAWC accepted the adjustments based on the OCA's recommended vacancy rate. The adjustments reduce the salaries and wages by \$1,045,353 and related payroll taxes by \$79,970, and annual performance pay by \$85,523 and related payroll tax by \$6,543. The OCA recommends accompanying adjustments based on the vacancy rate for group insurance by \$200,623 and 401K, DCP and ESPP by \$72,817, resulting in a total proposed reduction to the Company's claim for salaries, wages, payroll taxes and related benefits by \$1,490,829.¹⁴⁷ OCA MB at 35.

Additionally, the OCA recommends removing PAWC's expense claim in the amount of \$123,250 from PAWC's Water related to its external Board given that PAWC eliminated its external Board as of December 31, 2023. The OCA states that PAWC agreed to remove this amount during its rebuttal phase of the proceeding.¹⁴⁸ OCA MB at 35-36.

3. ALJs' Recommendation

PAWC accepted OCA's proposed adjustment to Payroll Costs – Vacancy Rates.¹⁴⁹ Accordingly, we recommend that PAWC's Payroll Costs – Vacancy Rate be adjusted to reflect the OCA's proposed adjustment, i.e., a 1.76% vacancy rate. This is reflected in the

¹⁴⁷ PAWC St. 5R, pp. 2-3; OCA St. 2, pp. 56-59; OCA St. 2SR, p. 2, n.1, 2.

¹⁴⁸ OCA St. 2, p. 62; OCA St. 2SR, p. 2.

¹⁴⁹ PAWC MB at 21-22.

Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

PAWC also accepted the OCA's recommendation to remove its expense claim in the amount of \$123,250 related to its external Board given that PAWC eliminated its external Board as of December 31, 2023.¹⁵⁰ Accordingly, we recommend that PAWC's claim for \$123,250 related to its external Board be eliminated. This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

B. Annualized Performance Pay (PAWC)

1. PAWC's Position

PAWC asserts that the performance compensation challenged by Ms. LaConte and Mr. Higgins is an integral part of the total market-based compensation package that is necessary to compete for and retain qualified employees so that customers continue to receive safe and reliable service.¹⁵¹ PAWC states that as the Commission has found on numerous occasions in the past, the focus for ratemaking purposes is the reasonableness of overall compensation awards, and not the size or nature of individual pieces of the compensation package.¹⁵² PAWC avers that no party contests that the Company's total market-based employee compensation is reasonable and PAWC provided evidence concerning how performance pay

¹⁵⁰ PAWC St. 5R, p. 7.

¹⁵¹ PAWC St. 2, pp. 39-42; PAWC St. 2-R, pp. 4-10.

¹⁵² See, e.g., *Pa. P.U.C. v. Pa.-American Water Co.*, Docket Nos. R-2020-3019369 and R-2020-3019371 (Opinion and Order entered Feb. 25, 2021) (*PAWC 2020*) at 50-53; *Pa. PUC v. Aqua Pa., Inc.*, 2022 Pa. PUC LEXIS 161, *112 (Order May 16, 2022) (*Aqua 2022*) at 100-101; *UGI 2018* at 73-74; *Pa. Pub. Util. Comm'n. v. PPL Elec. Utils. Corp.*, Docket No. R-2012-2290597, p. 26 (Opinion and Order entered Dec. 28, 2012) (*PPL 2012*); *Pa. Pub. Util. Comm'n. v. Aqua Pa., Inc.*, Docket No. R00072711, pp. 20-21 (Opinion and Order entered July 31, 2008); *Pa. Pub. Util. Comm'n v. PPL Gas Utils. Corp.*, Docket No. R-00061398, p. 40 (Opinion and Order entered Feb. 8, 2007).

benefits customers by encouraging, among other things, operational efficiency.¹⁵³ PAWC notes that its performance-based compensation expense, including APP and LTPP, was recently reviewed and approved by the Commission in PAWC's 2020 base rate proceeding.¹⁵⁴ PAWC MB at 23.

In its Reply Brief, PAWC states that the OSBA and PAWLUG's Main Briefs do not address (or even acknowledge) the adverse precedent presented by PAWC in its Main Brief. PAWC RB at 18.

2. I&E's Position

I&E states that it withdrew this adjustment in Surrebuttal testimony.¹⁵⁵ I&E MB at 25.

3. OCA's Position

The OCA states that the Company's acceptance of the OCA's recommended vacancy rate of 1.76% supports the OCA's adjustments to Annualized Performance Plan Expense.¹⁵⁶ The OCA's adjustment reduces annualized performance plan expense by \$85,523 and related payroll tax expense by \$6,543 for Water.¹⁵⁷ OCA MB at 36.

4. OSBA's Position

The OSBA recognizes that while rewarding employees for financial performance can, under certain specific circumstances, be appropriate, the responsibility for funding such

¹⁵³ PAWC St. 2-R, pp. 4-10.

¹⁵⁴ *PAWC 2020* at 53.

¹⁵⁵ I&E St. 1, p. 16.

¹⁵⁶ OCA St. 2SR, p. 2, n.1.

¹⁵⁷ OCA St. 2, pp. 59-60.

awards rests mostly with the shareholders. Therefore, the OSBA recommends that 50% of the APP expense be eliminated from the revenue requirement, based on the weight of the EPS goal included in the APP corporate performance calculation as well as placing more of the financial burden for the APP on the Company's shareholders. This adjustment decreases the FPFTY revenue requirement by approximately \$5,153,394 in total, which includes the impact of removing 50% of the APP expense directly related to PAWC employees, as well as 50% of the APP expense allocated to PAWC by its Service Company from the revenue requirement. This amount also includes the estimated impact on payroll tax expense.¹⁵⁸ OSBA MB at 11.

5. ALJs' Recommendation

Since we recommend that the Commission adopt the OCA's proposed adjustment to PAWC's Payroll Costs – Vacancy Rate, we also recommend that this adjustment be applied to PAWC's Annualized Performance Pay (APP) expense claim.¹⁵⁹ This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

We also recommend that the Commission reject the OSBA's proposed adjustment to APP. Consistent with the recommendation to reduce this expense in half, the OSBA acknowledges that the calculation for the APP is not based solely on PAWC's financial performance.¹⁶⁰ Additionally, we find that PAWC provided sufficient evidence concerning how its entire performance pay calculation, inclusive of financial performance metrics, benefits customers by encouraging, among other things, operational efficiency and accessing capital at reasonable rates.¹⁶¹ Additionally, as PAWC notes, approval of the claim for APP expense,

¹⁵⁸ OSBA St. 1, pp. 11-12.

¹⁵⁹ See OCA MB at 36.

¹⁶⁰ OSBA MB at 11; *see also* PAWC St. 2, p. 41.

¹⁶¹ PAWC St. 2-R, pp. 6-7.

inclusive of financial metrics, is consistent with the Commission’s decision in PAWC’s 2020 base rate case to approve a similar expense.¹⁶²

C. Group Insurance Expense

1. PAWC’s Position

PAWC states that the OCA’s proposed adjustments to group insurance expense are concomitant to OCA witness Smith’s recommended vacancy rate addressed in the Payroll Costs – Vacancy Rates section of PAWC’s Main Brief. PAWC MB at 23.

2. OCA’s Position

The OCA states that the Company’s acceptance of the OCA’s vacancy rate supports the OCA’s adjustments to Group Insurance Expense.¹⁶³ The OCA’s adjustment reduces projected 2025 group insurance expense by \$200,623 for Water.¹⁶⁴ OCA MB at 36.

3. ALJs’ Recommendation

PAWC acknowledged that the OCA’s proposed adjustments to group insurance expense are concomitant to OCA witness Smith’s recommended vacancy rate.¹⁶⁵ Therefore, as we recommend that the Commission adopt the OCA’s adjustment to vacancy rate, we also recommend that the Commission adopt the OCA’s proposed adjustment to group insurance expense. This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

¹⁶² PAWC MB at 23 (citing *PAWC 2020* at 53).

¹⁶³ OCA St. 2SR, p. 2, n.1.

¹⁶⁴ OCA St. 2, p. 60; OCA St. 2SR, p. 2.

¹⁶⁵ PAWC MB at 23.

D. 401K, Defined Contribution Plan and Employee Stock Purchase Plan

1. PAWC's Position

As Ms. O'Malley explains, the ESPP is available to all active, full- or part-time employees of American Water Works Company, Inc. (American Water). PAWC employees who become American Water shareholders have additional incentive to establish efficiencies that benefit customers.¹⁶⁶ PAWC MB at 24.

2. OCA's Position

The OCA states that PAWC's acceptance of the OCA's vacancy rate supports the OCA's adjustments to 401K, Defined Contribution Plan and Employee Stock Purchase Plan Expense.¹⁶⁷ The OCA's adjustment reduces projected 2025 expense by \$72,817 for Water.¹⁶⁸ OCA MB at 36.

3. OSBA's Position

The OSBA states that PAWC provides an Employee Stock Purchase Plan ("ESPP"), which gives a 15% discount on purchases of American Water Works' stock by employees who are enrolled in the ESPP.¹⁶⁹ PAWC proposes to include the cost of providing this employee benefit in its revenue requirement. The OSBA recommends that PAWC's proposal that ratepayers should fund the stock purchase discount be rejected. The OSBA argues that it is not the job of ratepayers to incentivize employees to purchase American Water Works stock. Since the ESPP operates through payroll deductions, this stock purchase mechanism increases payroll costs for the portion of an employee's compensation that is used to purchase

¹⁶⁶ PAWC St. 5-R, p. 5; *see also* PAWC St. 2-R, p. 6.

¹⁶⁷ OCA St. 2SR, p. 2, n.1.

¹⁶⁸ *Id at* 61; OCA St. 2SR, p. 2.

¹⁶⁹ OSBA St. 1, p. 13.

stock.¹⁷⁰ The OSBA argues that if PAWC wants to provide an incentive for employees to purchase American Water Works stock, the ESPP should be funded by shareholders. This adjustment decreases the FPFTY revenue requirement by approximately \$457,009 in total.¹⁷¹ OSBA MB at 11-12.

4. ALJs' Recommendation

Since we recommend that the Commission adopt the OCA's proposed adjustment to PAWC's Payroll Costs – Vacancy Rate, we also recommend that this adjustment be applied to PAWC's 401K, Defined Contribution Plan and Employee Stock Purchase Plan expense claim.¹⁷² This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

We also recommend that the Commission reject the OSBA's proposed adjustment to Employee Stock Purchase Plan expense. We find that PAWC provided sufficient evidence that PAWC employees who become American Water shareholders have additional incentive to establish efficiencies that benefit customers.¹⁷³ This finding is consistent with our recommendation above that the claim for Annualized Performance Pay expense appropriately includes a financial metric component.

E. Stock-Based Compensation Expense – American Water Executives

1. PAWC's Position

PAWC states that, as explained by its witness Runzer, the expenses OCA witness Smith opposes are part of the compensation provided to top executives to ensure that total

¹⁷⁰ OSBA St. 1, pp. 13-14.

¹⁷¹ OSBA St. 1, p. 14.

¹⁷² See OCA MB at 36.

¹⁷³ PAWC St. 5-R, p. 5; *see also* PAWC St. 2-R, p. 6.

compensation is reasonable, and market based. PAWC asserts that no party presents evidence that top executives could be attracted or retained with a total compensation level that is substantially below PAWC's claim. Like all other employees, top executives are necessary to enable PAWC to manage the provision of safe and reliable water and wastewater service. Both customers and utility investors benefit from awarding a portion of total compensation as stock-based compensation because: (1) it incentivizes utility employees to promote the Company's efficiency and financial health; and (2) it promotes a stable leadership team and mitigates employee turnover costs by vesting over a prospective three-year period.¹⁷⁴ Finally, the PUC recently reviewed and approved PAWC's total compensation package. It is appropriate to do so again in this case. PAWC MB at 24-25.

In its Reply Brief, PAWC states that the OCA completely ignores the recent approval of PAWC's performance-based compensation expense, including stock-based compensation associated with the LTPP, in its Main Brief – even though that approval was cited by PAWC witness Runzer in his rebuttal testimony.¹⁷⁵ Instead, the OCA cites to *Aqua 2022* where, as previously noted, stock-based compensation was approved, and attempts to distinguish the expense claim made by PAWC in this case. PAWC asserts that a careful read of the *Aqua 2022* decision, however, shows that OCA is simply recycling its failed arguments from that case. PAWC argues that an objective review of the record in this case shows that PAWC has provided substantial evidence related to the same customer benefits that were highlighted by the PUC when it approved Aqua's performance-based compensation: controlling costs, improving efficiency, promoting retention, and promoting safe and reliable service.¹⁷⁶ PAWC MB at 24-25.

2. OCA's Position

The OCA recommends an adjustment to remove expenses related to the stock-based compensation associated with a Long-Term Performance Plan (LTPP) for American Water

¹⁷⁴ PAWC St. 2-R, pp. 8-10; *see also* PAWC St. 2-R, pp. 3-8.

¹⁷⁵ PAWC St. 2-R, p. 5.

¹⁷⁶ PAWC St. 2, pp. 39-42; PAWC St. 2-R, pp. 2-10.

Works. Inc. (AWK) top executive officers. The OCA recommends adjusting PAWC's claim for stock-based compensation by removing the portion projected to be paid to the top executives of AWK and charged to PAWC for the FPFTY linked to shareholder interests, not consumer interests. The stock-based compensation for those executives includes (1) performance stock units (PSU), and (2) restricted stock units (RSU). This adjustment reduces PAWC's operating expenses by \$1.722 million to remove the stock-based compensation expense paid to AWK's top executives and charged from AWK to PAWC.¹⁷⁷ OCA MB at 36-37.

The OCA argues that this adjustment is necessary because ratepayers should not be required to pay for a portion of the expense for stock-based compensation paid to AWK's top executives, where such compensation is linked to the performance of AWK's stock price and has the primary purpose of benefitting AWK's stockholders and aligning the interests of participants with those of such stockholders. This recommendation is distinguished from the allowed expense in *Aqua 2022*, where the Commission found that stock-based compensation benefits ratepayers where the compensation is linked to performance objectives that benefit consumers, including controlling costs and compliance initiatives.¹⁷⁸ The OCA states that here, PAWC witness Runzer conceded that the stock-based compensation expense consists of RSUs and PSU and the compensation under the LTPP is linked to stock performance.¹⁷⁹ The OCA asserts that recovering that portion of stock-based compensation expense that is linked to shareholder interests from PAWC's customers is not reasonable nor does it promote reasonable, adequate, or efficient public utility service.¹⁸⁰ The OCA recommends allocating the adjustments to PAWC's Water and Wastewater by using the allocation factors reflected on Exhibit 3-B, page 301 from the Company's filing, which reduces pre-tax operating expenses by (1) \$1.643 million for Water, (2) \$51,658 for Wastewater SSS, and (3) \$27,551 for CSS Wastewater.¹⁸¹ OCA MB at 37.

¹⁷⁷ OCA St. 2, pp. 66-67.

¹⁷⁸ *Aqua 2022* at 60-61.

¹⁷⁹ PAWC St. 2R, p. 9; OCA St. 2SR, pp. 45-46.

¹⁸⁰ OCA St. 2, p. 67; OCA St. 2SR, p. 67.

¹⁸¹ OCA St. 2, p. 69.

3. OSBA’s Position

The OSBA states that PAWC provides stock-based compensation to eligible employees through its LTPP. Eligible employees are awarded restricted stock units (“RSUs”) and performance stock units (“PSUs”). RSU awards are based on a three-year vesting period if the participant remains employed with the Company, and PSU awards are based on “performance vesting conditions.”¹⁸² The PSUs are awarded based on a combination of compounded EPS growth and relative total shareholder return when compared to a peer group of stock over a three-year period. The LTPP awards for the historic test year ended June 30, 2023, was approximately 22% RSUs and 78% PSUs.¹⁸³ OSBA MB at 12.

The OSBA recommends that the LTPP expense be removed from the revenue requirement – this is an award program that should be funded by shareholders. The majority of the LTPP cost is the PSU component, which is directly based on American Water Works’ financial performance. The RSU component is simply based upon an employee continuing to work for PAWC, rather than any explicit work-related goals. The OSBA states that the PAWC employee who simply shows up to work for 3 years obtains RSUs. The OSBA avers that this is an expense that is properly borne by the Company’s shareholders. This adjustment decreases the FPFTY revenue requirement by approximately \$5,230,156 in total.¹⁸⁴ This amount includes the estimated impact on payroll tax expense. OSBA MB at 12.

4. PAWLUG’s Position

PAWLUG is not proposing comprehensive adjustments to PAWC's expenses or a specific revenue requirement recommendation. However, PAWLUG requests that the Commission modify PAWC's proposed incentive compensation expense as the proposal to recover \$4.1 million of incentive compensation costs is inflated by \$2 million. As described in

¹⁸² OSBA St. 1, p. 12.

¹⁸³ OSBA St. 1, p. 12.

¹⁸⁴ OSBA St. 1, p. 13.

PAWLUG witness's LaConte's Direct Testimony, "PAWC seeks to recover a portion of its incentive compensation that is based on meeting financial targets as well as operations targets."¹⁸⁵ PAWLUG argues that while PAWC reserves managerial discretion to award incentive compensation as the Company deems appropriate, only incentive compensation associated with operational goals such as customer satisfaction or safety should be recoverable through base rates.¹⁸⁶ PAWLUG MB at 6.

PAWLUG states that the Commission should reduce PAWC's proposed \$4.1 million of total incentive compensation expense by \$2 million (resulting in total incentive compensation expense of \$2.1 million) to eliminate the recovery of incentive compensation costs tied to financial targets. PAWLUG MB at 6.

5. ALJs' Recommendation

We recommend that the Commission approve PAWC's claim for Stock-Based Compensation Expense – American Water Executives. Consistent with the Commission's decision in *Aqua 2022*¹⁸⁷ and our recommendation above regarding APP expense, we find that PAWC sufficiently demonstrated that its claimed Stock-Based Compensation Expense, including its Long-Term Performance Plan (LTPP), benefits ratepayers.¹⁸⁸ We do not agree with the OCA that this expense is significantly different than the similarly allowed expense in *Aqua 2022*.¹⁸⁹ Both expenses include stock-based compensation that can produce operational efficiencies to benefit ratepayers. As PAWC witness Runzer explains, the LTPP includes both restricted stock units (RSUs) and performance stock units (PSUs).¹⁹⁰ PSUs reflect the Company's financial

¹⁸⁵ PAWLUG St. 1, p. 8.

¹⁸⁶ *Id.*

¹⁸⁷ *Aqua 2022* at 100-101.

¹⁸⁸ PAWC St. 2, pp. 39-42; PAWC St. 2-R, pp. 2-10.

¹⁸⁹ *See* OCA MB at 37.

¹⁹⁰ PAWC St. 2, p. 41.

performance.¹⁹¹ Consistent with our discussion above regarding the APP expense, improved financial performance can benefit customers by encouraging operational efficiency. RSUs are not linked to financial goals or targets but vest in equal increments in the three years following the year in which the RSUs were granted.¹⁹² Although the OSBA asserts RSUs reward employees simply for showing up for work,¹⁹³ we agree with PAWC that encouraging employee retention can benefit ratepayers by maintaining stable leadership experienced with the Company's operations as well as avoiding turnover costs.¹⁹⁴ Finally, as PAWC notes, approval of the claim for LTPP expense is consistent with the Commission's decision to approve a similar expense in PAWC's 2020 base rate case.¹⁹⁵

F. Executive Perquisites (AWW Executives Dividend Equivalents)

1. PAWC's Position

OCA witness Smith's proposed adjustments to PAWC's claimed O&M expenses to remove certain executive perquisites are addressed at the Stock-Based Compensation Expense – American Water Executives section of PAWC's Main Brief and Reply Brief. PAWC MB at 25; PAWC RB at 20.

2. OCA's Position

The OCA recommends an adjustment to remove expenses related to the executive perquisites associated with Dividend Equivalents for top AWK executives. This adjustment reduces PAWC's FPFTY operating expenses by \$31,371 for AWK's top executives Other

¹⁹¹ PAWC St. 2, p. 41, fn. 2.

¹⁹² See PAWC St. 2-R, p. 7.

¹⁹³ OSBA MB at 12.

¹⁹⁴ PAWC St. 2-R, p. 8.

¹⁹⁵ PAWC MB at 23 (citing *PAWC 2020* at 53).

Compensation expense for Dividend Equivalents.¹⁹⁶ On page 53 of AWK’s 2023 Proxy Statement under the section titled “Executive Compensation”, it states the following with regard to Dividend Equivalents:

Dividend equivalents are paid in cash with respect to PSUs and RSUs at such time, if ever, as the PSUs or RSUs are converted to common stock. Amounts in this column reflect PSU and RSU dividend equivalents that were paid out in 2022.^[197]

The OCA states that this is another form of compensation to AWK executives linked to shareholder interests, not consumer interests. Charging the Dividend Equivalents portion of all Other Compensation received by AWK’s top executives to PAWC’s ratepayers is not reasonable, nor does it promote reasonable, adequate, or efficient public utility service.¹⁹⁸ The OCA’s adjustment reduces pre-tax operating expenses by (1) \$29,928 for Water, (2) \$941 for Wastewater SSS, and (3) \$502 for CSS Wastewater. OCA MB at 38.

3. ALJs’ Recommendation

The executive perquisites associated with dividend equivalents are paid in cash with respect to PSUs and RSUs if the PSUs or RSUs are converted to common stock.¹⁹⁹ For the same reasons outlined in subsection e. above, we recommend that the Commission approve PAWC’s claim for Executive Perquisites.

¹⁹⁶ OCA St. 2, p. 70.

¹⁹⁷ OCA St. 2, p. 70.

¹⁹⁸ OCA St. 2SR, pp. 47-48.

¹⁹⁹ See OCA MB at 38.

G. Payroll Taxes

1. PAWC's Position

OCA witness Smith's proposed adjustments to PAWC's payroll taxes are addressed in the Payroll Costs – Vacancy Rates section of PAWC's Main Brief and Reply Brief. PAWC MB at 25; PAWC RB at 20. OSBA witness Higgins also recommended adjustments to payroll taxes.²⁰⁰ PAWC states that this adjustment, however, is concomitant to his proposed adjustments to performance pay and the ESPP and, therefore, should be rejected for the reasons previously discussed. PAWC MB at 25. In its Reply Brief, PAWC states that the OSBA's proposed performance pay adjustment includes the estimated impact on payroll tax expense and is addressed in the Annualized Performance Pay section of the OSBA's Reply Brief.

2. I&E's Position

As noted above, I&E withdrew its performance pay adjustment in Surrebuttal testimony. As the I&E payroll tax expense adjustment was the result of the I&E performance pay adjustment, I&E withdrew its payroll tax expense adjustment in Surrebuttal testimony as well.²⁰¹ I&E MB at 26.

3. OCA's Position

The OCA's adjustments to payroll have related payroll tax adjustments. OCA MB at 38.

²⁰⁰ OSBA St. 1, pp. 11-13.

²⁰¹ I&E St. 1-SR, p. 17.

4. OSBA's Position

The OSBA states that payroll tax adjustments are appropriate if the Commission approves adjustments to compensation-related expenses that impact payroll taxes. The OSBA's recommended adjustment to APP and LTPP expenses include the estimated impact on payroll taxes. OSBA MB at 13.

5. ALJs' Recommendation

Consistent with our recommendation in subsection a. above, we recommend that PAWC's Payroll Costs, including Payroll Taxes, be adjusted to reflect the OCA's proposed adjustment, i.e., a 1.76% vacancy rate. This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

H. Insurance Other Than Group

1. PAWC's Position

PAWC states that OCA witness Smith proposes using a single data point – the HTY to FTY increase – in lieu of the five-year average PAWC employed to derive its FPFTY insurance other than group expense claim.²⁰² PAWC avers that in its last base rate case, it used a five-year average to smooth year-to-year variations, and that approach was not opposed by the OCA.²⁰³ PAWC argues that using a five-year average continues to be the appropriate approach to smooth year-over-year variations, and, therefore, the Commission should reject the OCA's adjustment. PAWC MB at 25.

²⁰² OCA St. 2, pp. 63-64.

²⁰³ PAWC St. 5-R, p. 8.

2. OCA's Position

OCA witness Smith recommends an adjustment to Insurance Other Than Group expense using the actual percentage change from the test year ended June 30, 2023, rather than the Company proposed five-year average percentage change, which was calculated based on the 12-month periods from June 30, 2019, through June 30, 2023. The OCA states that while Mr. Smith generally agrees that averages can be used to normalize costs, consideration should also be given to trends and to current information. The OCA asserts that the annual percentage change for the 12-month ending periods of June 30, 2019, June 30, 2021, and June 30, 2022, were abnormally high or low as compared to the 12-month ending periods June 30, 2020, and the HTY ended June 30, 2023. The OCA states to ensure the reasonableness of this expense, it recommends that the HTY percentage change of 4.53% be used to calculate Insurance Other Than Group for the FPFTY. The OCA's adjustment reduces pre-tax operating income by \$247,905 for Water, \$34,694 for Wastewater SSS and \$23,713 for CSS Wastewater.²⁰⁴ OCA MB at 38-39.

3. ALJs' Recommendation

We recommend that the Commission adopt PAWC's position and use a five-year average to calculate PAWC's FPFTY claim for its insurance other than group expense. We agree with PAWC that this methodology is appropriate to smooth year-over-year variations.²⁰⁵ Although the OCA asserts that the HTY percentage change should be used because the annual percentage change for the 12-month ending periods of June 30, 2019, June 30, 2021, and June 30, 2022, were abnormally high or low,²⁰⁶ we find that it is because of these variations that it is appropriate to use an averaging methodology. Other than the OCA's characterization of three years of data as abnormal, there is no basis to find that use of the HTY percentage change would be more accurate than a result based on averaging.

²⁰⁴ OCA St. 2, pp. 63-64; OCA St. 2SR, pp. 36-37.

²⁰⁵ See PAWC MB at 25.

²⁰⁶ See OCA MB at 38-39.

I. Uncollectible Expense (Rate of Net Write-Offs)

1. PAWC's Position

PAWC states that outstanding arrearages for PAWC's customers have stabilized from the significant increases during the peak of the COVID-19 pandemic, and the Company's net write-offs have been trending back toward pre-pandemic levels since mid-2021.²⁰⁷ As a result, PAWC calculated its claim for bad debt (uncollectible) expense using a two-year historic average (July 1, 2021 to June 30, 2023) ratio of net write-offs as a percentage of sales revenues (1.176%) to normalize the rate of uncollectible accounts to pre-pandemic levels and account for the application of Low-Income Household Water Assistance Program ("LIHWAP") funds to reduce unpaid balances.²⁰⁸ PAWC MB at 26.

PAWC states that, while OCA witness Smith's adjustment would have a minimal impact on revenue requirement, PAWC's approach of using a two-year percentage of net write offs, ended June 30, 2023, eliminates all impacts of the COVID-19 pandemic on customer collections activities and PAWC revenues, which occurred beginning with the moratorium on disconnects starting in March 2020 and continued through March 2021. PAWC avers that if the PUC wishes to maintain historical practice and utilize a three-year average rate to determine the level of uncollectible expense reflected in new base rates, the 12-months ended June 30, 2020, should be replaced with June 30, 2019, which excludes all periods impacted by the COVID-19 pandemic and produces an uncollectible rate (1.196%) that is 0.02% higher than PAWC's proposal.²⁰⁹ PAWC MB at 26.

In its Reply Brief, PAWC states that OCA agrees that COVID-19 pandemic impacts should be eliminated from the historic average ratio of net write-offs used to determine

²⁰⁷ PAWC St. 8, pp. 3-6.

²⁰⁸ *Id.* at 3-5.

²⁰⁹ PAWC St. 8-R, pp. 3-4.

PAWC's rate allowance for uncollectible expense.²¹⁰ However, OCA witness Smith's proposed uncollectible rate of 1.164% is based on a three-year historic average that includes the March to June 2020 period when PAWC had several measures in place to help customers deal with the financial impact of the pandemic, including ceasing service terminations for non-payment.²¹¹ PAWC states that for this reason, the OCA's proposed adjustment should be rejected. PAWC RB at 21.

2. OCA's Position

OCA witness Smith recommends using a three-year historic average ratio of net write-offs based on the 12 months ended June 30, 2020, 2022, and 2023, to calculate the going level uncollectibles expense. The OCA states this produces an uncollectibles write-off percentage of 1.164%.²¹² The OCA avers that as Mr. Smith testified, it is reasonable and prudent to eliminate the impacts of the Covid-19 pandemic on customer collections; accordingly, the period July 1, 2020, through June 30, 2021, should not be used in the calculation of going level Uncollectibles Expense.²¹³ For the 12-months ended June 30, 2021, the uncollectibles annual write-off percentage calculates to 0.548% whereas for the 12-month period ended June 30, 2020, the annual write-off percentage of 1.135% is consistent with the write-off percentages shown for the 12-months ended June 30, 2022, and June 30, 2023. The OCA asserts that consequently, averaging the annual write-off information using the 12 months ended June 30, 2020, 2022, and 2023, appears to be reasonable in the context of the current PAWC rate case.²¹⁴ The OCA's adjustment reduces claimed Uncollectibles Expense by \$100,054 for Water, by \$11,591 for

²¹⁰ OCA MB at 39.

²¹¹ *Id.*; see also PAWC St. 8, pp. 3-5.

²¹² OCA St. 2, pp. 54-56; OCA St. 2SR, pp. 32-34.

²¹³ OCA St. 2, p. 55; OCA St. 2SR, p. 33.

²¹⁴ OCA St. 2, pp. 55-56; OCA St. 2SR, pp. 33-34.

Wastewater SSS, and by \$9,547 for CSS Wastewater (and by \$1,438 for BASA wastewater).²¹⁵ OCA MB at 39-40.

3. ALJs' Recommendation

We recommend that the Commission adopt PAWC's position and calculate its claim for bad debt (uncollectible) expense using a two-year historic average (July 1, 2021 to June 30, 2023) ratio of net write-offs as a percentage of sales revenues.²¹⁶ PAWC avers that the Company's net write-offs have been trending back toward pre-pandemic levels since mid-2021.²¹⁷ Therefore, we agree with PAWC that its use of a two-year percentage of net write offs better eliminates the impacts of the COVID-19 pandemic on customer collections activities and PAWC revenues.²¹⁸ Although the OCA argues that the 12 months ending June 30, 2020 should also be included in the averaging,²¹⁹ we agree with PAWC that this period should be excluded because it contains data from March to June 2020, which would reflect impacts from COVID-19.²²⁰

J. Arrearage Management Plan ("AMP") Credits – Uncollectible Expense

1. PAWC's Position

PAWC's Miscellaneous Expense Adjustment included costs related to the AMP that was pending before the Commission at the time of the initial base rate filing and later approved on December 7, 2023, at Docket No. P-2021-3028195. The total cost of arrearage

²¹⁵ OCA St. 2, pp. 54-55.

²¹⁶ See PAWC MB at 26.

²¹⁷ PAWC St. 8, pp. 3-6.

²¹⁸ See PAWC MB at 26.

²¹⁹ See OCA MB at 39-40.

²²⁰ See PAWC RB at 21.

forgiveness is based on the average number of BDP customers in the HTY with arrears multiplied by the annual AMP credits, assuming a 100% participation rate.²²¹ PAWC MB at 27.

OCA witness Colton recommends a reduction in AMP credit cost recovery from PAWC's proposed \$2,377,200 to \$214,728, arguing that the Company's projected AMP participation level should reflect how many BDP customers make payments in a "full and timely" fashion.²²² PAWC argues that Mr. Colton incorrectly assumes, however, that timely payments are required for a customer to be eligible for credits under the AMP. As Ms. Everette explained, the requirement for arrearage forgiveness is that the customer make an in-full payment of current charges plus a \$5 copay.²²³ PAWC states that therefore, Mr. Colton's concern regarding timely payment behavior is without basis. Importantly, as explained by PAWC witness O'Malley, if AMP expense is lower than the Company has projected in this case, the difference will be recorded to a regulatory liability and returned to customers in a future base rate case.²²⁴ PAWC MB at 27.

In its Reply Brief, PAWC states that in its Main Brief,²²⁵ OCA continues to propose its original expense reduction but conveniently fails to mention the "step one" adjustment representing the vast majority of its total adjustment or address Ms. Everette's sound rebuttal to OCA's methodology. PAWC asserts that as explained in its Main Brief,²²⁶ the PUC should reject OCA's proposed reduction as unsupported. PAWC states that importantly, if the AMP credits are lower than PAWC has projected in this case, the difference will be recorded to a regulatory liability and returned to customers in a future base rate case.²²⁷

²²¹ PAWC St. 5, p. 26; PAWC St. 5-R, p. 8.

²²² OCA St. 5, pp. 124-26; OCA St. 5-SR, pp. 25-27.

²²³ Tr. 1977.

²²⁴ PAWC St. 5-R, pp. 8-9.

²²⁵ OCA MB at 40.

²²⁶ PAWC MB at 27.

²²⁷ PAWC MB at 27; PAWC St. 5-R, pp. 8-9.

2. OCA's Position

The OCA argues that PAWC's addition of dollars to uncollectibles to reflect AMP credits should be reduced by the percentage of BDP dollars already historically included in uncollectibles.²²⁸ This adjustment reduces overall FPFTY uncollectibles expense by \$2.162 million in account 670.7 related to the Company's proposed AMP. The OCA states that with this adjustment, account 670.7 should reflect the amount of \$214,728 for the AMP-related uncollectibles expense, rather than \$2,377,200 as proposed by PAWC.²²⁹ This adjustment reduces pre-tax operating expenses by \$1.848 million for Water, \$150,724 for Wastewater SSS, and \$113,746 for CSS Wastewater (and \$39,573 for BASA wastewater). The OCA asserts that this adjustment is necessary to eliminate PAWC's double-recovery of dollars added to uncollectibles to reflect AMP credits where those dollars are already historically included in uncollectibles for the BDP.²³⁰ OCA MB at 40.

The OCA states that its position is consistent with the Further Amended Joint Petition for Full Settlement of the Arrearage Management Plan,²³¹ that provided that the cost recovery issues were to be "addressed in a future rate case." The Settlement thus provided that PAWC could "propose a dollar amount" which could be disputed by OCA and which, accordingly, would be "subject to review and approval by the Commission."²³² OCA MB at 40.

²²⁸ OCA St. 2SR, p. 48.

²²⁹ OCA St. 2, pp. 73-74.

²³⁰ OCA St. 5, pp. 7, 127; OCA St. 5SR, p. 27.

²³¹ See *Petition of Pennsylvania American Water Co. for Approval of an Arrearage Management Plan* (On Remand), Docket No. P-2021-3028195 (Order entered Dec. 7, 2023).

²³² OCA St. 5SR, pp. 26-27.

3. ALJs' Recommendation

We recommend that the Commission adopt the OCA's position and reduce PAWC's claimed expense for AMP credits.²³³ We acknowledge PAWC's assertion that timely payments are not required for a customer to be eligible for credits under the AMP.²³⁴ However, we agree with the OCA that it is not reasonable to assume that 100% of possible AMP credits will be earned each year.²³⁵ Rather than assume 100% participation, OCA witness Colton more convincingly demonstrated that it is more likely that PAWC will experience an 11% participation rate based on historic BDP data.²³⁶ Similarly, we agree with the OCA that PAWC's addition of dollars to uncollectibles to reflect AMP credits should be reduced by the percentage of BDP dollars already historically included in uncollectibles.²³⁷ As PAWC witness Colton states, AMP arrears that are already included in rates to again be collected as AMP credits would allow PAWC to collect those costs as both past uncollectibles and AMP credits.²³⁸ It is also notable that PAWC witness O'Malley asserts this expense will be recorded as a regulatory liability and amounts either under or over collected through rates in this case will be recovered or refunded in the next base rate case.²³⁹

PAWC allocated its AMP expense claim of \$2,377,200 between its water, WW SSS, WW CSS, WW BASA, and WW Brentwood (WW BW) operations based on its proposed allocation factors.²⁴⁰ The OCA used these same allocation factors to determine its adjustments

²³³ OCA St. 5, p. 123.

²³⁴ PAWC MB at 27.

²³⁵ See OCA St. 5, pp. 123-125.

²³⁶ See OCA St. 5, pp. 123-125.

²³⁷ See OCA St. 5, p. 125.

²³⁸ See OCA St. 5-SR, p. 27.

²³⁹ PAWC St. 5-R, pp. 8-9.

²⁴⁰ PAWC Ex. 3-B, p. 336.

and allowable AMP expense.²⁴¹ Therefore, PAWC's AMP expense for Water, WW SSS, and WW CSS shall be reduced in a manner that is consistent with the OCA's calculations. This results in the proposed adjustments in Expenses for AMP identified in Table II Water, WW SSS, and WW CSS.²⁴² PAWC's AMP expenses allocated to WW BASA and WW BW are not included in allowable revenues.

K. Acquisition-Related Expenses

1. PAWC's Position

PAWC avers that I&E and the OCA's adjustments related to the BASA, AWC, Farmington, and Sadsbury acquisitions should be rejected for the reasons discussed in the Rate Base – Utility Plant-In-Service section of its Main Brief. PAWC MB at 27; PAWC RB at 22.

2. I&E's Position

I&E argues that it is not appropriate for the Company to claim and recover expenses for utilities that it does not own. Due to the uncertainty surrounding each of these acquisitions, I&E recommends disallowance of the entire claim. I&E MB at 27-28.

3. OCA's Position

The OCA argues that because claims associated with the not-yet-acquired property should be excluded from rate base, the Commission should, by extension, exclude all projected expenses related to the not-yet-acquired property, including acquisition expense, O&M expenses, and depreciation expense.²⁴³ OCA MB at 41-42.

²⁴¹ OCA St. 2; OCA Ex. LA-2, Sch. C-22.

²⁴² OCA St. 2; OCA Ex. LA-2, Sch. C-22.

²⁴³ *UGI 2018* at 27-31, 79.

4. ALJs' Recommendation

Consistent with our recommendation above to exclude the identified Acquisitions from rate base, we recommend that the Commission exclude Acquisition-related expenses from PAWC's claim.²⁴⁴ This results in the proposed adjustments in Expenses for AWC O&M & Taxes-Other, Farmington Expenses, Sadsbury O&M & Taxes-Other, and Farmington O&M detailed in Tables II, V, and VI for Water and WW SSS.

L. Interest Synchronization

1. PAWC's Position

PAWC's claim for income tax expense is set forth in PAWC Exhibit 3A-Revised and is based, in part, on an interest expense deduction calculated using the Company's proposed rate base and weighted cost of debt.²⁴⁵ PAWC states that OCA witness Smith proposes an interest expense adjustment concomitant to the OCA's proposed adjustments to rate base and the weighted average cost of debt,²⁴⁶ which should be rejected for the reasons set forth in Expenses and Rate Base sections of PAWC's Main Brief. PAWC MB at 28.

2. OCA's Position

OCA witness Smith multiplied the OCA's adjusted rate base by the weighted cost of debt included in the OCA recommended capital structure.²⁴⁷ OCA witness Smith recommends an adjustment in the amount of \$2,999,784. OCA MB at 42.

²⁴⁴ See I&E MB at 27-28.

²⁴⁵ See PAWC Ex. 3-A Revised, pp. 72R-75R.

²⁴⁶ OCA St. 2, pp. 61-62; OCA St. 2-SR, pp. 34-36.

²⁴⁷ OCA St. 2, p. 61; OCA St. 2SR, pp. 34-36.

3. ALJs' Recommendation

Interest synchronization is used in ratemaking to determine the amount of interest expense to be used in the calculation of income tax. The adjustment ensures the tax-deductible interest expense for ratemaking is properly matched with the rate base and weighted cost of debt.²⁴⁸ As PAWC acknowledges, the OCA's proposed interest expense adjustment is concomitant to the OCA's proposed adjustments to rate base and the weighted average cost of debt.²⁴⁹ We agree that the tax-deductible interest expense for ratemaking is properly matched with the rate base and weighted cost of debt. As such, our recommendation will contain a concomitant interest synchronization adjustment as it relates to our recommended rate base adjustments as detailed in Table II Water, WW SSS, and WW CSS.

M. Amortization Expense

1. PAWC's Position

PAWC avers that for the reasons set forth in the Rate Base – Utility Plant-In-Service section of its Main Brief and Reply Brief, I&E, and the OCA's proposed adjustments to PAWC's amortization expense related to the AWC, BASA, Farmington and Sadsbury acquisitions should be rejected. PAWC MB at 28; PAWC RB at 22-23 .

2. I&E's Position

I&E reiterated its position on removing amortization expense for the Sadsbury and Farmington systems and negative plant acquisition adjustment, consistent with its position on Acquisition Adjustment and Amortization Expense presented in the Rate Base section of its briefs. I&E MB at 29-30.

²⁴⁸ OCA MB at 42.

²⁴⁹ PAWC MB at 28.

3. OCA's Position

The OCA refers to Section VI.K of its Main Brief for the OCA's adjustments. OCA MB at 43.

4. ALJs' Recommendation

As PAWC acknowledges, I&E and the OCA's proposed adjustments are concomitant to their proposed exclusion of the Acquisitions.²⁵⁰ Since we recommend that the Acquisitions be excluded, we similarly recommend that the Commission adopt I&E and the OCA's proposed adjustments to Amortization Expense. This results in the proposed adjustments in Depreciation for AWC Acq. Amort., Farmington Acq. Amort., and Sadsbury Acq. Amort., as detailed in Table II Water and WW SSS.

N. Call Center Expense

1. PAWC's Position

PAWC states that if it did not utilize third-party call handling agencies, the Company would incur additional expense for staffing increases to handle the call volumes previously answered by third-party contractors.²⁵¹ Therefore, the OCA's recommendation that an expense PAWC necessarily incurs to serve customers should be excluded for ratemaking purposes is inappropriate. PAWC MB at 28.

In its Reply Brief, PAWC states that the OCA has not offered any valid reason why the call center expense that PAWC necessarily incurs to serve customers should be disallowed simply because it asserts that PAWC's third-party call handling agencies are not

²⁵⁰ PAWC RB at 22.

²⁵¹ PAWC St. 1-R, p. 22.

hitting performance metrics its witness Barbara R. Alexander believes should be imposed. PAWC RB at 23.

2. OCA's Position

The OCA recommends that the Commission disallow the FPFTY expense proposed by PAWC for account 634.8 of \$2,475,869 for Transworld and \$606,386 for InterLogix to eliminate expenses for the third-party call centers that have routinely failed to meet reasonable call performance standards.²⁵² The OCA states that the Commission should consider the evidence of PAWC's failure to ensure adequate performance by third-party call centers that have routinely failed to meet reasonable call performance standards for PAWC's customers. The OCA avers that actual performance of the third-party call centers in answering calls is below the performance of the corporate call centers operated by Service Company employees.²⁵³ The OCA states that PAWC has ignored the evidence of the actual poor performance of its third-party call centers compared to Service Company call operations and refuses in this proceeding to make any changes in its current call center contracts.²⁵⁴ The OCA concludes that expenses for the use of the contractors who are allowed to perform at less than reasonable levels below PAWC's in-house call centers is imprudent and unreasonable and should be disallowed.²⁵⁵ OCA MB at 43.

3. ALJs' Recommendation

We recommend that the Commission reject the OCA's proposed adjustment to Call Center Expense for third-party call centers. OCA witness Alexander asserts that the performance of third-party call centers is below that of the call centers operated by PAWC's

²⁵² OCA St. 2, p. 73; OCA St. 2SR, p. 48.

²⁵³ OCA St. 6SR, p. 9.

²⁵⁴ OCA St. 6, p. 20; OCA St. 6SR, pp. 9-10; PAWC St. 9R, pp. 15-16.

²⁵⁵ OCA St. 6SR, p. 10; *Popowsky v. Pa. PUC*, 674 A.2d 1149, 1154 (Pa. Cmwlth. 1996) at 1154; 66 Pa.C.S. § 523.

affiliated Service Company.²⁵⁶ We are not persuaded that an adjustment to Call Center Expense is merited. Although the OCA's proposed adjustment is only for third-party call centers, the concerns outlined by the OCA also extend to PAWC's own call centers as operated by the Service Company.²⁵⁷ It is not clear to us from the evidence cited by the OCA that the performance of the third-party call centers is so egregious compared to the performance by the Service Company to merit disallowance of the associated expense claim. As PAWC witness Alexander explains, third-party call center agents are trained with the same materials as internal call center employees.²⁵⁸ It is unclear how eliminating PAWC's claim related to third-party call centers will provide the improved service sought by the OCA if PAWC's own call centers are managed similarly. Therefore, we are not persuaded that eliminating the expense related to third-party call centers will improve PAWC's call center activities.

O. Depreciation Expense

1. PAWC's Position

OCA witness Smith's proposed adjustments to depreciation expense concomitant to his objections to service life/survivor curves employed in the depreciation studies prepared by Mr. Spanos are addressed in the Rate Base – Depreciation Reserve section of its Main Brief. PAWC MB at 29.

In its Reply Brief, PAWC states that, setting aside depreciation expense adjustments associated with acquisitions, the OCA is the only party recommending an adjustment to depreciation expense. As explained in PAWC's Main Brief,²⁵⁹ Company witness John J. Spanos, President of Gannett Fleming Valuation and Rate Consultants, LLC ("Gannett Fleming"), utilized PUC-approved methods and PAWC's most recent service life studies when

²⁵⁶ PAWC St. 6, p. 20; PAWC St. 6-SR, pp. 9-10.

²⁵⁷ PAWC St. 6, pp. 19-26.

²⁵⁸ PAWC St. 9-R, p. 6.

²⁵⁹ PAWC MB at 17-19.

determining the annual depreciation accruals. PAWC avers that OCA witness Smith’s objection is not based on Mr. Spanos’s *methods* – it is based on *outcomes* for a handful of cherry-picked plant accounts that Mr. Smith believes are unfavorable. Specifically, Mr. Smith only objects to the depreciation analysis for accounts where the service lives were determined to be shorter than Mr. Smith expected.²⁶⁰ PAWC states that Mr. Smith’s general preference for longer service lives and lower depreciation expense, however, is not a proper basis to reduce the Company’s claim. PAWC asserts that the service lives and depreciation expense for *all* accounts were properly determined utilizing the most current and complete information available.²⁶¹ PAWC RB at 23-24 (emphasis in original).

2. I&E’s Position

I&E states that its only depreciation expense adjustment is discussed in the “Annual Depreciation Expense” portion of its Main Brief. I&E MB at 30.

3. OCA’s Position

The OCA states that as a general matter, the shorter the useful life, the higher the depreciation expense, and hence the higher the revenue requirement.²⁶² The OCA avers that in its initial filing, PAWC proposed drastically shortened useful lives for certain water plant, which was a major change from PAWC’s last rate case at Docket No. R-2022-3031673 and PAWC did not justify the shortening in its initial filing.²⁶³ OCA MB at 43.

The OCA argues that PAWC has not affirmatively demonstrated the need or reasonableness to use shorter useful lives that increase PAWC’s depreciation expense. The OCA states that the water utility acquisitions that occurred since the 2016 study included two Section

²⁶⁰ OCA MB at 43-44.

²⁶¹ PAWC MB at 17-19; PAWC St. 11-R, pp. 5-10.

²⁶² OCA St. 2SR, p. 43.

²⁶³ OCA St. 2, pp. 64-66; OCA Ex. LA-2, Sch. C-17.

1329 acquisitions, Steelton Borough Authority and Valley Township Water. The OCA notes that PAWC’s appraiser in the Valley Township Section 1329 case, at Docket No. A-2020-3019859, used the useful lives that are recommended by the OCA in this case.²⁶⁴ OCA MB at 44.

4. ALJs’ Recommendation

Consistent with our recommendation above to adopt PAWC’s position on Depreciation Reserve for Rate Base and I&E’s and OCA’s positions for Annual Depreciation Expense for Rate Base, we recommend that the Commission reduce PAWC’s claim for Depreciation Expense to remove annual depreciation expense for the AWC, Sadsbury, and Farmington systems. This results in the proposed adjustments in Depreciation for AWC Depreciation, Farmington Depreciation, and Sadsbury Depreciation detailed in Table II Water and WW SSS.

P. Pension and Other Post Employment Benefits (“OPEB”) Expense (and Request for Deferred Regulatory Accounting Treatment)

1. PAWC’s Position

PAWC states that although WTW uses sound, well-established actuarial methods, the pension and OPEB costs that it calculates are subject to material change based on a variety of economic and demographic variables described by PAWC witness Swiz that are outside the Company’s control.²⁶⁵ Therefore, PAWC is asking for Commission permission to defer and record any amounts above or below the projected level of pension and OPEB expenses into regulatory asset or liability accounts until its next base rate proceeding.²⁶⁶ PAWC MB at 29-30.

²⁶⁴ OCA St. 2SR, pp. 38-39; OCA St. 2SR, pp. 39-43

²⁶⁵ PAWC St. 8, pp. 10-14.

²⁶⁶ *Id.* at 10-11, 15.

PAWC argues that the Commission regularly authorizes utilities to defer costs for accounting purposes arising from events that are unanticipated and outside the utility's control to provide the utility an opportunity to claim those costs for recovery in a future rate proceeding.²⁶⁷ Notably, as shown by Mr. Swiz's comparative analysis of PAWC's authorized and actual levels of pension and OPEB expenses, from 2012 through 2022 customers would have realized a net *benefit* of approximately \$58 million for a pension deferral and \$46 million for an OPEB deferral.²⁶⁸ PAWC argues that in short, deferred accounting authorization is a fair way to ensure customers and PAWC only bear *actual* costs incurred for pension and OPEB expenses.²⁶⁹ PAWC MB at 30-31 (emphasis in original).

PAWC states that I&E witness Okum recommends using a three-year historic average of actual pension and OPEB costs to establish the allowance for ratemaking purposes, asserting that such approach will account for normal fluctuations in those costs between rate cases.²⁷⁰ PAWC asserts that as Mr. Swiz explained, however, the use of historic information does not inform how future pension and OPEB costs will be recorded, because economic and

²⁶⁷ See, e.g., *Petition of Pa.-American Water Co. for Auth. to Defer and Record as Regulatory Assets for Future Recovery: (1) Incremental Expenses Incurred Because of the Effects of the COVID-19 Emergency; (2) Revenue Reductions Attributable to the Effects of the COVID-19 Emergency; and (3) Carrying Charges on the Amounts Deferred*, Docket No. P-2020-3022426, pp. 12-13, 30-32, 42, 49-50 (Opinion and Order entered Sept. 15, 2021) (approving deferral of COVID-19-related financial impacts); *Petition of Pa.-American Water Co. for Auth. to Defer Expenses Incurred to Pay New Regulatory Fees Imposed by the Pa. Dep't of Env'tl. Prot.*, Docket No. P-2019-3008253, pp. 3-4 (Opinion and Order entered May 9, 2019) (approving deferral of \$840,000 of expenses incurred for new annual fees imposed by the PaDEP); *Petition of Pa.-American Water Co. for Auth. to Defer for Accounting and Financial Reporting Purposes Expenses Relating to a Water Customer Class Demand Study*, Docket No. P-2012-2308982 (Opinion and Order entered Aug. 20, 2012) (approving deferral of \$463,000 in expenses related to a demand study agreed to in settlement of PAWC's 2011 rate case); *Petition of Columbia Gas of Pa., Inc. for Auth. to Defer, for Accounting Purposes, Certain Costs Associated With A Regulatory Asset Related to Other Post-Retirement Benefits Provided by NiSource Corporate Serv. Co.*, Docket No. P-2011-2275383 (Opinion and Order entered May 24, 2012) (approving deferral of \$903,000 expenses related to an accounting change for certain retirement-related management fees paid to an affiliate); *Petition of the Newtown Artesian Water Co. for Permission to Defer and Record Unrecovered Purchased Water Costs*, Docket No. P-2010-2211420 (Opinion and Order entered June 1, 2011) (approving deferral of unrecovered purchased water costs totaling \$351,929 related to rate increases implemented by the Bucks County Water and Sewer Authority in between rate cases); *Petition of Citizens Utils. Water Co. of Pa.*, Docket No. P-00930746 (Order entered Feb. 25, 1994) (approving deferral of SFAS 106 costs); *Pa. Pub. Util. Comm'n v. Consumers Pa. Water Co. – Roaring Creek Div.*, Docket No. R-932655 (Order entered Feb. 3, 1994) (same).

²⁶⁸ PAWC St. 8, pp. 15-17; PAWC St. 8-R, pp. 4-5; PAWC Ex. JCS-1R; Tr. 2004-06.

²⁶⁹ PAWC St. 8, pp. 11-12; PAWC St. 8-R, pp. 4-5.

²⁷⁰ I&E St. 1, p. 23; I&E St. 1-SR, pp. 20-24

demographic variables change each year, which makes each annual actuary report unique and independent of prior year projections. In fact, a rate allowance calculated using a three-year historic average, as Ms. Okum proposes, rather than actuarial forecasts would result in *larger* variances between the annual amount of pension and OPEB expenses reflected in base rates and the actual level of expenses PAWC incurs.²⁷¹ PAWC MB at 31-32.

In its Reply Brief, PAWC states that I&E, the OCA, and PAWLUG's opposition to PAWC's proposed deferral mechanisms boils down to two basic arguments: (1) pension and OPEB expenses are normal and recurring costs that do not fall within the scope of the PUC's exception to the prohibition against retroactive ratemaking and (2) deferred accounting treatment will somehow guarantee recovery of those expenses without any review of prudence and reasonableness in a base rate case.²⁷² PAWC asserts that neither argument is valid. PAWC RB at 25.

PAWC states that while I&E asserts that pension and OPEB costs are "routine" expenses incurred by all utilities, the extraordinary nature of a cost is determined by the event that triggers it.²⁷³ As explained in PAWC's Main Brief,²⁷⁴ the pension and OPEB costs forecasted by PAWC's actuary are subject to material change based on a myriad of factors outside of the Company's control and are precisely the types of costs the Commission authorizes utilities to defer. PAWC RB at 25.

2. I&E's Position

I&E recommends that the proposed pension and OPEB tracker be denied.²⁷⁵ Typically, the Commission has permitted extraordinary, unanticipated, non-recurring, and

²⁷¹ PAWC St. 8-R, pp. 6-8; Tr. 2004-06.

²⁷² See I&E MB at 31-32; OCA MB at 45-46; PAWLUG MB at 7-8.

²⁷³ *E.g., Popowsky v. Pa. Pub. Util. Comm'n*, 868 A.2d 606, 612 (Pa. Cmwlth. 2004).

²⁷⁴ PAWC MB at 29-31.

²⁷⁵ I&E St. 1, p. 20.

substantial expenses to be deferred for accounting purposes. Examples of these types of costs include those costs to make repairs in order to avoid and imminent threat to public health and safety, hurricane damage, and across the board accounting changes that would have a significant financial impact on a utility.²⁷⁶ The Commission has stated “the standard which a utility must meet when seeking Commission authorization for deferral accounting is whether, based on Commission precedent, the expense item appears to be within the scope of the type of items that the Commission has allowed as an exception to the general rule against retroactive recovery of past expense.”²⁷⁷ Deferred accounting treatment may be granted if the expense is: 1) extraordinary; 2) unanticipated; 3) non-recurring; and 4) substantial.²⁷⁸ In *Popowsky v. Pennsylvania Public Utility Commission*, it was noted that:

Extraordinary cannot mean merely unanticipated, because then every unexpected occurrence or failure to predict an item would be recoverable and the exception would overwhelm the rule, making test years meaningless. To be extraordinary, it must also be a substantial, one-time expense or a substantial item that will not appear as a continuing expense and could otherwise never be recovered in rates because, like the weather-related expenses, it would be normalized out of the test year as abnormal.^[279]

I&E argues that while these costs have sometimes been substantial in the past, the costs are not extraordinary because pension and OPEB costs are routine expenses incurred by PAWC as well as many other water and wastewater utilities. These expenses are not one-time expenses and occur year after year. I&E asserts that the costs are not unanticipated because they are a part of contractual agreements with past employees. Finally, I&E states that the expenses cannot be

²⁷⁶ *Petition of Pennsylvania Util. Co., Inc.*, 2012 Pa.P.U.C. LEXIS 1124, at 2-3 (2012); see also *Petition of Pike County Light and Power Co.*, 2012 Pa.P.U.C. LEXIS 939 at 5-6 (2012); *Petition of Columbia Gas of Pa. Inc.*, 2012 Pa.P.U.C. LEXIS 836 (2012).

²⁷⁷ *Petition of Columbia Gas of Pa., Inc. for Authority to Defer for Accounting and Financial Purposes Certain Start Up Expenses Assoc. with the Redesign of Upgrade of Financial Processes and Info. Systems*, Docket No. P-2012-2319920 (Opinion and Order entered Dec. 5, 2012).

²⁷⁸ *Id.*

²⁷⁹ *Popowsky v. Pa. Publ. Util. Comm’n*, 642 A.2d 648, 652 (Pa. Cmwlth. 1994).

categorized as non-recurring while also being forecasted on an annual basis. I&E concludes that as the Company's pension and OPEB expenses may have only met one of four criteria to be considered for regulatory asset treatment, it is not appropriate for the Commission to grant approval for the Company to defer these costs. I&E MB at 31-32.

I&E recommends a negative allowance of (\$3,800,736) for pension expense, or reduction of \$3,822,954 [\$22,218 - (\$3,800,736)] to the Company's FPFTY claim for Water Operations.²⁸⁰ This recommendation is based on a three-year average of historic actuals for pension expense.²⁸¹ I&E asserts the Company continues this approach in future base rate proceedings it will allow the expense to normalize over time and address PAWC's concern about over-recovery of pension expense without the need for a tracker. I&E MB at 33.

I&E asserts that Mr. Swiz's objection to I&E's recommended negative allowance is incorrect for several reasons. First, Mr. Swiz is falsely characterizing the Company's forecasted amounts as an "authorized expense" as the Company's recent cases (at least the past three cases at Docket Nos. R-2017-2595853, R-2020-3019369, and R-2022-3031672) have all resulted in settlement with no specific monetary value assigned to pension expense. I&E states that therefore, the variance column in the tables²⁸² presented by PAWC witness Swiz are void as a comparison because the applicable rates in each period were not calculated based on this number. I&E states that second, I&E witness Okum was unable to verify the data presented in Mr. Swiz's analysis and takes issue specifically with the data presented for the year 2022 as there was no rate change in that year. I&E avers that finally, per its base rate case settlement, the Company switched to the accrual accounting method for ratemaking purposes to calculate its pension expense claims in 2018.²⁸³ Consequently, the data prior to that year is not relevant to this analysis. I&E MB at 34.

²⁸⁰ I&E St. 1, p. 22

²⁸¹ I&E Ex. 1, Sch. 4.

²⁸² PAWC St. 8-R, p. 7.

²⁸³ *Pa. Pub. Util. Comm'n v. Pa. Am. Water Co.*, Docket No. R-2017-2595853, Joint Petition for Settlement, paragraph 17, p. 8 (Order entered Dec. 7, 2017).

Additionally, in PGW's 2023 base rate case (*PGW 2023*) the Commission adopted a three-year normalization of rate case expense.²⁸⁴ Therefore, I&E continues to recommend using a three-year average of historic actual expenses for pension based on the evidence presented and relevant case law. I&E MB at 34.

The Company is claiming OPEB expense of (\$5,817,327) for Water Operations, \$9,810 for Wastewater SSS Operations, and \$32,234 for Wastewater CSS Operations in the FPFTY.²⁸⁵ I&E witness Okum disagrees with the Company's claim and recommends the use of a historical three-year average for OPEB expense. This results in a reduction of \$1,664,016 [(\$8,160,753) - (\$6,496,737)] to the Company's FPFTY claim.²⁸⁶ This was an update to Ms. Okum's position in Direct testimony as a result of the Company's updates FPFTY claim in Rebuttal testimony wherein the Company's claim was updated from \$(5,817,327) to \$(6,496,737)²⁸⁷ to account for the 2024 actuarial report furnished for the Company by Willis Towers Watson. Ms. Okum did not address the OPEB claims for Wastewater SSS Operations or Wastewater CSS Operations since these claims are made up entirely of \$600 contributions per union employee for those who are not eligible for retiree medical benefits under the OPEB plan.²⁸⁸ I&E MB at 35.

I&E argues that using the three-year historical average as Witness Okum recommends will allow the expense to normalize over time and address any concerns about over-recovery without the need for a tracker. I&E asserts the approach recommended by I&E witness Okum is consistent with prior Commission determinations. In the 2023 PGW Base Rate Case (*PGW 2023*) the Commission stated, "...similar to PGWs pension expense claim, a three-year

²⁸⁴ *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, Docket No. R-2023-3037933, p. 883 (Opinion and Order entered Nov. 9, 2023).

²⁸⁵ PAWC Ex. 3-A, pp. 51, 116, 236.

²⁸⁶ I&E St. 1-SR, p. 26.

²⁸⁷ PAWC Ex. 3-A Revised, p. 51R.

²⁸⁸ I&E St. 1. pp. 24-25.

normalization of the Company's claim for OPEB expense is appropriate.”²⁸⁹ In addition, in a recent PECO Gas base rate Case (*PECO Gas 2021*) the Commission agreed with the use of a three-year average of OPEB expense.²⁹⁰ I&E concludes that the evidence and relevant case law demonstrate that a three-year average for OPEB expense is the appropriate measure. Therefore, I&E witness Okum’s recommendation should be adopted. I&E MB at 35-37.

3. OCA’s Position

The OCA refers to Section VI.Q of its Main Brief regarding Production Expense for the OCA’s adjustments. OCA MB at 44.

4. PAWLUG’s Position

PAWLUG states that while the Commission is authorized to consider alternative ratemaking mechanisms filed pursuant to Act 58 of 2018, the general rule remains that single issue ratemaking is disfavored.²⁹¹ PAWLUG asserts that the Commission precedent prohibits single-issue ratemaking if it "impacts on a matter that is normally considered in a base rate case."²⁹² PAWLUG witness LaConte testified that PAWC’s proposed OPEB, pension, and production deferral mechanisms are examples of single-issue ratemaking.²⁹³ Ms. LaConte expressed concern that this type of single-issue ratemaking “ignores the impact of any offsetting over recovery for other costs, which, thereby, negates the need for the deferral mechanism.”²⁹⁴ PAWLUG MB at 7-8.

²⁸⁹ *Pa. Pub. Util. Comm’n. v. Phila. Gas Works*, Docket No. R-2023-3037933, p. 86 (Opinion and Order entered Nov. 9, 2023).

²⁹⁰ *Pa. Pub. Util. Comm’n v. PECO Energy Co. – Gas Div.*, Docket No. R-2020-3018929, p. 90 (Opinion and Order entered June 22, 2021).

²⁹¹ *Pub. Util. Comm’n. v. Phila. Gas Works*, Docket No. P-00042090, p. 7 (Order entered July 8, 2004).

²⁹² *Pa. Indus. Energy Coalition v. Pa. Pub. Util. Comm’n.*, 653 A.2d 1336, 1350 (Pa. Cmwlth. 1995).

²⁹³ PAWLUG St. 1, p. 19.

²⁹⁴ *Id.*

5. ALJs' Recommendation

We recommend that the Commission reject PAWC's proposal to defer and record any amounts above or below the projected level of pension and OPEB expenses into regulatory asset or liability accounts until its next base rate proceeding. We agree with I&E that pension and OPEB costs are not extraordinary, unanticipated, or non-recurring, and therefore should not qualify for regulatory asset treatment.²⁹⁵ Similarly, we agree with the OCA and PAWLUG that allowing deferred recovery of routine costs would raise concerns of impermissible single-issue ratemaking.²⁹⁶

We also recommend that the Commission accept I&E's proposed adjustments to pension and OPEB expenses based on a three-year historical average.²⁹⁷ As I&E notes, the Commission has recently favored adopting three-year averaging in calculating Pension and OPEB expenses.²⁹⁸ Although PAWC argues its claim is based on actuarial projections,²⁹⁹ as the Commission noted, "prior expenses and the variability of the year-to-year expense balances should be taken into consideration."³⁰⁰ We find that I&E adequately demonstrated the variability of PAWC's historic pension and OPEB costs and that the claims for such costs in this rate case should be based on averaging.³⁰¹ This results in the proposed adjustments in Expenses for Pension Expense and OPEB Expense detailed in Table II Water.

²⁹⁵ See I&E MB at 31-32.

²⁹⁶ See OCA MB at 44-45; PAWLUG MB at 7-8.

²⁹⁷ See I&E MB at 33-35.

²⁹⁸ I&E MB at 36 (citing *Pa. P.U.C. v. PGW*, Docket No. R-2023-3037933, p. 86 (Order entered November 9, 2023) and *Pa. P.U.C. v. PECO Energy Co. – Gas Division*, Docket No. R-2020-3018929, p. 90 (Order entered June 22, 2021)).

²⁹⁹ PAWC MB at 31-32.

³⁰⁰ *PGW 2023* at 86.

³⁰¹ I&E St. 1, pp. 21-25; I&E St. 1-SR, pp. 20-26.

Q. Production Expense (and Request for Deferred Regulatory Accounting Treatment)

1. PAWC's Position

PAWC states that the Company's production expenses can materially increase or decrease based on volatility in the prices charged by suppliers due to market conditions that are outside the control of PAWC and its suppliers.³⁰² For example, the chemical market was extremely volatile in 2022 and 2023 compared to historical levels, driven by many factors such as impacts from the COVID-19 pandemic, the conflict in Ukraine, and inflationary growth in commodity prices.³⁰³ PAWC states that likewise, energy market prices are higher than they have been in many years, and as a result, PAWC's electric generation suppliers have increased contract rates for power supply and are less willing to lock in prices for 12-month terms.³⁰⁴ PAWC avers that its proposed accounting deferral for production expenses would protect both the Company and customers against this volatility. PAWC MB at 32-33.

PAWC states that moreover, as PAWC witness Swiz pointed out, energy utilities in Pennsylvania (and numerous other states) are afforded the opportunity to adjust rates for variations in gas commodity or electric fuel and transmission costs between rate cases.³⁰⁵ PAWC argues that such automatic adjustment clauses are explicitly authorized in Pennsylvania by Section 1307 of the Code. PAWC states that although no specific statute applies to PAWC's production cost recovery, the same ratemaking principles that justify those Section 1307 mechanisms apply to PAWC's recovery of production costs. PAWC concludes that the PUC should afford deferred accounting treatment to PAWC for production expenses. PAWC MB at 33.

³⁰² PAWC St. 8, pp. 17-21.

³⁰³ *Id.* at 18-19.

³⁰⁴ *Id.*

³⁰⁵ PAWC St. 8, pp. 18-19; PAWC St. 8-R, pp. 5-6.

In its Reply Brief, PAWC reiterates that the opposing parties ignore the ways in which PAWC's production costs closely resemble the kinds of costs that the PUC has authorized Pennsylvania energy utilities to recover under Section 1307 (e.g., purchased fuel and power). Those costs share a common characteristic with PAWC's production expenses that justify commensurate accounting treatment – changes in supplier prices that are beyond the utility's control. PAWC RB at 26.

2. I&E's Position

For largely the same reasons as described related to the Pension and OPEB tracker, I&E recommends denial of the Companies' proposed Production Expense Tracker. I&E argues that the expenses in question are not extraordinary, unanticipated, or non-recurring, and while in some instance they may be substantial expenses they do not meet the requirements to be deferred for accounting purposes. I&E MB at 37-38.

Unlike Pension and OPEB expense, I&E did not make an adjustment to production expense in this case.³⁰⁶ I&E MB at 38.

3. OCA's Position

The OCA opposes PAWC ancillary requests for Commission approval of deferred regulatory accounting treatment for (1) pension and OPEB expenses, and (2) production expenses, for recovery in a future rate case. The OCA asserts that PAWC has not met its burden to demonstrate that these accounting mechanisms are necessary or just and reasonable. The OCA states that moreover, the requested treatments of isolated expenses for deferred recovery in future base rate cases are squarely impermissible single-issue ratemaking.³⁰⁷ The OCA avers that single-issue ratemaking is similar to retroactive ratemaking and, in general, is prohibited if it impacts on

³⁰⁶ I&E St. 1, p. 33.

³⁰⁷ See *Nat'l Fuel Gas Dist. Corp. v. Pa. Pub. Util. Comm'n*, 464 A.2d 546, 567 (Pa. Cmwlth. 1983); see also *Phila. Elec. Co. v. Pa. Pub. Util. Comm'n*, 502 A.2d 722, 727-28 (Pa. Cmwlth. 1985).

a matter that is normally considered in a base rate case.³⁰⁸ The OCA states that here, PAWC's requests are distinguishable from that approved in *PIEC* which affirmed the Commission's authority to allow a Section 1307 surcharge, because this is a base rate case and PAWC is asking for specific deferred accounting treatment and future recovery of line-item expenses that get addressed in base rate cases.³⁰⁹ OCA MB at 44-45.

In the its Reply Brief, the OCA argues that isolating and tracking the Pension and OPEB expenses as well as Production costs for eventual recovery via a special rate recovery mechanism or in future base rates, runs counter to a fundamental principle of ratemaking – that a utility should be afforded the opportunity to recover its costs of providing service but not guaranteed such recovery.³¹⁰ The OCA states that this is particularly so for PAWC in this case given that the Company is utilizing a FPFTY that anticipates the Company's future costs of providing service.³¹¹ The OCA asserts that deferrals of fluctuations in one particular cost or cost category in isolation from all other cost fluctuations is by definition single-issue ratemaking because it focuses only on one cost or a single group of costs, typically where the utility expects such costs to increase, and ignores fluctuations between rate cases in other costs.³¹² OCA RB at 28 (emphasis in original).

4. OSBA's Position

The OSBA recommends that PAWC's request for deferred accounting treatment for its production expenses be denied. The OSBA asserts that utility management should be expected to cope with normal business risks and the operation of economic forces, without

³⁰⁸ *Pa. Indus. Energy Coalition v. Pa. Pub. Util. Comm'n*, 653 A.2d 1336, 1350 (Pa. Cmwlth. 1995), *aff'd*, 543 Pa. 307, 670 A.2d 1152 (1996) (*PIEC*).

³⁰⁹ *Id.*

³¹⁰ OCA St. 2SR, p. 51.

³¹¹ OCA St. 2SR, p. 51.

³¹² OCA St. 2SR, p. 51.

resorting to single-issue ratemaking, such as the requested deferred accounting treatment, except in circumstances of compelling public interest.³¹³ OSBA MB at 13.

5. PAWLUG's Position

PAWLUG referenced its argument regarding Pension and OPEB expense. PAWLUG MB at 8.

6. ALJs' Recommendation

We recommend that the Commission reject PAWC's proposal to afford deferred accounting treatment to PAWC for production expenses. We agree with I&E that production costs are not extraordinary, unanticipated, or non-recurring, and therefore should not qualify for regulatory asset treatment.³¹⁴ Similarly, we agree with the OCA and PAWLUG that allowing deferred recovery of routine costs would raise concerns of impermissible single-issue ratemaking.³¹⁵

R. Miscellaneous Expense Adjustment – Credit Card and E-check Fees

1. I&E's Position

I&E witness Okum determined there was a discrepancy in the Company's claim for credit card and e-check fees.³¹⁶ The Company acknowledges that PAWC Exhibit 3-B shows the correct amounts. PAWC witness Lori O'Malley states that the adjustment reduces the Company's original claim for miscellaneous expense by \$182,738.³¹⁷ She points to PAWC

³¹³ OSBA St. 1, pp. 47-48.

³¹⁴ See I&E MB at 37-38.

³¹⁵ See OCA MB at 44-45; PAWLUG MB at 7-8.

³¹⁶ I&E St. 1-R, p. 4.

³¹⁷ PAWC St. 5-R, p. 7

Exhibit 3-A Revised, p. 64R where the change is reflected in the revised filing and to PAWC Exhibit LNO-4R for supporting calculations. As a result, this should be reflected in the ALJs' Recommended Decision and the Commission's final Order in this proceeding.

2. ALJs' Recommendation

PAWC accepted I&E's proposed adjustment to Miscellaneous Expense Adjustment – Credit Card and E-check Fees.³¹⁸ Accordingly, we recommend that PAWC's Miscellaneous Expense for Credit Card and E-check Fees be adjusted to reflect I&E's proposed adjustment, i.e., reducing the claimed expense by \$182,738. This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

S. Service Company Executive Retirement Plan Expense

1. OSBA's Position

OSBA recommended an adjustment to remove the Service Company Executive Retirement Plan (i.e., "SERP") expense, decreasing the FPFTY revenue requirement by approximately \$35,106 in total.³¹⁹ PAWC's rebuttal testimony stated that the Company would remove the SERP expense from the revenue requirement. OSBA MB at 13.

2. ALJs' Recommendation

We recommend that the Commission remove PAWC's claim for Supplemental Executive Retirement Plan costs. The OSBA recommended an adjustment to remove this

³¹⁸ PAWC St. 5-R, p. 7.

³¹⁹ OSBA St. 1, p. 15.

expense,³²⁰ which PAWC accepted.³²¹ This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

T. External Board Expense

1. OSBA's Position

OSBA recommended an adjustment to remove External Board expense based on PAWC's stated plans to eliminate its External Board. This adjustment decreases the FPFTY revenue requirement by approximately \$126,792 in total.³²² PAWC's rebuttal testimony stated that the Company would remove the External Board expense.³²³ OSBA MB at 13.

2. ALJs' Recommendation

We recommend that the Commission remove PAWC's claim for External Board costs. The OSBA recommended an adjustment to remove this expense,³²⁴ which PAWC accepted.³²⁵ This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

³²⁰ OSBA St. 1, p. 15.

³²¹ PAWC St. 5-R, p. 6.

³²² OSBA St. 1, p. 16

³²³ OSBA St. 1-S, p. 6.

³²⁴ OSBA St. 1, p. 16.

³²⁵ PAWC St. 5-R, p. 7.

IX. TAXES

1. PAWC's Position

PAWC states that its claims for Federal and State income taxes are described by Company witness Melissa Ciullo in PAWC St. 7. No party disputes the manner in which PAWC calculated its federal and state income taxes. PAWC MB at 33.

2. I&E's Position

I&E states that it made no specific recommendations related to adjustments to taxes. Any such adjustments would simply be the result of the flow-through of other I&E adjustments. As noted by I&E witness Okum, “[a]ll adjustments to the Company’s claims for revenues, expenses, taxes, and rate base must be continually brought together in the Administrative Law Judge’s Recommended Decision and again in the Commission’s Final Order.”³²⁶ I&E avers that as such, all adjustments to taxes related to I&E’s recommendations occur as a result of this principle and not as a result of a specific tax adjustment. I&E MB at 39.

3. ALJs' Recommendation

PAWC noted that “no party disputes the manner in which PAWC calculated its federal and state income taxes.”³²⁷ As noted by I&E witness Okum, “[a]ll adjustments to the Company’s claims for revenues, expenses, taxes, and rate base must be continually brought together in the Administrative Law Judge’s Recommended Decision and again in the Commission’s Final Order.”³²⁸ Accordingly, as a result of our other recommendations, we

³²⁶ I&E St. 1-SR, p. 40.

³²⁷ PAWC MB at 33.

³²⁸ I&E St. 1-SR, p. 40.

recommend that PAWC's claims for taxes should be adjusted as detailed in Tables II and III for Water, WW SSS, and WW CSS.

X. RATE OF RETURN

A. Proxy Group

1. PAWC's Position

In selecting her proxy group, Ms. Bulkley applied specific criteria to a group of U.S. utilities to identify utilities that have similar risk.³²⁹ PAWC states that due to on-going consolidation in the water utility industry, the Value Line research service commonly relied upon by investors identifies only seven companies in the United States as water utilities, and Ms. Bulkley's screening criteria (such as requiring that a utility not be involved in any merger proceedings) further reduced that group of water utilities to only four.³³⁰ PAWC avers that because a small proxy group can lead to one company having an outsized effect on any proxy group calculation, Ms. Bulkley included several electric and gas utilities with water operations in her proxy group. PAWC states that other states (including Florida, Illinois, and Massachusetts) include electric and gas utilities in proxy groups in water utility rate proceedings due to the small number of suitable water utilities.³³¹ The similar nature of electric and natural gas utilities is well understood by other public utility commissions as well as industry leaders,³³² and Ms.

³²⁹ PAWC St. 13, p. 25.

³³⁰ *Id.* at 27.

³³¹ PAWC St. 13-R, p. 23 (citing Massachusetts Department of Public Utilities, Docket No. 17-90, *Petition of Aquarion Water Company of Massachusetts, Inc., pursuant to G.L. c. 164, § 94, and G.L. c. 165, § 2, for Approval of a General Rate Increase as set forth in M.D.P.U. No. 3.*, Oct. 31, 2018, pp. 286-87; Docket No. 20180006-WS, *In re. Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*, Order No. PSC-2018-0327-PAA-WS, at 7. Illinois Commerce Commission, *Illinois-Am. Water Co. Proposed Rate Increases for Water and Sewer Service*, Docket No. 22-0210, Order, Dec. 15, 2022, at 102).

³³² PAWC St. 13-R, pp. 23-24.

Bulkley applied screening criteria to select electric and gas utilities with comparable risks to PAWC.³³³ PAWC MB at 38-39.

OCA witness Garrett used the same water utilities selected by Ms. Bulkley.³³⁴ While he did not believe it was necessary to include non-water utilities in his proxy group, he concluded that the results of his analyses were not materially different with the inclusion of electric and gas utilities.³³⁵ In contrast, I&E witness Patel relied upon a proxy group that included the Company's parent company, American Water, and excluded Essential Utilities, Inc. (Essential Utilities), which both Ms. Bulkley and Mr. Garrett included in their proxy groups.³³⁶ PAWC MB at 39.

PAWC asserts that Mr. Patel's decision to include American Water and exclude Essential Utilities compounds the flaws of his already-diminished proxy group. PAWC argues that PAWC is responsible for approximately 23.4% of American Water's revenue, so Mr. Patel is effectively using American Water to determine its own ROE. PAWC asserts that despite Ms. Bulkley highlighting the risk of such circularity in her rebuttal testimony,³³⁷ Mr. Patel remained entirely unaware of PAWC's publicly known contribution to American Water's revenue.³³⁸ PAWC states that Mr. Patel's justification for reducing his proxy group still further by excluding Essential Utilities – namely, his reliance on the fact Essential Utilities' revenue from water operations in 2022 was only 47.33% and not 50% – ignored the fact that 2022 was an anomalous year due to high gas prices, and Essential Utilities' operating revenue from water operations has

³³³ PAWC St. 13, pp. 15-16.

³³⁴ OCA St. 3, p. 10.

³³⁵ *Id.* at 19.

³³⁶ I&E St. 2, p. 10.

³³⁷ PAWC St. 13-R, pp. 19-20.

³³⁸ Tr. 2129.

historically been above 50%.³³⁹ PAWC states that inclusion of Essential Utilities in a proxy group for evaluation of PAWC is thus entirely proper. PAWC MB at 39-40.

PAWC avers that Mr. Patel's objection to the inclusion of electric and natural gas utilities was similarly misplaced. While Mr. Patel asserts that water companies have materially different operating characteristics, he acknowledged that water utilities have many of the same characteristics as other utilities.³⁴⁰ He further conceded that electric and natural gas utilities did not have greater or lesser risks than water utilities, but only different risks.³⁴¹ PAWC MB at 40.

PAWC asserts that Mr. Patel's small proxy group led directly to his flawed DCF result because of the inclusion of the low results of just one company. PAWC concludes that in light of both the size and the flawed composition of Mr. Patel's proxy group, the Commission should rely upon the proxy group determined by Ms. Bulkley. PAWC MB at 40.

2. I&E's Position

I&E states that the Company's proxy group included four of the five companies utilized by I&E; however, I&E included PAWC's parent company American Water Works Company (AWK) and I&E excluded all electric and natural gas companies that were included by PAWC witness Bulkley. I&E asserts that its proxy group is the appropriate proxy group to use in this instance for various reasons. First, it does not appear that there is a good reason to exclude AWK from the proxy group. PAWC witness Bulkley merely mentions that it is her practice to exclude a subject company or its parent company from her proxy group.³⁴² However, as I&E witness Patel explains, AWK is a large company that operates and has experience in many states and numerous divisions, thereby making it appropriate for inclusion in the proxy

³³⁹ PAWC St. 13-R, pp. 20-22.

³⁴⁰ Tr. 2131-33.

³⁴¹ Tr. 2142.

³⁴² PAWC St. 13, p. 26.

group.³⁴³ In rebuttal testimony Ms. Bulkley notes, that including AWK in the proxy group creates circularity because as PAWC contributes to the ROE of AWK.³⁴⁴ I&E avers that the circularity would occur if PAWC alone was included in the proxy group. As explained by I&E witness Patel, AWK has vast operations across many states and numerous divisions and its required compliance to an equal number of state regulatory bodies eliminates the potential for the circularity effect Ms. Bulkley describes. I&E asserts that it is not uncommon for this Commission to include a parent company in a proxy group for the purposes of determining the appropriate rate of return. In the *Aqua 2022* base rate case, the Commission adopted I&E's proxy group, which included Aqua's parent company, Essential Utilities.³⁴⁵ In the *Columbia Gas 2021* base rate case, the Commission adopted I&E's proxy group, which included the Columbia parent company, NiSource.³⁴⁶ I&E states that this demonstrates that it is often appropriate to include the parent company in the proxy group when determining a utilities rate of return. I&E MB at 42-45.

I&E states that regarding the exclusion of Essential Utilities, Inc., which has water, wastewater, and gas segments, Mr. Patel notes that a utilities revenue composition of the appropriate measure to gauge when developing a proxy group.³⁴⁷ PAWC witness Bulkley instead, relies on operating income when including Essential in her proxy group. As explained by Mr. Patel, a company's net income depends on various factors such as management efficiency, operational and financial efficiency, O&M cost containment, capital expenditures and the like.³⁴⁸ I&E avers that when considering this information, it is clear that revenue composition is the more appropriate measure because a proxy group should establish a set of companies that are of a similar risk profile to the subject utility. I&E states that in this instance

³⁴³ I&E St. 2, p. 12.

³⁴⁴ PAWC St. 13-R, pp. 19-20.

³⁴⁵ *Aqua 2022* at 134.

³⁴⁶ *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. R-2020-3018835, p. 110 (Opinion and Order entered Feb. 19, 2021).

³⁴⁷ I&E St. 2-SR, p. 14.

³⁴⁸ I&E St. 2-SR, p. 14.

Essential is not comparable because less than 50% of its revenues come from the regulated water sector. I&E MB at 45-46.

I&E asserts that the Commission affirmed its standard of relying on percentage of revenue for determining whether a company should be included in a proxy group in the *Columbia Water 2024* base rate. Therein, the Commission once again explained that a company's revenue, rather than operating income, was the appropriate measure to gauge whether to include a utility in a proxy group.³⁴⁹ I&E MB at 46.

I&E maintains that the proxy group developed by I&E witness Patel is the appropriate proxy group to use in this proceeding. Companies that are in the water industry are the most representative of the financial and operational risks faced by PAWC. I&E argues that using gas and electric utilities in the proxy group can distort the information that the proxy group provides. As Mr. Patel notes, electric and gas utilities are dissimilar from water and wastewater utilities because electric and gas customer can shop for a supplier.³⁵⁰ I&E states that simply put, the water and wastewater utilities in Pennsylvania have less risk of losing customers than gas and electric companies whose customers have the option to look for supply alternatives or to switch fuel sources. In addition, Mr. Patel notes that each different utility industry faces different operational, safety, and weather-related risk.³⁵¹ I&E avers that as demonstrated, gas and electricity utilities are not substantially similar to water and wastewater utilities, and, thus, including them in the proxy group off which to base the rate of return and return on equity would not be appropriate. I&E recommends the use of its proxy group that excludes all gas and electric utilities, and includes PAWC's parent company AWK because I&E's proxy group is comprised of companies that are substantially comparable to PAWC and PAWC-WD. I&E MB at 47.

³⁴⁹ *Pa. Pub. Util. Comm'n v. Columbia Water Co.*, Docket No. R-2023-3040258, pp.75-77 (Opinion and Order entered Jan. 18, 2024) (*Columbia Water 2024*).

³⁵⁰ I&E St. 2, p. 14.

³⁵¹ I&E St. 2, p. 14.

In its Reply Brief, I&E argues that the argument that Mr. Patel's proxy group is too small is belied by PAWC's own rate of return witness Ann Bulkley who herself admits that the appropriate size for a proxy group has been established by FERC and is, in fact, 5 utilities of comparable risk.³⁵² I&E RB at 21.

3. OCA's Position

OCA witness David Garrett and PAWC witness Ms. Bulkley disagreed about whether it was reasonable to include six additional electric and natural gas utilities in the proxy group. Ms. Bulkley thought that it was due to the relatively small number of water utilities available for analysis. Mr. Garrett disagreed. However, in his discounted cash flows model (DCF Model) analysis and capital asset pricing model (CAPM) analysis results, Mr. Garrett presented three different calculations: (1) the water group; (2) the non-water group; and (3) the entire group combined. The OCA avers that while Mr. Garrett believes it is reasonable for the Commission to focus on the results of the water utility group only, as a practical matter, in this particular case, the results of his DCF Model and CAPM analyses were not materially different when applied to the water-only proxy group and total proxy group.³⁵³ OCA MB at 48.

4. ALJs' Recommendation

We recommend that the Commission adopt I&E's proxy group. Although I&E's proxy group included four water utilities also used in the OCA and PAWC's proxy groups,³⁵⁴ unlike I&E, the OCA and PAWC excluded American Water and included Essential Utilities from their proxy groups. We agree with I&E that American Water was properly included, and Essential Utilities was properly excluded from its proxy group.

³⁵² Tr. at 2100.

³⁵³ OCA St. 3, pp. 10-11; OCA Ex. DJG-12.

³⁵⁴ American States Water Company, California Water Services Group, Middlesex Water Company, and SJW Group.

PAWC excluded its parent company, American Water, from its proxy group, asserting that including it would lead to circularity.³⁵⁵ We agree with I&E that such circularity would occur if only PAWC was included in the proxy group, and that it is not uncommon for the Commission to include a parent company in a proxy group.³⁵⁶ Additionally, consistent with the Commission's decision in *Columbia Water 2024*,³⁵⁷ we agree with I&E that Essential Utilities is appropriately excluded as part of a proxy group since, as the most recent data presented in PAWC's own testimony shows,³⁵⁸ less than 50% of Essential Utilities' operating revenues comes from regulated water service.

PAWC also included electric and gas utilities in its proxy group.³⁵⁹ We are persuaded by I&E's assertion that companies that are in the water industry are the most representative of the financial and operational risks faced by PAWC.³⁶⁰ As I&E witness Patel notes, electric and gas utilities are dissimilar from water and wastewater utilities because electric and gas customer can shop for a supplier.³⁶¹ In addition, Mr. Patel notes that each different utility industry faces different operational, safety, and weather-related risk.³⁶² Consistent with its chosen proxy group, the OCA also averred that it was reasonable for the Commission to focus on a water utility proxy group only.³⁶³

³⁵⁵ See PAWC MB at 39 (citing PAWC St. 13-R, pp. 19-20).

³⁵⁶ See I&E MB at 44-45.

³⁵⁷ *Columbia Water 2024* at 74-77.

³⁵⁸ PAWC St. 13-R, p. 22.

³⁵⁹ PAWC St. 13, pp. 26-27.

³⁶⁰ PAWC MB at 47.

³⁶¹ I&E St. 2, p. 14.

³⁶² I&E St. 2, p. 14.

³⁶³ OCA MB at 48.

B. Capital Structure

1. PAWC's Position

PAWC states that the Commission has made clear that a utility's actual capital structure is to be used in rate of return analysis unless that capital structure is atypical, and has rejected the use of a "hypothetical" capital structure.³⁶⁴ PAWC argues that its proposed capital structure recognizes the composition of the financing that PAWC is currently using to fund its investments and obligations, and Ms. Bulkley's testimony established that this capital structure was well within the range of equity ratios of her proxy group of utilities.³⁶⁵ PAWC MB at 42.

PAWC states that Ms. Bulkley also explained that Mr. Garrett's approach was flawed in multiple ways. In particular, he relied upon the common equity ratio at the holding company level of the companies he considered, which includes corporate-level debt that is not part of the capital structure of the holding company's utility operating subsidiaries. As Ms. Bulkley testified, "[s]imply because the parent companies in the proxy group are used to estimate the Company's cost of equity does not mean that the *holding company* capital structures are the relevant comparators for establishing the Company's authorized capital structure;" it is the utility operating subsidiaries that are more comparable to PAWC in terms of risk.³⁶⁶ PAWC MB at 42.

PAWC asserts that moreover, Mr. Garrett is using the market value of equity for calculating the cost of equity while using the book value of debt and equity to assess the Company's proposed equity ratio, leading to the incorrect conclusion that the market value of equity reflects investors' return requirements associated with a capital structure based on the book value of debt and equity.³⁶⁷ PAWC states that his reliance on the Hamada model to attempt to justify a reduction to the Company's cost of equity is similarly flawed: the Hamada formula

³⁶⁴ *Columbia Water 2024*, p. 84; *PPL 2012*, p. 62.

³⁶⁵ PAWC St. 13-R, pp. 72-73; *see also* PAWC St. 13, pp. 61-62.

³⁶⁶ PAWC St. 13-R, p. 73 (emphasis in original).

³⁶⁷ PAWC St. 13-RJ, pp. 11-12.

requires use of the market value of debt and equity, not book value.³⁶⁸ PAWC concludes that the Commission should therefore reject Mr. Garrett’s hypothetical capital structure and accept the Company’s proposed capital structure. PAWC MB at 42-43.

In its Reply Brief, PAWC reiterated its criticisms of the OCA’s position that PAWC should use a hypothetical capital structure. PAWC RB at 30-33. PAWC asserts that several cases cited by the OCA its Main Brief³⁶⁹ to support its position are inapposite. For example, in *Pennsylvania Public Utility Commission v. Carnegie Natural Gas Co.*, the utility proposed to rely upon an actual capital structure of 93.39% equity, well above the level of comparable companies.³⁷⁰ Similarly, in *Big Run Telephone Co. v. Pennsylvania Public Utility Commission*, the utility proposed a capital structure of 100% equity,³⁷¹ and in *T.W. Phillips Gas and Oil Co. v. Pennsylvania Public Utility Commission*, the utility proposed a capital structure of 60.1% equity where the comparable group of utilities had a capital structure with 45% equity.³⁷² Such “atypical” differences clearly do not exist here, and the PUC should adopt the Company’s proposed actual capital structure and reject the OCA’s hypothetical capital structure. PAWC RB at 33.

2. I&E’s Position

I&E witness Patel recommends using the Company’s claimed capital structures for both water and wastewater as these capital structures fall within the range of Mr. Patel’s proxy group.³⁷³ I&E MB at 47-48.

³⁶⁸ PAWC St. 13-R, p. 74.

³⁶⁹ OCA MB at 50-51.

³⁷⁰ *Pa. Pub. Util. Comm’n v. Carnegie Natural Gas Co.*, 433 A.2d 938 (Pa. Cmwlth. 1981).

³⁷¹ *Big Run Tel. Co. v. Pa. Pub. Util. Comm’n*, 449 A.2d 86, 89 (Pa. Cmwlth. 1982).

³⁷² *T.W. Phillips Gas and Oil Co. v. Pa. Pub. Util. Comm’n*, 474 A.2d 205, 211-12 (Pa. Cmwlth. 1984).

³⁷³ I&E St. 2, p. 16.

3. OCA's Position

The OCA argues that the Commission should reject the Company's proposed capital structure consisting of 44.7% debt and 55.3% equity (total company) because PAWC has not met its burden of justifying its claim. The OCA asserts that PAWC's proposed capital structure deviates from the average debt ratio of its own proxy group (49%), and it substantially deviates from the debt ratio of AWK, its parent company (55%).³⁷⁴ Mr. Garrett recommends imputing a capital structure for PAWC equal to PAWC's proxy group average (inclusive of the six non-water utilities), which consists of 51% equity and 49% debt.³⁷⁵ OCA MB at 48-49.

PAWC witness Bulkley disagrees with Mr. Garrett's recommendation to impute a capital structure equal to the proxy group average because she believes capital structure comparisons should be made to the operating subsidiaries of the proxy group rather than the proxy companies themselves (*i.e.*, the holding companies).³⁷⁶ The OCA states that the Commission should reject Ms. Bulkley's recommendation. All the other inputs to the financial models employed in this case (*i.e.*, the CAPM and DCF Model) are derived directly from the proxy holding companies.³⁷⁷ The OCA avers that is, after all, the point of a proxy group. Since PAWC and the OCA obtain all the other metrics used to estimate PAWC's cost of equity from the proxy group, it would be unreasonable to reject the capital structure of that same proxy group as part of the analyses.³⁷⁸ The OCA states that additionally, PAWC's proposed debt ratio is clearly too low as compared to the proxy group (49%), AWK (parent company) (55%), and comparable industries (60% - 68%).³⁷⁹ The OCA asserts that this results in excessively high

³⁷⁴ OCA St. 3, pp. 4, 55.

³⁷⁵ OCA St. 3, pp. 58, 61; OCA Ex. DJG-13.

³⁷⁶ OCA St. 3SR, p. 6.

³⁷⁷ OCA St. 3SR, p. 7.

³⁷⁸ *Id.*

³⁷⁹ OCA St. 3, p. 57. The results of Mr. Garrett's analyses are summarized in the table shown on OCA St. 3 at 57.q

capital costs and utility rates.³⁸⁰ Specifically, PAWC's excessive equity ratio alone would impose \$30.7 million per year of additional expense to ratepayers, at PAWC's claimed rate base and ROE.³⁸¹ The OCA states that customers do not receive an additional benefit from the utility's excessively high capital costs; rather, it exclusively benefits PAWC's shareholders.³⁸² The OCA states there is no fair or reasonable basis in the record on which to authorize PAWC's proposed capital structure.³⁸³ Based on Mr. Garrett's analysis, the OCA recommends the Commission adopt a capital structure for PAWC consisting of 49% debt.³⁸⁴ OCA MB at 49-50.

The OCA asserts that moreover, in order for the results of the CAPM to be accurate, any discrepancy between the utility's capital structure and the proxy group's capital structure must be reconciled either through a capital structure adjustment for ratemaking purposes or a lower authorized ROE as estimated through the Hamada model.³⁸⁵ The OCA states that in this case, the OCA is proposing a ROE that exceeds the results of the CAPM; thus, it is even more imperative that the Commission adjust the Company's proposed ratemaking capital structure so that the overall rate of return is not unfairly high.³⁸⁶ OCA MB at 50.

The OCA states that use of the hypothetical capital structure is appropriate in cases like this one to reduce costs to ratepayers, as opposed to increasing costs, where the utility's management proposes an actual capital structure that imposes an unfair cost burden on ratepayers.³⁸⁷ The OCA states that the underlying theme is an equitable one, in which the

³⁸⁰ OCA St. 3, p. 57.

³⁸¹ OCA St. 2; OCA Ex. LA-6, pp. 3-4.

³⁸² OCA St. 3, pp. 57-58.

³⁸³ OCA St. 3, p. 58.

³⁸⁴ OCA St. 3, p. 58.

³⁸⁵ OCA St. 3, pp. 4, 58-60.

³⁸⁶ OCA St. 3, p. 4.

³⁸⁷ See e.g. *T.W. Phillips Gas and Oil Co. v. Pa. Pub. Util. Comm'n*, 474 A.2d 355, 362 (Pa. Cmwlth. 1984); *Carnegie Nat. Gas Co. v. Pa. Pub. Util. Comm'n*, 433 A.2d 938 (Pa. Cmwlth. 1981) (*Carnegie*).

Commission and Pennsylvania courts do not allow the utility's financial interests to outweigh the public interest.³⁸⁸ OCA MB at 50-51.

In its Reply Brief, the OCA asserts that PAWC misstates the standard the Commission outlined in the *Columbia 2024* case, which states: "Absent a finding by the Commission that a utility's actual capital structure is atypical or too heavily weighted on either the debt or equity side, we would not normally exercise our discretion with regard to implementing a hypothetical capital structure."³⁸⁹ The OCA avers that the full standard articulated in *Columbia 2024* is more consistent with the holding of the Commonwealth Court.³⁹⁰ The OCA argues that under the correct standard, the Commission must make adjustments to the utility's capital structure where it is too heavily weighted toward debt or equity. The Commission can utilize a hypothetical capital structure for ratemaking purposes when the utility's actual capital structure is "unreasonable or uneconomical when balancing the goals of safety, prudent management, and economy."³⁹¹ OCA RB at 30 (emphasis in original).

4. ALJs' Recommendation

We recommend that the Commission adopt PAWC's capital structure. We agree with PAWC that its proposed capital structure recognizes the composition of the financing that PAWC is currently using, and the capital structure is within the range of equity ratios of the proxy group of utilities.³⁹² Although the OCA argues a hypothetical capital structure should be used based on Commission precedent, we agree with PAWC that the cases cited by the OCA

³⁸⁸ *Pa. Pub. Util. Comm'n v. Pa. Gas and Water*, 424 A.2d 1213, 1217 (Pa. 1980); *see also Arrowhead Pub. Serv. Corp. v. Pa. Pub. Util. Comm'n*, 600 A.2d 251, 257 (Pa. Cmwlth. 1991); *Big Run Tel. Co. v. Pa. Pub. Util. Comm'n*, 449 A.2d 86, 89 (Pa. Cmwlth. 1982).

³⁸⁹ *Columbia 2024* at *43 (citing *PPL 2012* at 68) (emphasis added by the OCA).

³⁹⁰ *Carnegie Na. Gas Co. v. Pa. Pub. Util. Comm'n*, 433 A.2d 938, 940 (Pa. Cmwlth. 1981) (citations omitted).

³⁹¹ *Pa. Pub. Util. Comm'n v. Carnegie Nat. Gas Co.*, 54 Pa.P.U.C. 381, 393 (1980), *aff'd by Carnegie*.

³⁹² *See* PAWC MB at 42 (citing PAWC St. 13-R, pp. 72-73; PAWC St. 13, pp. 61-62).

represent cases where a company's actual capital structure was inconsistent with a comparable group of utilities, a situation not present here.³⁹³ We also note that I&E recommended using the Company's claimed capital structure.³⁹⁴

C. Cost of Long-Term Debt

1. PAWC's Position

PAWC states that the Company's long-term debt was calculated by Ms. Bulkley, using specific debt identified for wastewater services and calculating the water services capital structure and associated water services long-term debt by removing the wastewater services debt.³⁹⁵ The Company's cost of long-term debt presented by Ms. Bulkley was accepted by I&E witness Patel and should have been accepted by OCA witness Garrett in his consideration of the Company's proposed capital structure. PAWC MB at 43.

2. I&E's Position

I&E accepts PAWC and PAWC-WD's claimed cost rate of long-term debt of 4.76% for water and wastewater, as well as the 2.67% cost rate of long-term debt for wastewater specific issuances.³⁹⁶ I&E witness Patel opines the Company's claimed cost rate of long-term debt is reasonable as it is representative of the industry. The implied long-term cost of debt range of I&E witness Patel's proxy group is 3.19% to 5.67%.³⁹⁷ The Company's cost rate of long-term debt for Water Operations of 4.76% falls within the proxy group. I&E states that while the 2.67% (updated by PAWC witness Bulkley in Rebuttal from 2.62%) is slightly below

³⁹³ See PAWC RB at 33.

³⁹⁴ I&E St. 2, p. 16.

³⁹⁵ PAWC St. 13, pp. 59-60

³⁹⁶ I&E St. 2-SR, p. 43.

³⁹⁷ I&E St. 2, p. 18.

this range, it is sufficiently close to the low end of the range, and therefore is appropriate to use for this proceeding.³⁹⁸ I&E MB at 48.

3. OCA's Position

The OCA accepted PAWC's proposed cost of long-term debt, and the OCA's proposed modifications to the Company's capital structure do not affect the cost of debt. OCA RB at 31.

4. ALJs' Recommendation

We recommend that the Commission adopt PAWC's cost of long-term debt. Both I&E and the OCA accepted PAWC's proposed cost of long-term debt.³⁹⁹ As PAWC explained, the Company's long-term debt was calculated using specific debt identified for wastewater services and calculating the water services capital structure and associated water services long-term debt by removing the wastewater services debt.⁴⁰⁰

D. Return on Equity

1. PAWC's Position

PAWC avers that given PAWC's capital needs, a ROE that is adequate to attract capital at reasonable terms is essential for PAWC to continue to provide safe, reliable water and wastewater service.⁴⁰¹ PAWC states that because the cost of common equity does not lend itself to precise mathematical computation, public utility commissions rely on multiple models to

³⁹⁸ I&E St. 2, pp. 17-18.

³⁹⁹ I&E RB at 22; OCA RB at 32.

⁴⁰⁰ PAWC MB at 43 (citing PAWC St. 13, pp. 59-60).

⁴⁰¹ *Id.* at 11.

calculate the proper cost of equity for the period a utility's new rates will be in effect.⁴⁰² The Commission has recognized the need for multiple models, and specifically the need to use the DCF and CAPM in times of inflation and high interest rates.⁴⁰³ PAWC MB at 43.

PAWC states that consistent with recent Commission decisions, Ms. Bulkley considered the results of both the DCF and the CAPM. Ms. Bulkley considered a variety of published long-term growth rates and calculated results using minimum, average, and high growth rates from these sources, leading to a DCF range of 8.69% to 10.96%.⁴⁰⁴ Ms. Bulkley's analysis also indicated a traditional CAPM range of returns from 10.15% to 11.17%, with Empirical CAPM ROEs of 10.73% to 11.50%.⁴⁰⁵ PAWC states that in light of the results of both the DCF and CAPM models, and after considering the business, financial and regulatory risks faced by PAWC and the Company's superior management performance, Ms. Bulkley recommended an ROE of 10.95%.⁴⁰⁶ PAWC MB at 43-45.

PAWC avers that relying upon the flawed proxy group, I&E witness Patel recommends an ROE of 8.45% based solely on his DCF calculations, which is below any return authorized for a water utility in the United States since 2010 and well below the returns recently authorized by the Commission for other Pennsylvania water utilities.⁴⁰⁷ Although he undertook a CAPM analysis that resulted in an ROE of 10.44%, Mr. Patel discarded his CAPM result, in part because he "respectfully disagree[d]" with the Commission's consideration of inflation and interest rates in the *Columbia Water 2024*. He also concluded that PAWC did not face any

⁴⁰² *Id.* at 31-32; *see also* PAWC Cross Exhibit 2 (David C. Parcell, THE COST OF CAPITAL – A PRACTITIONER'S GUIDE, p. 89).

⁴⁰³ *Columbia Water 2024*, p. 107.

⁴⁰⁴ *Id.* at 36.

⁴⁰⁵ *Id.* at 59-60.

⁴⁰⁶ PAWC St. 13, p. 59.

⁴⁰⁷ I&E St. 2, pp. 31, 35; PAWC St. 13-R, p. 6.

specific risks different than his proxy group companies and was not entitled to any increase for management performance.⁴⁰⁸ PAWC MB at 46.

PAWC states that as a threshold matter, I&E witness Patel appears to have assumed that the Federal Reserve would definitely cut interest rates in 2024 despite the Federal Reserve Chairman Power’s continuing emphasis that the Federal Reserve will not cut interest rates until it is “confident” that its 2% inflation objective is assured.⁴⁰⁹ While Mr. Patel concedes that “current market conditions are still characterized by high interest rates and capital costs,” he contends that it is nevertheless “speculative that current high inflation and interest rate scenarios will continue in the longer term”⁴¹⁰ even with the Federal Reserve’s continuing cautionary approach and clear statement that inflation will remain well above its target level until 2026, after rates in this proceeding are in effect.⁴¹¹ PAWC MB at 46.

PAWC asserts that in light of the statements of Chairman Powell, any “speculation” is in concluding that the Federal Reserve will make interest rate cuts in the near future, and not the likelihood of continuing high inflation that has driven interest rates to high levels with which the Federal Reserve continues to remain concerned. Further, Ms. Bulkley’s analysis takes into consideration projected interest rates, relying on both a near term estimate through the first quarter of 2025 and a long-term estimate for the period from 2025 through 2029.⁴¹² PAWC states that in short, it is reasonable to expect that if government bond yields remain elevated, the cost of equity will be increasing above the levels experienced in the 2020 and 2021 lower interest rate environment.⁴¹³ PAWC MB at 47.

⁴⁰⁸ I&E St. 2, pp. 54-69, 71.

⁴⁰⁹ I&E St. 2, p. 40; PAWC St. 13-RJ, p. 1.

⁴¹⁰ I&E St. 2-SR, p. 8.

⁴¹¹ PAWC St. 13-R, p. 13.

⁴¹² PAWC St. 13, p. 40.

⁴¹³ PAWC St. 13, p. 21.

PAWC states that Mr. Patel’s analysis relies upon an incorrect reading of the Commission decisions in both *Aqua 2022* and *Columbia Water 2024*. In Mr. Patel’s view, the PUC used both DCF and CAPM models because of “various other factors” that the Commission considered in its final determination of an ROE.⁴¹⁴ PAWC avers that the PUC’s decision to rely on both models due to economic conditions is distinct from its discussion of the utility-specific factors used to calculate the ROE of both Aqua and Columbia Water. PAWC notes that in *Aqua 2022* the Commission highlighted that the DCF model does not directly account for interest rates.⁴¹⁵ And in *Columbia Water 2024*, the Commission also explicitly stated its approach based on market conditions: “Based on the record, we agree with the ALJs that is appropriate to consider the CAPM results to account for economic changes such as those occurring currently, in addition to the DCF results, to determine Columbia’s ROE.”⁴¹⁶ PAWC states that in this proceeding, Mr. Patel has again repeated I&E’s prior error of disregarding CAPM results and appropriately adjusting I&E’s ROE recommendation. PAWC MB at 47-48.

PAWC avers that with respect to his DCF calculations, Mr. Patel chose to use a spot stock price instead of a 30-day average, which both Ms. Bulkley and OCA witness Garrett used. PAWC asserts that the small size of his proxy group also resulted in undue weight to a single company, Middlesex Water, which had an unreasonable DCF result of only 5.77%. Simply using a 30-day average, excluding Middlesex Water’s results, and incorporating Essential Utilities in Mr. Patel’s proxy group yields a revised DCF mean result of 9.21%; using PAWC’s more reasonable proxy group results in a DCF of 9.82%.⁴¹⁷ PAWC MB at 48.

PAWC asserts that Mr. Patel’s CAPM calculation is similarly flawed. Although the Commission has previously approved the use of a 10-year Treasury rate for calculation of the CAPM, Ms. Bulkley explains that a more appropriate period of time for consideration of long-

⁴¹⁴ I&E St. 2-SR, pp. 7-8.

⁴¹⁵ *Aqua 2022*, p. 89.

⁴¹⁶ *Columbia Water 2024*, p. 107 (citing *Aqua 2022*).

⁴¹⁷ PAWC St. 13-R, p. 30-31.

term utility investments is the life of PAWC's utility plant assets, which average 34.7 years – consistent with her use of a 30-year Treasury rate. Mr. Patel also calculated a market return based on a *Value Line* report for a single week, which was indisputably well below the historical average.⁴¹⁸ PAWC states that even granting Mr. Patel the use of the 10-year Treasury bond, simply including Essential Utilities in his proxy group for reasons discussed previously increases his CAPM result to 10.71%. PAWC MB at 48-49.

PAWC concludes that conservatively weighing Mr. Patel's DCF and his CAPM analysis 50/50 after reasonable adjustments – which is less weight on the CAPM analysis than the Commission placed in both *Aqua 2022* and *Columbia Water 2024* – results in an ROE of 10.02%, or 10.53% with a proper proxy group, before the addition of any enhancement for superior management performance.⁴¹⁹ PAWC MB at 49.

PAWC states that unlike Mr. Patel, OCA witness Garrett does rely on both the DCF and CAPM models in estimating a cost of equity for PAWC. PAWC avers that as with Mr. Patel, however, Mr. Garrett's calculations and criticisms of Ms. Bulkley's results are misplaced. PAWC MB at 49.

PAWC states that in his DCF calculation, Mr. Garrett used the same Constant Growth DCF model as Ms. Bulkley, with both a sustainable growth rate and growth rates from various analysts. He calculated his DCF results based on analysts' growth rates using both his proxy group and Ms. Bulkley's proxy group, which were 9.4% and 9.3%, respectively.⁴²⁰ PAWC states that while he properly emphasized that it was important to consider CAPM results and not simply rely upon the DCF results, he nevertheless criticized Ms. Bulkley's DCF results because he believed they were calculated with short-term analyst growth rates that were too high.⁴²¹ As Ms. Bulkley explained, however, Mr. Garrett used growth rates that were *higher*

⁴¹⁸ *Id.* at 47.

⁴¹⁹ *Id.* at 50.

⁴²⁰ OCA St. 3, p. 28.

⁴²¹ *Id.* at 29-30.

than Ms. Bulkley's growth rate.⁴²² Mr. Garrett's response was only to acknowledge that the lower end of Ms. Bulkley's DCF range was acceptable but other results were too high – despite his use of the exact same methodology.⁴²³ PAWC MB at 49-50 (emphasis in original).

PAWC states that in light of his DCF results, Mr. Garrett focused on his CAPM model, and calculated a ROE of 8.8% – well below Ms. Bulkley's range of 10.15% to 11.17%, as well as I&E witness Patel's calculation of 10.44%.⁴²⁴ The primary issue between Ms. Bulkley's model results and Mr. Garrett's calculations involved the market risk premium. PAWC avers that as Ms. Bulkley explained, Mr. Garrett's market risk premium of 5.30% was understated in light of a well-established inverse relationship between interest rates and the market risk premium, and he improperly relied on a business school survey.⁴²⁵ Mr. Garrett contends that Ms. Bulkley's market risk premium range of 8.03% to 8.12% was inconsistent with not only the business school survey but also other sources.⁴²⁶ PAWC asserts that Ms. Bulkley's testimony at hearings established that her market return was consistent with the range of annual equity returns that have been observed from 1926 to 2022. She also described the review of 29 different market risk premium methodologies by the Federal Reserve Bank of New York which underscored that the market risk premium tends to peak during periods of high inflation and demonstrated that her estimates were reasonable and in line with independent sources.⁴²⁷ PAWC states that if Mr. Garrett's CAPM analysis were performed with I&E witness Patel's market risk premium and that CAPM result (10.60%) was averaged with Mr. Garrett's uncorrected DCF result (9.4%) in the same manner as Mr. Garrett did himself, his ROE calculation in this proceeding would be 10.00%.⁴²⁸ PAWC MB at 50.

⁴²² PAWC St. 13-R, pp. 57-58.

⁴²³ OCA St. 3-R, pp. 2-3; PAWC St. 13-R, pp. 54-55; PAWC St. 3-RJ, pp. 7-8.

⁴²⁴ OCA St. 3, p. 43; PAWC St. 13, pp. 59-60; I&E St. 2, p. 34.

⁴²⁵ PAWC St. 13-R, pp. 56-57.

⁴²⁶ OCA St. 3-R, p. 4-6.

⁴²⁷ PAWC St. 13-RJ, pp. 10-11.

⁴²⁸ PAWC St. 13-R, pp. 60-61.

Regarding OSBA witness Higgins' using a "proxy" ROE of the Commission's most recently approved DSIC ROE of 9.65% for water and wastewater utilities,⁴²⁹ PAWC asserts that the Commission has already made clear that the DSIC ROE is no substitute for a proper cost of equity analysis.⁴³⁰ As Mr. Higgins himself states that his "proxy" ROE is not intended to be relied upon by the PUC, the Commission should disregard Mr. Higgins' 9.65% proxy in its consideration of the proper ROE for the Company. PAWC MB at 51.

PAWC states that PAWLUG witness LaConte also does not provide any cost of equity analysis upon which the Commission can rely. Instead, she simply contends that Ms. Bulkley's recommended 10.95% is "overstated" because it exceeds the DSIC ROE, the national average ROE for water utilities of 9.45%, and the ROE of 10% approved by the Commission in *Aqua 2022*, and purportedly does not recognize any possible reduced financial risk associated with the Company's and alternative ratemaking and cost deferral proposals in this proceeding. PAWC MB at 51.

In its Reply Brief, PAWC avers that I&E has again done exactly what the Commission found fault with in both *Aqua 2022* and *Columbia Water 2024*: asserting that CAPM results were taken into consideration in its recommended ROE but then relying solely upon its DCF results. PAWC states that the low ERP that the OCA advocates in this proceeding is consistent with the same low ERP rejected in *Columbia Water 2024*.⁴³¹ PAWC RB at 34-40.

2. I&E's Position

Using a DCF model, I&E witness Patel recommends a cost of common equity of 8.45% for both the water and wastewater divisions.⁴³² Although not part of his recommendation

⁴²⁹ OSBA St. 1, pp. 17-18.

⁴³⁰ *Aqua 2022*, p. 177.

⁴³¹ *Columbia Water 2024*, p. 93.

⁴³² I&E Ex. 2, Sch. 1.

for a cost of common equity, Mr. Patel's CAPM analysis leads to a cost of equity result of 10.44%. I&E MB at 48-51.

I&E witness Patel opposes PAWC witness Bulkley's calculated return on equity for several reasons. First, as stated above in the discussion of proxy groups, PAWC witness Bulkley's selected proxy group is flawed as discussed above, making her results unusable. Second, Ms. Bulkley gives undue weight to the CAPM and ECAPM methods. Third, PAWC witness Bulkley's adjustment for management performance is unsupported and inappropriate. I&E MB at 52.

I&E argues that just recently, the Commission affirmed reliance primarily on the DCF and rejected giving equal weight to the other methodologies.⁴³³ I&E states that even more recently, in both *Columbia Gas*⁴³⁴ and *PECO Energy Company – Gas Division* decision,⁴³⁵ the Commission affirmed I&E's use of the DCF methodology as the primary methodology to determine the return on equity with the CAPM as a comparison. I&E states that the Commission has explained that it is only in very specific instances that it will vary from the methodology utilized by I&E.⁴³⁶ I&E asserts that no evidence has been presented that would indicate the DCF-only results presented by I&E witness Patel would understate PAWC's current cost of equity capital. I&E concludes that therefore, the methodology used by I&E witness Patel is appropriate. I&E MB at 55.

⁴³³ *Pa. P.U.C. v. City of DuBois – Bureau of Water*; Docket No. R-2016-2554150 (Order Entered March 28, 2017), pp. 96-97; *UGI 2018* at 103-106.

⁴³⁴ *Pa. Pub. Util. Comm'n. v. Columbia Gas*, Docket No. R-2020-3018835, p. 127 (Opinion and Order entered Feb. 19, 2021).

⁴³⁵ *Pa. Pub. Util. Comm'n v. PECO Energy Co. – Gas Div.*, Docket No. R-2020-3018929, p. 171 (Opinion and Order entered June 22, 2021).

⁴³⁶ *PPL 2012* at 81.

I&E witness Patel recommends the Commission reject PAWC witness Bulkley's method of calculating the risk-free rate used for her CAPM analysis.⁴³⁷ PAWC witness Bulkley's claim is based upon expected yields on 30-year U.S. Treasury Bonds. I&E asserts that use of 30-year treasury bonds is not appropriate. Long-term Treasury Bonds have substantial maturity risk associated with the market risk and the risk of unexpected inflation and normally offer higher yields to compensate investors for these risks.⁴³⁸ I&E avers that using the 10-year Treasury Note is more appropriate to balance the short-term volatility risk and the long-term inflation risk. Additionally, the Commission has recognized the 10-year Treasury Note as the superior measure for the risk-free rate.⁴³⁹ In sum, I&E states that its witness Patel's use of the yield on a 10-year Treasury Note is appropriate because it better reflects the life of the underlying investment and has been recognized by this Commission as the appropriate measure of the risk-free rate. I&E MB at 56-57.

I&E states that its witness Patel excluded the ECAPM method from his analysis because it has essentially the same flaws as the CAPM but with a further measure of subjectivity.⁴⁴⁰ I&E MB at 57-58.

I&E witness Patel recalculates Mr. Bulkley's CAPM analysis by removing gas and electric companies from her proxy group, using a 10-year Treasury Note, and eliminating the ECAPM analysis. The overall average result of this recalculation below yields a 9.81% CAPM result, which is lower than I&E witness Patel's CAPM result of 10.44%.⁴⁴¹ I&E concludes that because of the flaws associated with these methods, the results of PAWC witness Bulkley's CAPM and ECAPM analysis should be disregarded. I&E MB at 58.

⁴³⁷ I&E St. 2, pp. 49-50.

⁴³⁸ I&E St. 2, p. 49.

⁴³⁹ *UGI 2018* at 99.

⁴⁴⁰ I&E St. 2, p. 50.

⁴⁴¹ I&E St. 2, p. 51.

3. OCA's Position

The OCA states that the Commission should reject the Company's proposed ROE of 10.95% as excessive and unsupported.⁴⁴² The OCA asserts that an objective cost of equity analysis shows that the Company's market-determined cost of equity is notably lower than proposed by PAWC.⁴⁴³ The OCA recommends that the Commission set the Company's market-determined cost of equity at 9.1%, which is the average of OCA witness Garrett's CAPM result (8.7%) and DCF Model result (9.4%).⁴⁴⁴ However, if the Commission accepts the Company's proposed capital structure and/or adopts either of the Company's proposed alternative ratemaking proposals, then the OCA recommends the Commission grant only the 8.7% ROE supported by Mr. Garrett's models. OCA MB at 51.

PAWC witness Bulkley's DCF Model analyses, as updated in her rebuttal, yielded a cost of equity range of 8.65% to 11.34%.⁴⁴⁵ In contrast, Mr. Garrett's DCF Model analysis produced a cost of equity result of 9.4%.⁴⁴⁶ The OCA asserts that this does not mean that PAWC's cost of equity is as high as 9.4%. In order to get an accurate assessment of the cost of equity, a model that measures market risk and its impact on individual companies must be used. The OCA avers that this is exactly what the CAPM does. The OCA states that the results of Mr. Garrett's CAPM indicate a lower cost of equity for PAWC, and these results must be considered in the overall analyses.⁴⁴⁷ OCA MB at 51-52.

The OCA argues that Ms. Bulkley's DCF Model analysis results are overstated primarily because she relies on non-sustainable growth rate assumptions that are unreasonably

⁴⁴² OCA St. 3, pp. 29-33, 44-47, 48-50; OCA St. 3SR, pp. 8-11; Tr. 2113.

⁴⁴³ OCA St. 3, pp. 3, 28, 42-43; OCA St. 3SR, pp. 2-3, 3-6.

⁴⁴⁴ OCA St. 3, pp. 3, 61; OCA St. 3SR, p. 7.

⁴⁴⁵ PAWC St. 13R, p. 10; OCA St. 3SR, p. 2.

⁴⁴⁶ OCA St. 3, pp. 20-28.

⁴⁴⁷ OCA St. 3, p. 28.

high and because she considered flotation costs in making her final ROE recommendation.⁴⁴⁸ The OCA asserts that Ms. Bulkley's use of long-term growth projection in earnings or dividends that exceed long-term growth projections of the aggregate economy's growth rate (measured in U.S. GDP) and inclusion of flotation costs should be viewed with caution if not rejected outright.⁴⁴⁹ OCA MB at 52.

The OCA notes that its proposed ROE for PAWC of 9.1% falls within Ms. Bulkley's overall DCF Model range.⁴⁵⁰ The OCA states that its recommended 9.1% ROE aligns with investors' interests while protecting consumers from paying more than is required. I&E avers that the Commission would be well within its discretion to adopt the 9.1% as it balances the interests of investors and consumers and falls within the zone of reasonableness.⁴⁵¹ OCA MB 52-53.

PAWC witness Bulkley presented several variations of the CAPM, with results as high as 11.5%.⁴⁵² The OCA states that in contrast, Mr. Garrett's CAPM analysis produced a cost of equity result of 8.7%.⁴⁵³ The OCA states that the primary area of disagreement between the two is the ERP. The OCA asserts that Mr. Garrett considered three reliable and objective sources to include in his overall ERP estimate, including the result of the IESE Business School survey of experts, the estimate published by Kroll (formerly Duff & Phelps), and the estimate published by one of the world's leading experts on the issue, Dr. Aswath Damodaran.⁴⁵⁴ Mr. Garrett also conducted and presented his own ERP estimate, the result of which is similar to

⁴⁴⁸ OCA St. 3, pp. 29-31; OCA St. 3SR, pp. 2-3.

⁴⁴⁹ OCA St. 3, pp. 30-33; OCA St. 3SR, pp. 2-3.

⁴⁵⁰ OCA St. 3, p. 29.

⁴⁵¹ *Permian Basin Area Rate Cases*, 390 U.S. 747, 794-95 (1968) (*Permian Basin*) at 770, 797.

⁴⁵² OCA St. 3, p. 44; PAWC St. 13, p. 45, Fig. 8.

⁴⁵³ OCA St. 3, pp. 33-43.

⁴⁵⁴ OCA St. 3SR, p. 4.

those from the other sources.⁴⁵⁵ The OCA argues that when compared with other independent sources for the ERP (as well as Mr. Garrett’s estimate), which do not have a wide variance, Ms. Bulkley’s ERP estimate is clearly not within the range of reasonableness.⁴⁵⁶ OCA MB at 53-54.

The OCA asserts that ultimately, however, Ms. Bulkley is suggesting to the Commission that her ERP estimate is more accurate than the aggregate opinions of more than 1,300 expert survey respondents, a leading global provider of risk management and valuation, and one of the world’s leading academics on the ERP.⁴⁵⁷ The OCA argues that this is not reasonable. The ERP estimates provided by the survey of experts, Kroll, and Dr. Damodaran, as relied upon by Mr. Garrett, are more objective, reasonable, and unbiased than Ms. Bulkley’s ERP estimate.⁴⁵⁸ Moreover, the ERP results from these sources do not have a wide variance, which provides further indication of a tight, reasonable range for the ERP, from which Ms. Bulkley’s ERP estimate clearly and significantly diverges.⁴⁵⁹ OCA MB 54-55.

In its Reply Brief, the OCA states that in an attempt to justify Ms. Bulkley’s unreasonably high ERP, the Company points to a historic look back over the last 97 years, and a “review of 29 different market risk premium methodologies by the Federal Reserve Bank of New York which underscored that the market risk premium tends to peak during periods of high inflation”⁴⁶⁰ The OCA argues that this justification points to the past and ignores the comparisons of Ms. Bulkley’s estimate to that of other relevant experts. Furthermore, The OCA states that the Company has not supported the use of Ms. Bulkley’s 8.12% ERP but rather has made general statements about a higher ERP in times of inflation, citing to Ms. Bulkley’s

⁴⁵⁵ OCA St. 3, pp. 44-46; OCA St. 3SR, p. 4; OCA Ex. DJG-10.

⁴⁵⁶ OCA St. 3, p. 46; OCA St. 3SR, p. 5.

⁴⁵⁷ OCA St. 3SR, p. 5.

⁴⁵⁸ OCA St. 3SR, p. 6.

⁴⁵⁹ OCA St. 3SR, p. 6.

⁴⁶⁰ PAWC MB at 45, 50.

Rejoinder testimony where she relies on inflation being above the Federal Reserve's target rate as a justification for her overly inflated ERP.⁴⁶¹ OCA RB at 34.

The OCA asserts that the Company's combination of I&E witness Patel's Market Risk Premium with Mr. Garrett's CAPM⁴⁶² should be disregarded. The OCA states that this combination of the calculations by two witnesses for separate parties is results-driven, arbitrary, and cherry picking. To replace Mr. Garrett's Equity Risk Premium for that of Mr. Patel's is in essence to change the CAPM to something that Mr. Garrett did not testify to. The OCA states that, furthermore, this sort of results-driven analysis should be rejected by the Commission as it does nothing but arbitrarily raise results to something closer to what PAWC wishes them to be, not what the model produced them to be. OCA RB at 34.

4. OSBA's Position

For the purposes of this proceeding, OSBA expert witness Kevin Higgins utilized the 9.65% ROE authorized for PAWC's distribution system improvement charge ("DSIC") in the most recent Report of the Commission's Bureau of Technical Utility Services on the Quarterly Earnings of Jurisdictional Utilities as a proxy for his revenue requirement.⁴⁶³ OSBA MB at 14.

The OSBA states that Mr. Higgins' use of the proxy ROE has implications for the adjustments when addressing PAWC's acquisitions of other utilities. Use of the proxy ROE in the calculation of the revenue requirement impacts of his acquisition-related adjustments provides a more realistic measurement of the impact of those adjustments.⁴⁶⁴ OSBA MB at 14.

⁴⁶¹ OCA MB at 54 n. 26; PAWC MB at 50; PAWC St. 13RJ, pp. 8-9.

⁴⁶² OCA MB at 50.

⁴⁶³ OSBA St. 1, p. 17.

⁴⁶⁴ OSBA St. 1, at 18.

The OSBA has no objection, and would support, either the ROE of 8.45% proffered by I&E, or the ROE of 9.1% and capital structure proffered by the OCA. OSBA MB at 14.

5. PAWLUG's Position

PAWLUG states that, as detailed in its Direct Testimony, numerous indicators show PAWC's proposed ROE to be excessive and unreasonable. PAWC's proposed ROE becomes particularly unreasonable when considered alongside the various alternative ratemaking mechanisms proposed by the Company which, if approved, would reduce the Company's operating risks. Accordingly, PAWLUG recommends that the Commission reject PAWC's proposed ROE. PAWLUG MB at 9.

In conjunction with the alternative ROE recommendations developed by other parties, PAWLUG requests that the Commission consider indicators collectively establishing the unreasonableness of PAWC's recommended ROE. PAWLUG witness Bille LaConte observes that PAWC's proposed ROE exceeds the 9.45% average ROE for a domestic water utility by 150 basis points.⁴⁶⁵ PAWLUG states that the 10.95% ROE exceeds the fully litigated ROE of 10% approved by the Commission in Aqua's 2022 base rate case by 95 basis points.⁴⁶⁶ PAWLUG avers that the Commission should also consider that PAWC's proposed ROE exceeds the September 30, 2023, proxy ROE developed by the Commission's Bureau of Technical Utility Services for purposes of calculating water DSIC.⁴⁶⁷ PAWLUG MB at 9.

PAWLUG argues that PAWC's proposed ROE is particularly egregious because it omits any adjustment for the various alternative rate and deferral mechanisms proposed by the Company to further reduce its operational risks. PAWLUG states that by seeking approval of these alternative ratemaking and deferral mechanisms without addressing the impact on its

⁴⁶⁵ PAWLUG St. 1 at 7.

⁴⁶⁶ See PAWLUG St. 1 at 5.

⁴⁶⁷ *Id.*

financial risk profile through adjustments to its ROE, PAWC unreasonably shifts operational risks from shareholders to ratepayers. PAWLUG avers that PAWC's attempts to characterize the proposed alternative ratemaking and deferral mechanisms as industry standards are inaccurate and should be given no weight. PAWLUG MB at 9-10.

PAWLUG asserts that Ms. Bulkley's comments on revenue decoupling significantly misrepresent the similarities between the proxy group and PAWC's proposals. Of the 59% of the proxy group with some form of revenue stabilization mechanism, most are gas and electric utilities. PAWLUG avers that examination of the water utilities in PAWC's proxy group show only 5 of 23 have any kind of revenue stabilization mechanism.⁴⁶⁸ As explained in detail by I&E witness D.C. Patel, water and wastewater utilities face less competition and different operational, safety, and weather-related risks compared to their electric and gas counterparts.⁴⁶⁹ PAWLUG MB at 10-11.

PAWLUG states that the term "revenue stabilization mechanisms" as applied in Ms. Bulkley's analysis refers primarily to weather normalization adjustment mechanisms.⁴⁷⁰ PAWLUG states that a review of the survey cited by PAWC as support for the prevalence of revenue decoupling among the proxy group shows the majority of revenue decoupling mechanisms classified as "partial" are in fact weather normalization adjustments.⁴⁷¹ PAWLUG asserts that weather normalization adjustment mechanisms are not comparable to PAWC's proposed revenue decoupling mechanism as "weather normalization adjustment mechanisms are generally limited to Residential customers and only adjust revenue for weather variation."⁴⁷² PAWLUG states that this overgeneralized classification explains why the survey references prior approval of revenue decoupling in Pennsylvania, because the weather normalization adjustment

⁴⁶⁸ PAWLUG St. 1S, pp. 9-10.

⁴⁶⁹ I&E St. 2, p. 14.

⁴⁷⁰ PAWLUG St. 1S, p. 10.

⁴⁷¹ *Id.*

⁴⁷² *Id.*

mechanism approved for Columbia Gas of Pennsylvania is counted as a "revenue decoupling mechanism" for purposes of Ms. Bulkley's analysis. PAWLUG MB at 11.

PAWLUG states that as for the ECIC, the pension/OPEB deferral mechanism, or the production deferral mechanism, PAWC did not identify any companies in the proxy group with similar mechanisms. PAWC suggests that the ECIC is "commonplace" due to the prevalence of "infrastructure replacement mechanisms," but this association conflates the ECIC with more traditional infrastructure surcharge mechanisms, like PAWC's existing DSIC.⁴⁷³ PAWLUG MB at 11-12.

PAWLUG concludes that the Commission has been presented with three ROE recommendations based on numerous underlying models, including PAWC's proposed 10.95% ROE, PAWC's calculated 10% - 11.25% range of reasonableness, OCA's proposed 9.1% ROE, and I&E's proposed 8.45% ROE. Rather than recommend a specific ROE, PAWLUG requests that the Commission reject the 10.95% ROE proposed by PAWC and consider the evidence presented by PAWLUG in determining a reasonable ROE based on range of reasonableness supported by the parties' analyses. PAWLUG MB at 12.

6. ALJs' Recommendation

We recommend that the Commission adopt a modified version of I&E's Return on Equity analysis. Consistent with the Commission's decisions in *Aqua 2022* and *Columbia Water 2024*, the Commission should adopt a Return on Equity based on both I&E's DCF and CAPM models. Accordingly, we recommend that the Commission adopt a 9.45% Return on Equity, which is an average of the results of I&E's DCF and CAPM analyses.⁴⁷⁴

We recommend a modified version of I&E's analysis because we agree with PAWC that I&E's reliance on just the DCF model for its analysis is flawed. Although I&E cited

⁴⁷³ See PAWC St. 13, pp. 50-51; *but see* PAWLUG St. 1S, p. 10.

⁴⁷⁴ 8.45% ROE (DCF) + 10.44% ROE (CAPM) = 9.45%. See I&E MB at 48-51.

past Commission decisions adopting the DCF model only,⁴⁷⁵ PAWC correctly noted that more recently the Commission adopted use of both the DCF and CAPM models to determine ROE in *Aqua 2022* and *Columbia Water 2024*.⁴⁷⁶ PAWC convincingly argued that the conditions that lead the Commission to its determinations in *Aqua 2022* and *Columbia Water 2024*, i.e., higher inflation and associated higher interest rates and capital costs, still exist and are likely to continue.⁴⁷⁷ We also note that I&E's DCF result is nearly two hundred basis points below its CAPM results. The Commission in *Aqua 2022* and *Columbia Water 2024* concluded that methodologies other than the DCF can be used to check upon the reasonableness of a DCF derived ROE calculation.⁴⁷⁸ Although I&E witness Patel stated that CAPM should be used as a comparison of the DCF,⁴⁷⁹ he does not persuasively explain how he used his CAPM results as a comparison to justify the notable gap with his DCF results.

Although we agree with PAWC that both the DCF and CAPM models should be used, we recommend that I&E's specific DCF and CAPM models be used to determine PAWC's Return on Equity. We have already recommended that the Commission adopt I&E's proxy group. Regarding I&E's DCF model, I&E witness Patel used a spot dividend yield and a 52-week dividend yields for his DCF model,⁴⁸⁰ which is consistent with I&E's models adopted by the Commission in *Aqua 2022* and *Columbia Water 2024*.⁴⁸¹ Although PAWC witness Bulkley asserts it is inappropriate to rely on using a spot stock price,⁴⁸² Mr. Patel persuasively explained that his DCF analysis is more complex and considers spot price, the 52-week high and 52-week low price in the calculation of the average spot dividend yield and average 52-week dividend

⁴⁷⁵ I&E MB at 54-55.

⁴⁷⁶ PAWC MB at 47-48.

⁴⁷⁷ PAWC MB at 46-47.

⁴⁷⁸ *Aqua 2022* at 155; *Columbia Water 2024* at 108.

⁴⁷⁹ I&E St. 1, pp. 19-20.

⁴⁸⁰ I&E St. 2, p. 29; I&E Ex. 2, Sch. 4.

⁴⁸¹ *Aqua 2022* at 145; *Columbia Water 2024* at 90.

⁴⁸² PAWC St. 13-R, p. 30.

yield.⁴⁸³ We also disagree with PAWC that I&E inappropriately kept Middlesex Water in its proxy group for its DCF calculation.⁴⁸⁴ As Mr. Patel convincingly explained, eliminating results on one side of a range of results introduces subjectivity and is inconsistent with the purpose of a proxy group.⁴⁸⁵

Regarding I&E's CAPM model, I&E witness Patel used 10-year Treasury notes,⁴⁸⁶ which we agree mitigates the shortcomings of alternatively using either short-term Treasury bills or 30-year Treasury bonds, and is also consistent with I&E's models adopted by the Commission in *Aqua 2022* and *Columbia Water 2024*.⁴⁸⁷ Also consistent with the Commission's decision in *Columbia Water 2024*,⁴⁸⁸ we recommend the Commission reject PAWC's reliance ECAPM analysis because it introduces subjectivity to the CAPM analysis by reducing reliance on the company-specific beta variable.⁴⁸⁹

E. Business Risks and Management Performance

1. PAWC's Position

PAWC states that in this proceeding, Ms. Bulkley highlighted several crucial factors for consideration by the Commission, including: risk associated with capital expenditure program;⁴⁹⁰ risks associated with environmental and water quality regulations;⁴⁹¹ and flotation

⁴⁸³ I&E St. 2-SR, p. 24.

⁴⁸⁴ See PAWC MB at 95.

⁴⁸⁵ I&E St. 2-SR, p. 24.

⁴⁸⁶ I&E St. 2, p. 29; I&E Ex. 2, Sch. 4.

⁴⁸⁷ *Aqua 2022* at 145; *Columbia Water 2024* at 90.

⁴⁸⁸ *Columbia Water 2024* at 105.

⁴⁸⁹ See I&E St. 2, pp. 50-51.

⁴⁹⁰ PAWC St. 13, pp. 49-52.

⁴⁹¹ *Id.* at 53-56.

costs.⁴⁹² PAWC avers that as Ms. Bulkley explained, these risks should be viewed in comparison to the proxy group companies, and the Company's alternative ratemaking proposals – the RDM and the ECIC – will not reduce PAWC's risk in comparison to those companies.⁴⁹³ PAWC MB at 52.

PAWC asserts it also presented substantial evidence demonstrating that, in the face of the many risks and challenges, it exhibited excellent management performance in a variety of areas critically important to providing safe and reliable service, including the Company's (1) industry-leading programs to assist low-income and payment-troubled customers; (2) environmental record and commitment to water quality; (3) strong safety performance; (4) commitment to operational and water efficiency for the benefit of customers; (5) significant infrastructure investment; (6) community engagement and consumer education initiatives; (7) efforts to support the PUC's and PADEP's long-standing policy to eliminate the problems of small, troubled and nonviable water and wastewater systems by acquiring those systems and making the improvements needed to achieve and continue to provide safe and reliable service; and (8) efforts to extend service to meet the needs of customers without access to safe and reliable water service.⁴⁹⁴ Ms. Bulkley determined that PAWC's superior management performance should be appropriately recognized by the Commission pursuant to Section 523 of the Code by granting an ROE at the upper end of the range of 10.00% to 11.25% she recommended.⁴⁹⁵ If the Commission were to authorize an ROE less than 10.95%, Ms. Bulkley recommends that it add a management performance adjustment of no less than the 25-basis points proposed by Ms. Everette.⁴⁹⁶ PAWC MB at 52-53.

In its Reply Brief, PAWC states that several parties raise issues in their Main Brief with respect to PAWC's business risks, generally asserting that PAWC either (i) faces the

⁴⁹² *Id.* at 46-48.

⁴⁹³ PAWC St. 13-R, pp. 77-82; PAWC St. 13-RJ, pp. 13-15.

⁴⁹⁴ PAWC St. 1, pp. 31-46.

⁴⁹⁵ PAWC St. 13, p. 75.

⁴⁹⁶ PAWC St. 1, p. 33.

same risks as all other water utilities, and its risks are either further reduced through the availability of the DSIC and other regulatory mechanisms in Pennsylvania or would be, if the RDM or ECIC were approved; and (ii) Ms. Bulkley improperly considered flotation costs in determining an ROE for PAWC.⁴⁹⁷ PAWC RB at 40.

PAWC asserts that as Ms. Bulkley explained, any risk comparison of water and wastewater utilities cannot be made simply with reference to general regulatory mechanisms but must be made in comparison to the proxy group.⁴⁹⁸ In the case of PAWC, Ms. Bulkley recommends an ROE above the mean of her calculated ROE range in light of the billions of infrastructure investment that PAWC has planned, which will require external capital.⁴⁹⁹ Ms. Bulkley also determined that more than 59% of the companies in her proxy group have implemented some form of revenue decoupling mechanism and, as a result, PAWC has more risk than other companies in the proxy group without such a mechanism.⁵⁰⁰ PAWC states that given that alternative ratemaking mechanisms are commonplace in the industry, approval of the RDM simply moves PAWC towards a similar risk level as other companies in the proxy group and does not require a reduction in PAWC's ROE, as the OCA and PAWLUG suggest.⁵⁰¹ PAWC argues that the fact that the percentage of water utilities with revenue decoupling mechanisms was lower than the percentage of distribution utilities (including electric and gas utilities) with such mechanisms made no difference. PAWC states there is no meaningful difference between distribution utilities with respect to whether they benefit from revenue decoupling.⁵⁰² Notably, several public utility commissions have found that revenue decoupling mechanisms do not require any downward ROE adjustment.⁵⁰³ PAWC RB at 40-41.

⁴⁹⁷ See I&E MB at 59-60; OCA MB at pp. 55-59; PAWLUG MB at 9-12.

⁴⁹⁸ PAWC St. 13, pp. 52-53.

⁴⁹⁹ PAWC St. 13, pp. 51-52; PAWC St. 13-RJ, p. 13.

⁵⁰⁰ PAWC St. 13, pp. 52-53.

⁵⁰¹ PAWC St. 13-R, p. 78-81.

⁵⁰² PAWC St. 13-R, p. 77.

⁵⁰³ *Id.* at 81-82.

PAWC states that similarly, after reviewing the substantial environmental risk and uncertainty PAWC faces and the magnitude of environmental compliance costs, Ms. Bulkley concluded that those risks supported an ROE above her proxy group mean and median.⁵⁰⁴ In response to those parties who contended that approval of the ECIC should also reduce the ROE, Ms. Bulkley noted that the Company is facing environmental compliance costs from PFAS alone in the range of \$200 million through 2027.⁵⁰⁵ As with the RDM, she determined that approximately 79% of the utility operating companies in the proxy group have some form of capital recovery mechanism, the ECIC was similar to those mechanisms, and approval would therefore move PAWC towards the proxy group median.⁵⁰⁶ PAWC RB at 41-42.

I&E asserts that Ms. Bulkley improperly attributed risk to flotation costs associated with the sale of new issues of common stock as these costs are purportedly recovered as an O&M expense or amortized over time on the books of the issuing company, while Mr. Garrett argues that PAWC either did not have such costs, or they were already accounted for by investors.⁵⁰⁷ PAWC states that as Ms. Bulkley explained, flotation costs are part of the invested costs of the utility, which are properly reflected on the balance sheet under “paid in capital” and are not current expenses, and, therefore, are not reflected on the income statement.⁵⁰⁸ PAWC asserts that the great majority of a utility’s flotation costs are incurred prior to the test year but remain part of the cost structure that exists during the test year, and failure to allow recovery of past flotation costs constrains the opportunity to earn the required rate of return in the future.⁵⁰⁹ PAWC states that Mr. Garrett’s assertion that investors already accounted for flotation costs is inconsistent with both the calculations Ms. Bulkley provided and the literature supporting

⁵⁰⁴ PAWC St. 13, p. 57.

⁵⁰⁵ PAWC St. 13-RJ, p. 15; PAWC St. 3, pp. 5-9.

⁵⁰⁶ PAWC St. 13-RJ, p. 15.

⁵⁰⁷ I&E MB at 59-60; OCA MB at 52.

⁵⁰⁸ PAWC St. 13, p. 46.

⁵⁰⁹ PAWC St. 13-R, pp. 70-71.

consideration of flotation costs as a cost of capital and therefore are an appropriate consideration in determining PAWC's required ROE.⁵¹⁰ PAWC RB at 42-43.

PAWC states that the OCA contends that any management performance enhancement is inconsistent with *Bluefield*, *Hope*, and the principle that rates must be within a zone of reasonableness – in other words, the Commission is essentially foreclosed from awarding any ROE adjustment.⁵¹¹ PAWC argues that is clearly not the case. PAWC asserts the flaw in the OCA's argument is its presumption that whatever ROE is set by the Commission is the absolute highest ROE attainable, and it is not. As PAWC witness Bulkley explained, ROE models (including those of OCA's own witness) produce a range of results, and Ms. Bulkley's recommended ROE is well within that range.⁵¹² PAWC states that similarly, the OCA's claim that the Company's proposed 25-basis point adjustment, if the Commission assigns an ROE of less than 10.70%, is "arbitrary,"⁵¹³ is incorrect. The Commission awarded the same amount in *Aqua 2022* in recognition of that utility's willingness to "answer the call" and provide emergency assistance to various water and wastewater systems that needed substantial improvement, concluding that "it would be inequitable to proceed otherwise" as "there is no provision in the Code that demands utilities exhaust employees or financial resources because of emergencies occasioned by others."⁵¹⁴ Notably, the Commission's Policy Statement on small nonviable water and wastewater systems explicitly endorses rate of return premiums to foster acquisitions of such systems.⁵¹⁵ PAWC RB at 43-44.

PAWC states that as in *Aqua 2022*, the evidence in this proceeding demonstrated PAWC's industry leadership in helping resolve the significant challenges faced by troubled

⁵¹⁰ *Id.*; see also PAWC St. 13, pp. 45-47.

⁵¹¹ OCA MB at 57.

⁵¹² PAWC St. 13-R, pp. 6, 84.

⁵¹³ OCA MB at 58.

⁵¹⁴ *Aqua 2022* at 172-73.

⁵¹⁵ 52 Pa. Code § 69.711.

water and wastewater systems. In the last ten years alone, the Company has completed sixteen acquisitions of very small, less-viable water and wastewater systems – systems with less than 1,000 customer connections each. The Company states that it has also completed the acquisitions of systems that were not, at the time of acquisition, providing adequate, efficient, safe, and reasonable service, including Delaware Sewer Company and Winola Water Company (where the Company also acted as receiver prior to acquisition). PAWC asserts that none of these acquisitions were under Section 1329, though some were eligible.⁵¹⁶ PAWC RB at 44.

PAWC notes that most recently, it agreed to act as receiver for the EDWA, after its water treatment plant ceased producing water and all customers were without even non-potable water for several days for basic sanitary and hygienic purposes, including bathing, dishwashing, and toilet flushing. When PADEP reached out to PAWC, the Company and PADEP jointly applied on an emergency basis for Commission approval for PAWC to be appointed receiver of a municipal authority), which the Commission provided,⁵¹⁷ and PAWC has now been appointed receiver.⁵¹⁸ PAWC RB at 44.

PAWC states that it also routinely extends service to customers without public water and/or wastewater service even in extraordinary circumstances of need. For example, in 2021, the Office of then Attorney General Josh Shapiro reached out to PAWC to ask if the Company would assist in helping to find a drinking water solution for a community of approximately 21 Dimock properties that have not had access to safe well water due to unsafe levels of methane and other contaminants for approximately 15 years.⁵¹⁹ PAWC RB at 45.

PAWC states that in recognition of the severe water quality problems facing this community, it voluntarily worked to develop a plan for the most effective public drinking water

⁵¹⁶ PAWC St. 1, pp. 42-43.

⁵¹⁷ *Id.* at 43-45; see also *Joint Petition of Pa.-American Water Co. and the Pa. Dept. of Env't Prot. Requesting an Ex Parte Emergency Order in Regard to Receivership of East Dunkard Water Auth.*, Docket No. P-2023-3043950 (Order entered Nov. 1, 2023).

⁵¹⁸ *See Commonwealth v. E. Dunkard Water Auth.*, 557 MD 2022 (Pa. Cmwlth. Feb. 8, 2024).

⁵¹⁹ PAWC St. 1, pp. 45-46.

system for Dimock residents, and in November 2022, the Company and the Office of Attorney General presented the proposed system design to Dimock residents who expressed strong support for the project. Subsequently, the Office of Attorney General entered into a Plea Agreement with a third party under which PAWC’s construction of this project is fully funded, and thus provides the benefit of public water to these residents without a cost to other PAWC customers.⁵²⁰ The Company’s Application related to the new Dimock system was filed at the Commission on October 13, 2023, and approved on January 18, 2024.⁵²¹ PAWC RB at 45.

PAWC states that it has made substantial investments in other systems that it acquired in recent years.⁵²² PAWC asserts that contrary to the contentions of both the OCA and I&E, many of the actions and investments that PAWC undertakes go well beyond what is required by the Code and federal and state regulations, including the Company’s environmental accomplishments, which are reflected in PAWC’s national recognition for performance above and beyond regulatory standards.⁵²³ As PAWC witness Everette testified, PAWC’s performance is exemplary in a large number of areas, including water quality, safety, low-income programs, investment in Pennsylvania, and community support.⁵²⁴ PAWC avers that while I&E excerpts a portion of the Company’s recent management audit to suggest that PAWC did not meet expectations, Ms. Everette noted in her testimony that none of the 12 areas highlighted by I&E were marked for significant or major improvement, eight were simply marked for “minor improvement necessary,” and the Company had already filed an implementation plan in which it accepted the majority of the Commission’s recommendations and partially accepted the

⁵²⁰ *Id.*

⁵²¹ *Application of Pa.-American Water Co. (PAWC) for approval of: (1) the right to offer, render, furnish and supply water service to the public in a portion of Dimock Twp., Susquehanna Cnty.; (2) as necessary, an Offsite Dev. Marketing Agreement by and between PAWC and the Off. of the Attorney Gen.; and (3) as necessary, limited waivers of PAWC’s Tariff Water-PA P.U.C. No. 5, Docket No. A-2023-3043501 (Order entered Jan. 18, 2024).*

⁵²² PAWC St. 15-R, p. 11; PAWC St. 3-R, p. 10.

⁵²³ PAWC St. 1, p. 37.

⁵²⁴ *Id.* at 39-41.

remainder.⁵²⁵ PAWC states that similar allegations regarding the Company's call center performance, complaint handling, arrearages and other service issues were fully addressed.⁵²⁶ PAWC RB at 45-47.

2. I&E's Position

I&E states that as its witness Patel explains, capital spending is nothing particularly unique to PAWC.⁵²⁷ Aging infrastructure is a common problem for water and wastewater utilities in Pennsylvania that generally requires significant investment. As Mr. Patel explains, this simply positions PAWC similarly to the other water utilities in her proxy group, and further, as Ms. Bulkley acknowledges each of the industries in her proxy group face similar risks.⁵²⁸ I&E MB at 59.

I&E avers that stock issue flotation costs are, in fact, accounted for and recovered as an O&M expense or amortized over time on the books of the issuing company. Therefore, it would be inappropriate to take into account the potential impact thereof to seek a higher ROE in a base rate case. I&E MB at 59.

I&E avers that the DSIC, along with the ECIC and RDM, if approved, would all serve to lessen the Company's business risk. I&E argues that nothing demonstrates that PAWC is any riskier than other water and wastewater utilities. I&E concludes that business risk is already accounted for in I&E witness Patel's proxy group and does not need to be further accounted for when setting PAWC's ROE. I&E MB at 60.

I&E asserts that the essence of true strong management performance is earning a higher return through efficient use of resources and cost cutting measures. The greater net

⁵²⁵ PAWC St. 1-R, pp. 14-15.

⁵²⁶ PAWC MB at 91-97; *see also* PAWC St. 9-R, pp. 2-10; PAWC St. 14-R, pp. 25-28.

⁵²⁷ I&E St. 2, p. 54.

⁵²⁸ I&E St. 2, p. 54-55.

income resulting from cost savings and true efficiency in management and operations is then available to be passed on to shareholders. Therefore, PAWC, or any utility, should not be awarded additional rate of return basis points for doing what they are required to do in order to provide adequate, efficient, safe, and reasonable service under 66 Pa.C.S. § 1501 and for increasing profits as they are incentivized to do by their board of directors and shareholders.⁵²⁹ I&E MB at 60-61.

In this proceeding, the Company has requested a 25 basis point addition to its ROE for “management performance.” As explained by I&E witness Patel and OCA witness Garrett, this 25 basis point addition would amount to approximately \$11.8 million per year in rates.⁵³⁰ I&E states that this amount is unsupported and excessive and must be denied. I&E notes that the Commission affirmed the Administrative Law Judge’s denial of management performance points in *Columbia Gas 2021*. I&E MB at 61.

Additionally, a review of the Management and Operations Audit Report, prepared by the Commission’s Bureau of Audits, illustrates that out of the twelve functional areas, PAWC does not meet expectations in any.⁵³¹ I&E MB at 63-64.

I&E acknowledges that in its Order in the most recent Aqua Pennsylvania base rate case (*Aqua 2022*) the Commission granted Aqua an award of 25 basis points for management performance. The Commission explained that the additional 25 basis points were appropriate given that “...Aqua carries a roster of large and complex emergency aid matters *unlike any other Pennsylvania utility* (emphasis added).”⁵³² I&E states that the Commission has specifically distinguished Aqua from other Pennsylvania utilities as taking on matters that other utilities do not. Therefore, while I&E disagreed, the Commission found it appropriate to award Aqua for their endeavors. I&E MB at 64.

⁵²⁹ I&E St. 2, p. 81.

⁵³⁰ I&E St. 2, p. 80; OCA St. 2, p. 50.

⁵³¹ Management and Operations Audit of Pennsylvania-American Water Company, prepared by The Pennsylvania Public Utility Commission, Bureau of Audits at Docket No. D-2022-3035217, October 2023.

⁵³² *Id* at 173.

I&E avers that in contrast, PAWC has not presented evidence which should persuade the Commission that granting additional basis points for management performance is warranted. I&E states that additionally, PAWC witness Bulkley's requested ROE is far above what has been approved in recent Commission history. I&E states that PAWC has neither demonstrated that it is entitled to management performance points added to its ROE and has failed to demonstrate why its customers should be burdened by the cost. I&E states that therefore, the management performance points requested by PAWC should be denied. I&E MB at 65.

3. OCA's Position

The OCA argues that PAWC has not demonstrated by a preponderance of evidence that its request for a management performance adder of up to 25 basis points is either necessary or just and reasonable. The OCA asserts that the requested increment of 25 basis points in ROE is unsupported and excessive⁵³³ and at PAWC's as filed request it would impose up to \$11.8 million of additional costs on ratepayers per year.⁵³⁴ OCA MB 55.

The OCA avers that under no circumstances is the Commission obliged to grant a management performance in determining the authorized ROE under the constitutional limits because a reward for management performance is not commensurate with returns on investments in other enterprises having corresponding risks. Under the constitutional standards, the return need only be "equal to that being made at the same time on investments in other business undertakings which are attended by corresponding risks and uncertainties"⁵³⁵ and "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

⁵³³ OCA St. 3, pp. 48-50; OCA St. 3SR, pp. 8-11; Tr. 2113.

⁵³⁴ OCA St. 2, Ex. LA-6 at 2.

⁵³⁵ *Bluefield Water Works and Improvement Co. v. Public Serv. Comm'n of W.Va.*, 262 U.S. 679 (1923) at 692.

maintain its credit and attract capital.”⁵³⁶ The OCA argues that as OCA witness Garrett testified, investors cannot expect an additional ROE simply due to prudent managerial performance when they invest in competitive firms in the marketplace.⁵³⁷ OCA MB at 55-56.

The OCA states that the primary driver of the cost of equity and required rate of return is how market risk impacts individual firms, managerial performance does and should not have an increasing effect on a utility’s authorized ROE.⁵³⁸ Specifically, managerial performance and the risk of imprudent management is related to firm-specific risks, which are not rewarded by the market because investors can eliminate such risk through diversification of portfolio, and do not have a material effect on the cost of equity.⁵³⁹ As investors in competitive firms in the marketplace cannot expect an additional ROE simply due to a firm’s prudent managerial performance, shareholders of a regulated utility should not receive any premium in addition to an authorized market-based ROE due to the utility’s prudent managerial performance.⁵⁴⁰ OCA MB at 56 (emphasis in original).

The OCA avers that the Company’s adder request thus becomes a question of whether it is an appropriate exercise of Commission discretion to grant the adder. The OCA argues that the record does not support this conclusion and the Commission would be acting outside the zone of reasonableness to grant PAWC’s request for the adder, as the adder is nothing more than an unsubstantiated excessive rate, and it is the Commission’s responsibility to protect future and present consumers from excessive rates.⁵⁴¹ Rates that are determined by the Commission to be in conformity with the just and reasonable standard and intended to “balance

⁵³⁶ *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) at 603.

⁵³⁷ OCA St. 3, p. 49.

⁵³⁸ OCA St. 3, p. 48; OCA St. 3SR, p. 8

⁵³⁹ OCA St. 3, p. 48; OCA St. 3SR, p. 8.

⁵⁴⁰ OCA St. 3, p. 48; OCA St. 3SR, p. 8.

⁵⁴¹ *See Permian Basin* at 794-95, 797.

the investor and the consumer interests” are constitutionally permissible.⁵⁴² OCA MB at 56-57 (emphasis in original).

The OCA states that the Company’s reliance on Section 523 of the Code as a basis for granting the adder should be rejected. While Section 523 authorizes the Commission to consider the efficiency, effectiveness and adequacy of service when determining just and reasonable rates, it requires the Commission to “give effect to this section by making such adjustments to specific components of the utility’s claimed cost of service as it may determine to be proper and appropriate.”⁵⁴³ The OCA argues that it would be neither proper nor appropriate for the Commission to award shareholder interests on the basis of prudent managerial performance when shareholders themselves cannot expect an additional ROE simply due to prudent managerial performance when they invest in competitive firms in the marketplace.⁵⁴⁴ Given that the adder is nothing more than an excessive rate that is outside the zone of reasonableness, it would be neither proper nor appropriate for the Commission to grant the adder as the adder does nothing to incentivize or ensure PAWC’s managerial performance going forward to meet its public service requirements mandated by law. OCA MB at 57 (emphasis in original).

The OCA avers that furthermore, PAWC has not substantiated its request. 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.⁵⁴⁵ PAWC witness Ms. Bulkley testified that she took into consideration “superior management performance” in proposing her recommended 10.95% ROE for the Company.⁵⁴⁶ The OCA avers that Ms. Bulkley cannot demonstrate how she took this into consideration other than through her subjective decision to do

⁵⁴² *Id* at 770.

⁵⁴³ 66 Pa.C.S. § 523 (emphasis added).

⁵⁴⁴ OCA St. 3, pp. 48-49; OCA St. 3SR, p. 8.

⁵⁴⁵ *Pa. PUC v. Philadelphia Suburban Water Co.*, 71 Pa. PUC 593 (1989) at 623.

⁵⁴⁶ PAWC St. 13, p. 8.

so, as Ms. Bulkley admitted on cross-examination that neither the DCF Model nor CAPM analyses account for managerial performance⁵⁴⁷ OCA MB at 57-58.

The OCA asserts that moreover, PAWC has not substantiated the specific amount of 25 basis points other than to say that adopting it would place the Company's ROE within Ms. Bulkley's range, but this does not explain the specific request for 25 basis points.⁵⁴⁸ The OCA states that the adder is, thus, completely arbitrary, and not market based. Given that the Company's requested amount of the adder is arbitrary and unsupported, it would likewise be arbitrary for the Commission to award the requested up to 25 basis points amount. OCA MB at 58.

The OCA states that while Mr. Ladner's and Ms. Everette's testimony explain how PAWC is behaving to comply with its public service obligations under the law, it does not demonstrate why it would be appropriate or proper for the Commission to add an arbitrary adder to the ROE as a reward to the Company. Importantly, the legal standards of *Bluefield* and *Hope* do not establish the fair rate of return as a "quid-pro-quo" concept where arbitrary increments to cost of equity are awarded to a utility's shareholders in return for a utility's management operating the public utility company in a prudent manner as required by law.⁵⁴⁹ OCA MB at 58-59 (emphasis in original).

The OCA states that the Commission should find that it is outside the zone of reasonableness to award shareholders with a bump to the ROE on the basis of a utility's past and/or current managerial performance. The OCA avers that if the Commission disagrees, the Commission should not grant the requested adder in this case because the Company has not demonstrated that its managerial performance is exemplary in all areas of service to its customers, as based on the well-documented reasons set forth in testimony of OCA witnesses

⁵⁴⁷ Tr. 2113.

⁵⁴⁸ OCA St. 3SR, pp. 10-11.

⁵⁴⁹ OCA St. 3, p. 49; OCA St. 3SR, p. 11.

Roger Colton and Barbara Alexander.⁵⁵⁰ The Commission should take into consideration the full range of customer experiences and interactions with PAWC in considering this request as documented with evidence of OCA witnesses Colton's and Alexander's testimony as well as the unprecedented volume of customer opposition to this rate increase.⁵⁵¹ OCA MB at 59.

The OCA states that PAWC has been inconsistent with its own hand-selected criteria for measuring whether PAWC deserves the requested adder. PAWC witness Ms. Everett's direct testimony stated that PAWC's shareholders contribute more money to the H2O hardship grant program than any other water utility and that such commitment will increase by \$700,000 in late 2023, based on PAWC's commitments in the BASA Settlement.⁵⁵² However, in oral rejoinder, PAWC witness Dean testified:

[T]he Company does not support an expansion of hardship fund eligibility that is independent of the BASA Settlement...If the BASA acquisition does not close for some reason, neither the increased hardship fund contribution amount or income eligibility threshold is reasonable.^[553]

The OCA concludes that the Commission should deny PAWC's request for a management performance adder. OCA MB 59-60.

In its Reply Brief, the OCA reiterated its position that the Company has not substantiated its request for a 25 basis point adjustment and that the testimony of OCA witnesses Alexander and Colton demonstrate that the Company's performance in customer experiences and interactions with PAWC do not merit an adder. OCA RB at 35-39.

⁵⁵⁰ OCA St. 5, pp. 110-124; OCA St. 6, pp. 7-24.

⁵⁵¹ OCA St. 6SR, pp. 4-5.

⁵⁵² PAWC St. 1, p. 34.

⁵⁵³ Tr. 2023-24.

4. ALJs' Recommendation

We recommend that the Commission award an upward adjustment of 10 basis points to PAWC's Return on Equity in recognition of PAWC's business risks and management performance. We are primarily persuaded by PAWC's arguments that an adjustment is merited because in the last ten years the Company has completed sixteen acquisitions of very small, less-viable water and wastewater systems and the Company has also completed the acquisitions of systems that were not, at the time of acquisition, providing adequate, efficient, safe and reasonable service, including Delaware Sewer Company and Winola Water Company (where the Company also acted as receiver prior to acquisition). We note that PAWC asserts that none of these acquisitions were under Section 1329, though some were eligible. As PAWC references, the Commission's Policy Statement on small nonviable water and wastewater systems explicitly endorses rate of return premiums to foster acquisitions of such systems.⁵⁵⁴ We also acknowledge PAWC's assertion that it provides service to customers in extraordinary circumstances further supports an upward adjustment.⁵⁵⁵ In awarding an upward adjustment in *Aqua 2022*, the Commission similarly recognized "Aqua's efforts and willingness to quickly provide emergency aid to various water and wastewater systems that needed substantial improvement."⁵⁵⁶

We disagree with the OCA's position that awarding an upward adjustment on management performance would cause the Commission to act outside the zone of reasonableness and that the adder is nothing but an unsubstantiated excessive rate.⁵⁵⁷ As the OCA recognizes, Section 523 of the Code authorizes the Commission to give effect by making such adjustments to a utility's cost of service as the Commission may determine is proper and appropriate. Although the OCA asserts an adjustment is not warranted because it is neither proper nor appropriate to

⁵⁵⁴ PAWC RB at 44 (citing 52 Pa. Code § 69.711).

⁵⁵⁵ PAWC RB at 45.

⁵⁵⁶ *Aqua 2022* at 169.

⁵⁵⁷ See OCA MB at 56-57.

award shareholder interests on the basis of “prudent managerial performance,”⁵⁵⁸ consistent with the Commission’s decision in *Aqua 2022*, the willingness to answer calls for aid to other water and wastewater providers shows that PAWC is doing more than is required under Section 1501 of the Code.⁵⁵⁹

Although we recommend a 10 basis point adjustment above based on specific circumstances, we otherwise agree with the OCA that PAWC’s testimony of activities supporting a 25 point adder to the ROE better reflect PAWC complying with its public service obligations under the law, rather than providing extraordinary service.⁵⁶⁰ The OCA also convincingly demonstrated that the Company did not show its service was exemplary in all areas.⁵⁶¹ Additionally, the significant amount of criticism voiced by PAWC customers, whether through filing of complaints or participation at public input hearings, also merit against finding a full award of PAWC’s requested 25 basis point adjustment. For all these reasons, we recommend that the Commission only award a 10 basis point upward adjustment for business risks and managerial performance.

XI. RATE STRUCTURE AND RATE DESIGN

A. Cost of Service Studies – Water Operations

1. PAWC’s Position

Ms. Heppenstall of Gannett Fleming prepared PAWC’s COSS for PAWC’s water operations (“Water COSS”) using the base-extra capacity method for allocating costs to customer classifications.⁵⁶² This method is described in the American Water Works

⁵⁵⁸ OCA MB at 57.

⁵⁵⁹ *Aqua 2022* at 173.

⁵⁶⁰ OCA MB at 58-59 (citing PAWC St. 1, pp. 33-46; PAWC St. 15R).

⁵⁶¹ OCA St. 5, pp. 110-124; OCA St. 6, pp. 7-24.

⁵⁶² PAWC St. 12, pp. 6-16; PAWC Ex. 12-A Revised (Water Operations).

Association's Water Rates Manual ("AWWA Manual") and has been accepted by the PUC as the appropriate methodology for determining class costs of service.⁵⁶³ PAWC MB at 54-55.

PAWC's proposed system-wide maximum day demand factor (1.4) reflects the maximum daily send-out of the Company since its formation in 1987. As Ms. Heppenstall testified, the Company's actual maximum day send out was 1.4 times average day send out in each of the years 1988, 1995, 1996, 1999 and 2003 and PAWC experienced system-wide maximum day factors close to that value in other years since 1987.⁵⁶⁴ Additionally, the water usage on the maximum day of 2021 in several areas within PAWC's overall water operations was more than 1.4 times the average usage for that year.⁵⁶⁵ While OCA witness Mierzwa and OSBA witness Higgins propose using 12-year look-back period and a maximum day factor of 1.2, which was experienced in 2012 and is the highest maximum day factor within that limited 12-year window,⁵⁶⁶ PAWC maintains that the 1.4 system-wide maximum day demand factor PAWC employed in the Water COSS produces a diversity factor that is reasonable based on the range recommended in the AWWA Manual.⁵⁶⁷ PAWC MB at 55-56.

PAWC also argues that the PUC should reject the OCA's and the OSBA's proposal to use a maximum hour demand factor of 1.5 and 1.8, respectively in lieu of the 2.1 factor Ms. Heppenstall employed in the Water COSS based on a detailed analysis of PAWC's actual maximum hour send out. Mr. Mierzwa and Mr. Higgins reject the results of the PAWC-specific analysis that has been accepted in many prior cases, simply because, in their estimation, the analysis was conducted too long ago.⁵⁶⁸ PAWC notes, however, they did not conduct their own analysis of maximum hour send out. Instead, Mr. Mierzwa proposes a maximum hour ratio

⁵⁶³ PAWC St. 12, pp. 6-7.

⁵⁶⁴ PAWC St. 12-R, p. 5; *see also* PAWC Ex. 12-A Revised, Sch. E, p. 5.

⁵⁶⁵ PAWC Ex. CEH-2R; PAWC Ex. CEH-1SR.

⁵⁶⁶ OCA St. 4, pp. 15-16; OSBA St. 1-R, pp. 10-11.

⁵⁶⁷ PAWC St. 12-R, pp. 6-8.

⁵⁶⁸ OCA St. 4, p. 16-17; OCA St. 4-SR, pp. 7-8.

derived from demand data for The York Water Company and Mr. Higgins proposes a maximum hour factor derived from his recommended adjustment to the maximum day factor.⁵⁶⁹ PAWC MB at 56-57.

PAWC argues that the OCA's proposal for a large, multi-year study of PAWC's system-wide maximum hour demands prior to its next rate case is unwarranted. Mr. Mierzwa has not even alleged, let alone provided any basis to contend, that the results of the Company's 1988 study of actual maximum hour send-outs from water storage tanks are inaccurate. Moreover, in performing such an analysis, the Company faces challenges in accurately measuring maximum hour demand in districts with multiple groundwater sources due to a number of factors, such as missing SCADA connections, tank filling, and metering issues.⁵⁷⁰ PAWC MB at 57.

OCA witness Mierzwa also contends that interruptible industrial usage should be included in the extra capacity allocations because those customers have not been regularly interrupted during periods of peak demand.⁵⁷¹ However, these customers need to be prepared for a curtailment in water service even if their usage is not curtailed historically.⁵⁷² Moreover, PAWC's water COSSs have excluded industrial curtailment usage since at least the Company's 2007 rate case at Docket No. R-00072229, which has long been accepted by the Commission and other parties.⁵⁷³ PAWC MB at 57.

PAWLUG witness LaConte expresses concern that the demand study statistics used in the Water COSS, which include the maximum day and maximum hour demand factors for each customer class, are outdated and do not account for changes in consumption patterns.⁵⁷⁴

⁵⁶⁹ PAWC St. 12-R, p. 8; PAWC St. 12-SR, p. 3.

⁵⁷⁰ PAWC St. 12-R, p. 10.

⁵⁷¹ OCA St. 4, p. 14; PAWC St. 4-SR, pp. 9-10.

⁵⁷² PAWC St. 12-R, p. 10.

⁵⁷³ *Id.*

⁵⁷⁴ PAWLUG St. 1, p. 21.

PAWC avers that Ms. LaConte fails to recognize that if the residential class is using a greater share of the overall sale of water, this will be reflected in the COSS since usage factors are based on annual pro forma billed usage.⁵⁷⁵ She also recommends that the Company use the actual maximum hour demand ratio from the results of PAWC's demand study that was conducted over the period 2013 to 2015 (the "Demand Study").⁵⁷⁶ Ms. LaConte's alternative COSS using the revised ratio increases the costs of service allocated to the residential class by \$7.6 million and decreases the increase to other classes by between 0.7% and 6%.⁵⁷⁷ PAWC MB at 57-58.

Ms. LaConte points to the fact that the Company used a maximum hour demand ratio of 5.0 when the Demand Study shows a ratio of 6.0. As Ms. Heppenstall explained, the 6.0 demand ratio occurred in 2015 when the hourly data for North Strabane, a larger monitoring area, was not available, and the peak usage for Shire Oaks was on February 22, 2015, rather than a summer day.⁵⁷⁸ As a result, PAWC appropriately chose to use a max hour demand ratio of 5.0. PAWC MB at 58.

2. I&E's Position

Regarding the COSS for Water Operations, I&E witness Cline made no recommended changes. Additionally, regarding the customer cost analysis, witness Cline recommended the results of the Company's more direct customer cost be used to determine the customer charge. I&E MB at 67; I&E RB at 26.

3. OCA's Position

The OCA avers that PAWC's Maximum Day Demand Factor is outdated and not representative of PAWC's actual system-wide experience. PAWC tries to justify using an

⁵⁷⁵ PAWC St. 12-R, p. 9.

⁵⁷⁶ PAWLUG St. 1, p. 22.

⁵⁷⁷ PAWLUG Ex. BSL-3; PAWC St. 12-R, p. 4.

⁵⁷⁸ See PAWC St. 12-R, pp. 8-9; PAWC Ex. CEH-3R.

outdated maximum day factor that was last experienced in 2003, over twenty years ago. However, the OCA avers that the Company ignores several facts in its justification. First, the guidance that PAWC witness Heppenstall relies on for her allocation methodology, the American Water Works Association Rates Manual, states that demand data over a representative number of recent years should be used for the allocations.⁵⁷⁹ Demands experienced 20 years ago are not “recent” or representative of current demands.⁵⁸⁰ Since 2003, water demand on the PAWC system has changed due to aggressive water conservation, legislation, development, and changing land uses.⁵⁸¹ Second, the Company ignores that the Manual considers system-wide maximum day usage, not maximum day usage in individual areas.⁵⁸² All 38 areas of PAWC’s system do not peak on the same day or even the same month.⁵⁸³ Lastly, the Company ignores that its diversity ratio is based on a demand analysis prepared for 2013-2015 and does not reflect declines in customer usage estimated by PAWC witness Rea to support PAWC’s claim for a declining usage adjustment to revenues in this case.⁵⁸⁴ Accordingly, the OCA maintains that a 1.2 factor should be used in the water CCOS study.⁵⁸⁵ OCA RB at 40.

Additionally, the OCA argues that PAWC’s Maximum Hour Demand factor is so outdated that it cannot reasonably be claimed to represent PAWC’s actual recent demand. Both the OCA and OSBA challenged PAWC’s proposal to continue relying on demand data from a 1998 analysis to determine a maximum hour demand factor for its CCOS study.⁵⁸⁶ PAWC ignores that PAWC’s data and analysis is increasingly less reliable with each rate case and cannot reasonably be considered “representative” of PAWC’s actual, recent customer demands,

⁵⁷⁹ OCA St. 4SR, p. 3 (*citing* Manual at 373).

⁵⁸⁰ *Id* at 3-4.

⁵⁸¹ OCA St. 4, pp. 15-16.

⁵⁸² OCA St. 4SR, p. 4.

⁵⁸³ Tr. 2093; PAWC Ex. CEH-1SR; PAWC Ex. CEH-2R.

⁵⁸⁴ PAWC St. 10, p. 72; OCA St. 4SR, pp. 3-4, 6; OSBA St. 1R, pp. 11-12.

⁵⁸⁵ OCA St. 4SR, Sch. JDM-2SR.

⁵⁸⁶ OCA St. 4, pp. 15-17; OCA St. 4SR, pp. 6-9; OSBA St. 1R, pp. 9, 13.

particularly where PAWC’s own witness makes an adjustment to the Company’s revenues for the future test years to reflect what he claims has been a “significant and pervasive decline in usage for [residential, commercial and municipal] classes over the past ten years.”⁵⁸⁷ OCA RB at 40-41.

While the OCA recommends a 1.5 maximum hour demand factor and OSBA recommends 1.8, both parties demonstrate that the 2.1 maximum hour factor used by PAWC is significantly overstated. Accordingly, the OCA asserts that prior to its next rate filing, PAWC should be required to update its analysis of system wide maximum hour extra capacity demands and then include the results of its updated analysis in its water CCOS study for that case. OCA RB at 41.

Additionally, the OCA argues that interruptible usage should be included in the extra capacity factor allocations because interruptible Industrial customers are regularly served during periods of peak demand. The OCA avers that there is no factual premise for excluding interruptible Industrial usage in the extra capacity factor allocations. The unrebutted evidence shows these interruptible Industrial customers have not been interrupted in the last 20 years.⁵⁸⁸ Since these Industrial customers have had uninterrupted usage of the system during periods of maximum day and hour demands, there is no reasonable basis to exclude that usage from the maximum day and hour extra capacity factor allocations.⁵⁸⁹ This is consistent with PAWC witness Heppenstall’s testimony in a recent rate proceeding for a gas distribution utility, where she opined that interruptible customers that had not been interrupted in nearly 20 years should be treated the same as firm customers in the cost of service study:

Ms. Heppenstall continued, “[e]ven though PGW does not include interruptible load in calculating its peak design day demand, PGW does provide gas during the period of

⁵⁸⁷ PAWC St. 10, pp. 67-72, 78-79.

⁵⁸⁸ OCA St. 4SR, p. 9 (citing PAWC response to OCA-35-9).

⁵⁸⁹ OCA St. 4SR, p. 9.

Interruptible classes' peak day demand. Therefore, the cost allocation should reflect that service."^{590]}

OCA RB at 41-42.

The OCA notes that PAWLUG has argued that *PGW 2023* should be distinguished because the interruptible customers here are not a separate class, they are part of the larger Industrial class, which is mostly made up of firm customers. As such, PAWLUG argues that including interruptible usage as firm would cause firm Industrial customers to subsidize costs. The OCA avers that this argument is incorrect and misleading because the failure to include the maximum day and hour demands of interruptible customers in determining the cost of serving Industrial customers subsidizes the entire Industrial class (since the same rates are generally applicable to all Industrial customers),⁵⁹¹ by increasing the rates of all other customer classes. Industrial customers are being subsidized by all other firm customers because PAWC's interruptible maximum day and maximum hour extra capacity factor allocations have not been aligned with cost causation, i.e. have not been based on those customers' actual usage of the system. Thus, notwithstanding that PAWC has excluded interruptible usage in its water CCOS study in prior cases, the facts and precedent demand a different result here and these customers should be included in the extra capacity factor allocations. OCA RB at 42-43.

Lastly, the OCA argues that PAWLUG's position regarding PAWC's water CCOS study, that PAWC should have used a higher maximum hour demand ratio of 6.0 rather than 5.0, which would increase the cost of service allocated to the residential class by \$7.6 million, is flawed. The OCA counters that while Residential demand is likely to have increased in recent years, their maximum demands will have decreased due to fact that the days and number of hours that water can be used are less concentrated when people work at home.⁵⁹² Also, if the residential class is using a greater share of the overall sale of water, this will be

⁵⁹⁰ *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, 2023 Pa.P.U.C. LEXIS 298, *75 (Order Nov. 9, 2023) (*PGW 2023*).

⁵⁹¹ See PAWC Supp. 45 to Tariff Water No. 5, page 16.2.

⁵⁹² OCA St. 4R, pp. 15-16.

reflected in the CCOS study since usage factors are based on annual pro forma billed usage.⁵⁹³ Moreover, the maximum hour ratio of 6.0 was based on “unreliable” flow data and “very anomalous events.”⁵⁹⁴ Accordingly, the OCA maintains that there is no evidentiary basis to support a higher maximum hour demand ratio for the Residential class and PAWLUG’s recommendation should be denied. However, the OCA agrees with PAWLUG witness LaConte that prior to its next base rate case, PAWC should conduct a new demand study to ensure current usage and demand patterns are properly reflected in PAWC’s water CCOS study for that case.⁵⁹⁵ The OSBA also supports this recommendation.⁵⁹⁶ OCA RB at 43-44.

4. OSBA’s Position

OCA witness Mierzwa observed that the maximum day and maximum hour weightings utilized by PAWC in its base-extra capacity allocation factors are outdated. PAWC utilizes a maximum day factor of 1.4, which is calculated using the ratio of the *maximum day* to the *average day* observed in 1988, 1995, 1996, 1999 and 2003. Mr. Mierzwa noted that that PAWC’s maximum hour factor of 2.1 is based on a 1988 analysis of PAWC’s three largest operating districts, and that PAWC does not have any recent actual hour data for its water system.⁵⁹⁷ OSBA MB at 16.

Mr. Mierzwa recommends utilizing a maximum day extra capacity factor of 1.2 based on the actual maximum day ratios since 2011. Moreover, PAWC’s Schedule G demonstrates that the Company’s system-wide maximum day ratios have been trending downward over time. In the most recent ten-year period of data available, 2013-2022, the highest annual ratio is 1.16. The OSBA agrees with Mr. Mierzwa that a maximum day ratio of

⁵⁹³ PAWC St. 12R, p. 9.

⁵⁹⁴ OCA St. 4R (citing PAWC’s response to PAWLUG-01-002, Att. at 21); PAWC St. 12R, pp. 8-9, Ex. CEH-3R.

⁵⁹⁵ OOCA St. 4R, p. 17.

⁵⁹⁶ OSBA St. 1R, p. 13.

⁵⁹⁷ OSBA St. 1-R, pp. 8-9.

1.2, which more accurately represents PAWC's system usage characteristics for the past decade than PAWC's recommended factor of 1.4, is more appropriate for PAWC's system and should be adopted in this proceeding. OSBA MB at 16-17; OSBA RB at 11.

Additionally, Mr. Mierzwa explains that the 2.1 maximum hour factor utilized by PAWC is based on a 1988 analysis and recommends that PAWC should be required to update its analysis of system-wide maximum hour extra capacity demands prior to its next base rate proceeding.⁵⁹⁸ The OSBA agrees with this recommendation. Although Mr. Mierzwa recommends utilizing a maximum hour factor of 1.5, using a study conducted by The York Water Company, the OSBA recommends the use of a maximum hour factor of 1.8. This maintains the same proportionate relationship between the maximum hour and the maximum day as the factors utilized by PAWC when adopting the OSBA's proposed maximum day factor of 1.2 (*i.e.*, 1.2 / 1.4 and 1.8/2.1). OSBA MB at 17; OSBA RB at 11.

5. PAWLUG's Position

PAWLUG does not contest PAWC's proposal to utilize the base extra capacity methodology for the water COSS. However, PAWLUG opposes PAWC's proposed maximum hour demand ratio proposed for the Residential customer class. PAWLUG avers that the Commission should adjust PAWC's proposed COSS to use the actual maximum hour demand ratio for the Residential customer class. PAWLUG MB at 13-14.

PAWLUG also opposes various proposals to adjust PAWC's COSS proposed by other parties. First, PAWLUG references OCA's proposal to treat Interruptible usage as firm for purposes of COSS. OCA bases its proposal on the Commission's recent decision in a Philadelphia Gas Works ("PGW") rate case.⁵⁹⁹ In the *PGW Order*, the Commission agreed with PGW that interruptible demand should be treated as firm for purpose of PGW's COSS. OCA

⁵⁹⁸ OSBA St. 1-R, p. 13.

⁵⁹⁹ *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, Docket No. R-2023-3037933, at 111-112, 138-139 (Opinion and Order entered Nov. 9, 2023) ("*PGW Order*").

requests that the Commission make the same finding here on grounds that PAWC's sole interruptible customer has not been interrupted in 20 years.⁶⁰⁰ PAWLUG disagrees with OCA, noting that OCA's proposal to simply include interruptible usage with Industrial customer class allocation for extra capacity demand costs does not align with cost causation because the vast majority of PAWC's Industrial customers are firm service customers and are already paying rates set in alignment with cost causation for firm service. PAWC witness Heppenstall noted that "this adjustment to the cost of service for Industrial curtailment customers has been reflected in the Company's cost of service studies since at least the Company's 2007 rate case and Docket No. R-00072229 and has long been accepted by the Commission and other parties."⁶⁰¹ As the Industrial Curtailment volumes have been excluded from each COSS over PAWC's subsequent rate cases, the rates developed for the Industrial General Service class throughout PAWC's rate cases were set in consideration of the cost of service for firm Industrial customers. PAWLUG contends that increasing the cost of service for PAWC's Industrial class to now include Interruptible usage creates substantial complications not present in the PGW case, including a likelihood of intraclass subsidization of PAWC's sole interruptible Industrial customer by the remaining firm Industrial customers. PAWLUG MB at 13, 17.

Lastly, both OCA and OSBA developed estimated systemwide maximum demand allocators that PAWLUG should be rejected in favor of prospective solutions to comprehensively update PAWC's demand data. PAWLUG MB at 13, 18-20.

6. Cleveland-Cliffs' Position

PAWC witness Heppenstall filed a revised COSS as part of her Rebuttal Testimony that included several corrections to PAWC's original filing. PAWC's revised COSS generates relative rates of return ("RROR") for the Residential, Commercial, and Industrial classes range from 0.98 to 1.03; and the Public class RROR is at 1.16. Based on PAWC's revised COSS, Cleveland-Cliffs recommends that the Commission apply an equal percentage

⁶⁰⁰ OCA St. 4SR, p. 9.

⁶⁰¹ PAWC St. 12-R, p. 10.

increase for the Residential, Commercial, Industrial, and Public classes. The Residential, Commercial, and Industrial classes are tightly grouped around the system average based on the most recently corrected COSS. Although the Public class is above the system average rate of return (RROR of 1.16), the large swing between the various COSS results that were presented in this proceeding (by PAWC and intervenors) warrants some caution in terms of its revenue increase percentage. Therefore, Cleveland-Cliffs believes it is reasonable to apply the same percentage increase to each customer class in this proceeding.⁶⁰² Cleveland-Cliffs MB at 1-3.

7. Victory Brewing's Position

PAWC presented the testimony of Constance E. Heppenstall from Gannett Fleming Valuation and Rate Consultants, LLC,⁶⁰³ who sponsored the Company's COSS.⁶⁰⁴ For Exhibit 12-A, Ms. Heppenstall used the base-extra capacity method to allocate costs of water operations. As explained by Ms. Heppenstall, the base-extra capacity method described in her exhibit has been accepted by the Commission for use by the Company and other water utilities in the Commonwealth.⁶⁰⁵ Given the prior accepted use of the studies relied upon by PAWC witness Heppenstall, Victory Brewing has not challenged these methods and accepts the results. Victory Brewing MB at 7.

8. ALJs' Recommendation

PAWC's COSS for water operations in this proceeding used the base-extra capacity method. As noted by the Company, this is a recognized method for allocating the cost of providing water service to customer classifications in proportion to each classification's use of the commodity, facilities, and services of a water utility and has been accepted by the

⁶⁰² Cleveland-Cliffs St. 1-R, pp. 9-10.

⁶⁰³ PAWC St. 12.

⁶⁰⁴ PAWC Exs. 12-A through 12-E.

⁶⁰⁵ Cleveland-Cliffs St. 1, p. 2.

Commission for this purpose.⁶⁰⁶ As noted by the Company, it used this method in previous base rate cases, including the most recent base rate case at R-2022-3031672, and the Commission has accepted it for use by the Company and other water utilities in Pennsylvania.⁶⁰⁷

Additionally, the Company proposed using a system-wide maximum day demand factor of 1.4 and 2.1 maximum hour demand factor.

We find that the cost of service study methods and factors used by PAWC for its water operation is reasonable and consistent with past practice. Accordingly, we recommend that the Commission adopt the Company's cost of service study.

However, while we are recommending adopting PAWC's cost of service study, we do agree with OCA that for PAWC's next base rate case, PAWC should be required to update its analysis of system wide maximum hour extra capacity demands and then include the results of its updated analysis in its water CCOS for that case. PAWC's analysis of system wide maximum hour extra capacity should be updated to better reflect demands on PAWC's system.

B. Cost of Service Studies – Wastewater Operations

1. PAWC's Position

For PAWC's SSS operations, Ms. Heppenstall's COSSs were prepared using the functional cost allocation methodology described in "Financing and Charges for Wastewater Systems," Manual of Practice No. 27, published by the Water Environment Federation.⁶⁰⁸ That allocation methodology was modified to determine the incremental cost related to handling

⁶⁰⁶ PAWC St. 12, p. 6.

⁶⁰⁷ *Id* at 6-7.

⁶⁰⁸ PAWC St. 12, pp. 16-24; PAWC Ex. 12-B Revised (Wastewater SSS General Operations); PAWC Ex. 12-C Revised (BASA).

stormwater for PAWC's CSS operations.⁶⁰⁹ No parties raised any objections to the allocation methodology employed in PAWC's wastewater COSSs. PAWC MB at 58-59.

2. I&E's Position

I&E witness Kubas did not recommend changes to the Company's COSS for wastewater operations. Mr. Kubas notes that he used the Company's COSS to develop his various wastewater rates that move the relative rate of return for each class toward zero.⁶¹⁰ I&E MB at 68.

3. OCA's Position

The OCA recommends no direct adjustments to the Company's Wastewater CCOS studies.⁶¹¹ OCA MB at 67; OCA RB at 44.

4. Victory Brewing's Position

PAWC presented the testimony of Constance E. Heppenstall from Gannett Fleming Valuation and Rate Consultants, LLC,⁶¹² who sponsored the Company's COSS.⁶¹³ For Exhibit 12-A, Ms. Heppenstall used the base-extra capacity method to allocate costs of water operations. For wastewater service, Ms. Heppenstall used the functional cost allocation methodology, which has likewise been approved by the Commission for use by the Company and other wastewater utilities. Given the prior accepted use of the studies relied upon by PAWC witness Heppenstall, Victory Brewing has not challenged these methods and accepts the results. Victory Brewing MB at 7.

⁶⁰⁹ PAWC St. 12, pp. 25-31; PAWC Ex. 12-E Revised (Wastewater CSS Operations).

⁶¹⁰ I&E St. 3, pp. 17-18.

⁶¹¹ OCA St. 4, pp. 20-21.

⁶¹² PAWC St. 12.

⁶¹³ PAWC Exs. 12-A through 12-E.

5. ALJs' Recommendation

As noted by the Company, the COSS for SSS operations were prepared using the functional cost allocation methodology, and that methodology was modified to determine the incremental cost related to handling stormwater for PAWC's CSS operations. As no party raised any objections to the allocation methodology employed in PAWC's wastewater COSSs, we recommend that the Commission adopt PAWC's wastewater COSSs.

C. Cost of Service Studies – Cost of Service Studies for Future General Rate Increases

1. PAWC's Position

The OCA suggests that PAWC should prepare a separate cost of service study in its next base rate filing for systems acquired pursuant to Section 1329.⁶¹⁴ PAWC avers that the PUC should reject this recommendation and continue its approach of moving toward single tariff pricing for all of PAWC systems, including those acquired under Section 1329, and evaluate the necessity of separate COSSs as part of future acquisition proceedings.⁶¹⁵ In PAWC's two most recent base rate cases, the Commission approved rates for Section 1329 acquisitions that made significant progress toward single tariff pricing, and approved a settlement provision that allowed the Company to provide only one separate revenue requirement for CSSs.⁶¹⁶ PAWC MB at 59.

Additionally, PAWC argues that the Commission should not require PAWC to include Rider Demand Industrial Sales ("DIS") and Rider Demand Resale Sales ("DRS") customers as separate customer classes in the Water COSS presented in its next rate case as the

⁶¹⁴ OCA St. 4, p. 21.

⁶¹⁵ PAWC St. 1-R, pp. 29-31.

⁶¹⁶ *Id* at 31.

OCA proposes.⁶¹⁷ Riders DIS and DRS authorize PAWC to negotiate contracts at rates, with specified minimum and maximum levels, designed to retain or attract industrial and resale load for which the customer or applicant for service has a viable competitive alternative that the customer intends to select to the detriment of the Company and its other customers.⁶¹⁸ In approving Riders DIS and DRS, the Commission found that those riders create benefits for all PAWC water customers by preserving or attracting incremental sales that, because of competitive forces, could not otherwise be made.⁶¹⁹ Accordingly, the revenues derived from Rider DIS and DRS customers are appropriately reflected as a deduction to all classes' cost of service. PAWC MB at 59-60.

2. I&E's Position

I&E witness Kubas recommended that in the next base rate case filed by PAWC it provide a separate COSS for BASA in the event that PAWC owns the system at that point.⁶²⁰ Witness Kubas provided several reason this was necessary: First, I&E believes that because PAWC does not own BASA it is appropriate to excluded BASA system revenue and expenses in this case making the BASA COSS premature. The review in the next base rate case after which PAWC closes on BASA will then include plant in service, allocation factors, and expenses that have not been reviewed or addressed by I&E in this case. Second, the present rate revenue from BASA shown in this case is so far below the cost of providing service to BASA customers, the public and the Commission should be aware of the subsidy being provided to BASA in the next base rate case after PAWC officially closes on BASA. I&E MB at 68.

In addition, while I&E understands it is the Company's intent to eliminate Brentwood from the current filing, I&E witness Kubas recommended that PAWC provide a COSS for Brentwood should PAWC own Brentwood by its next rate case filing. As explained

⁶¹⁷ See OCA St. 4, pp. 18-19; OCA St. 4-SR, pp. 10-11.

⁶¹⁸ PAWC St. 12-R, p. 11.

⁶¹⁹ *Id.*

⁶²⁰ I&E St. 3, pp. 73-74.

for BASA, as PAWC does not currently own the system, it must be excluded from rates. Therefore, the current COSS is premature. First, as described by the Company in the *Brentwood Application* at A-2021-3024058, some of the flow carried by the Brentwood plant is from what the Company refers to as “non-customers.” Since only plant “used and useful” to serve customers can be recovered from customers, plant in service to serve “non-customers” should be identified and excluded from rate base. Second, Brentwood customers will also pay a separate treatment fee. With no treatment costs in base rates, it could be reasonable to establish a lower rate for Brentwood customers than other SSS customers that have treatment costs recovered in their usage rates. The two primary inputs for cost allocation are the number of customers, and flow. Almost all allocations in a COSS are based on one of these inputs. The Company has no idea how much flow is coming into the system from “non-customers” and how much flow is going out of the system from a combination of “non-customers” and Brentwood customers.⁶²¹ I&E avers that the lack of data indicates that the Brentwood COSS filed in this case is totally speculative and not based on any known and measurable data. I&E MB at 68-69; I&E RB at 26.

A properly designed rate structure will not unduly burden one class of ratepayers to the benefit of another. Differences in rates charged to different classes are permissible so long as there is reasonable basis for the discrepancy.⁶²² Generally “public utility rates should enable the utility to recover its cost of providing service and should allocate this cost among the utility’s customers in a just, reasonable and nondiscriminatory manner.”⁶²³ Having the specific COSSs for each of these systems, if owned by PAWC, will ensure that the rates charged to these customers are appropriate. Therefore, I&E recommends that when PAWC files its next base rate case, should it then own the BASA and/or Brentwood systems, a separate COSS be provided for each system to ensure the rates charged thereto are just, reasonable, non-discriminatory, and in the public interest. I&E MB at 69; I&E RB at 26-27.

⁶²¹ I&E Ex. 3 Sch. 29.

⁶²² See generally, *Peoples Nat. Gas Co. v. Pa. Pub. Util. Comm’n*, 409 A.2d 446 (Pa. Cmwlth. 1979) .

⁶²³ See generally *Pa. Pub. Util. Comm’n v. West Penn Power*, 73 Pa.P.U.C. 454, 510, 199 PUR 4th 110 (1990).

3. OCA's Position

The OCA recommends that PAWC provide additional cost of service information in its future base rate filings.⁶²⁴ First, PAWC should include Rider Demand Industrial Sales (DIS) and Rider Demand Resale Sales (DRS) customers as separate customer classes. In the current proceeding, PAWC did not separately determine the costs associated with serving Rider DIS and DRS customers in its water COSS study; the revenues from Rider DIS and DRS customers were simply reflected as a credit to the overall cost of service.⁶²⁵ Having separate cost of service information in the next rate case will assist in ensuring that the rates charged to Rider DIS and DRS customers are reasonable. OCA MB at 67.

Additionally, the OCA requests that if the Commission rejects the inclusion of BASA and Brentwood in the current rate case, and PAWC claims them in a future rate case, the Company should be required to provide a separate CCOS study for each.⁶²⁶ OCA MB at 67.

The OCA further suggests that for future Section 1329 acquisitions, PAWC should prepare separate COSS studies in the first base rate case that includes those systems, unless the utility shows in the underlying Section 1329 proceeding that a separate CCOS study should not be required.⁶²⁷ Responsive to the concern raised by Ms. Everette,⁶²⁸ this would maintain flexibility for the Commission while also reducing litigation about the issue in Section 1329 and base rate proceedings and providing some certainty for all parties. As shown in the current rate case, having the revenue requirement associated with those acquisitions separately calculated: (1) provides information to establish rates that reflect the costs for the system; (2)

⁶²⁴ Also, per I&E's recommendation, PAWC has agreed to continue providing separate CCOS studies for Water, Wastewater SSS, and CSS Wastewater. I&E St. 3, pp. 72-73; PAWC St. 1R, p. 31.

⁶²⁵ OCA St. 4, p. 19.

⁶²⁶ OCA St. 4, pp. 21-22; *see also* I&E St. 3, pp. 73-75.

⁶²⁷ OCA St. 4, p. 21; OCA St. 4SR, pp. 35-36, 37.

⁶²⁸ PAWC St. 1R, pp. 29-30.

shows the magnitude of the subsidy proposed for those systems,⁶²⁹ and (3) facilitates the review and recommended removal of those systems from revenue requirement by parties challenging their inclusion in the FPFTY.⁶³⁰ OCA MB at 67-68.

Going forward, after the initial base rate case in which a Section 1329 system is properly included, PAWC should continue to provide separate CCOS studies for the Section 1329 systems either individually or (for non-CSS Wastewater only) as a group. Where Section 1311(c) is used to require water customers to subsidize revenue shortfall for systems acquired under Section 1329, the amount of that subsidy should be known and transparent, so a determination can be made whether the proposed Act 11 reallocation is in the “public interest.”⁶³¹ OCA MB at 68.

4. PAWLUG’s Position

In Direct Testimony, PAWLUG recommended that PAWC conduct a new demand study to confirm its demand ratios reflect current usage and demand patterns.⁶³² PAWC claims PAWLUG's recommendation would require substantial expense and coordination of stakeholder input.⁶³³ PAWC further suggests that an interim step of conducting a feasibility study is a necessary prerequisite.⁶³⁴ PAWLUG does not object to proceeding with a feasibility study as an initial step, but requests that the feasibility study be presented with PAWC's next base rate filing rather than being presented for comment and review between rate filings.⁶³⁵ Incorporating review of the feasibility study as part of the next rate filing avoids burdening

⁶²⁹ See PAWC St. 10, p. 47, Table 5.

⁶³⁰ OCA St. 4SR, p. 36.

⁶³¹ 66 Pa.C.S. § 1311(c).

⁶³² PAWLUG St. 1, p. 22.

⁶³³ PAWC St. 12-R, p. 9.

⁶³⁴ *Id.*

⁶³⁵ PAWLUG St. 1S, p. 5.

intervenors with multiple regulatory proceedings. This proposal would necessarily extend the use of PAWC's existing demand study for one additional rate case, but also achieve incremental progress towards a comprehensively updated demand study.⁶³⁶ PAWLUG MB at 20-21.

OCA additionally proposes to modify PAWC's prospective COSS to include Rider DIS and Rider DRS customers. As stated in OCA's testimony, PAWC has historically excluded Rider DIS and DRS customers from the COSS and allocated revenue from these customers as a credit to the overall cost of service, thereby reducing the overall revenue requirement for all customers.⁶³⁷ OCA claims this proposal will ensure that the rates charged to Rider DIS and DRS customers are reasonable. PAWLUG MB at 21.

PAWLUG asserts that OCA's proposal should be denied. Both Rider DIS and DRS prescribe minimum rate requirements for these customers in the tariffs.⁶³⁸ There is no record of discovery disputes where PAWC has declined to respond to any inquiry concerning compliance with the minimum rate requirements. OCA's proposal presents a solution to a perceived problem that has not been remotely substantiated through the available means. Accordingly, the Commission should deny OCA's request. PAWLUG MB at 21.

5. ALJs' Recommendation

As noted, the OCA recommends that PAWC should prepare a separate cost of service study in its next base rate filing for systems acquired pursuant to Section 1329, unless the utility shows in the underlying Section 1329 proceeding that a separate cost of service study should not be required. As noted by the OCA, having the revenue requirement associated with these acquisitions calculated separately provides information to establish rates that reflect the costs for the system, shows the magnitude of the subsidy proposed for the systems, and facilitates the review of these systems who might challenge their inclusion, ultimately reducing

⁶³⁶ PAWLUG St. 1S, p. 5.

⁶³⁷ OCA St. 4, p. 19.

⁶³⁸ PAWC St. 12-R, p. 11.

litigation on the issue. We find this proposal to be reasonable and recommend its approval by the Commission.⁶³⁹

OCA further recommends that, after the initial base rate case, the Company continue to provide separate cost of service studies for the Section 1329 systems. As noted by the OCA, this will allow greater transparency for the system to determine whether an Act 11 reallocation to subsidize a revenue shortfall is actually in the public interest. We find this proposal to also be reasonable and recommend its approval by the Commission.

OCA further suggests that the Commission should require PAWC to include Rider Demand Industrial Sales (DIS) and Rider Demand Resale Sales (DRS) customers as separate customer classes in the Water cost of service study presented in its next rate case.⁶⁴⁰ As noted by the OCA, PAWC did not separately determine the costs associated with serving these customers, only reflecting the associated revenues as a credit to the overall cost of service. We do agree with the OCA that having cost of service information for these two riders in the next rate case will ensure that the rates charged to these riders are reasonable and in the public interest. As we find this proposal to be reasonable, we recommend that the Commission adopt the OCA's proposal to require PAWC to include Rider DIS and Rider DRS as separate customer classes in the Water cost of service study in its next base rate case.

Lastly, PAWLUG requests that PAWC conduct a new demand study to confirm its demand ratios reflect current usage and demand patterns. PAWLUG does not object to proceeding with a feasibility study as an initial step, but requests that the feasibility study be presented with PAWC's next base rate filing rather than being presented for comment and review between rate filings. While we find PAWLUG's proposal to be generally reasonable, we disagree about presenting the feasibility study with PAWCs next base rate filing rather than in-between filings. Filings under Section 1308(d) of the Public Utility Code trigger a strict statutory deadline which limits the amount of time available to the parties and the Commission to

⁶³⁹ We note that this recommendation also encompasses I&E's request that PAWC be required to provide separate cost of service studies for BASA and Brentwood, should PAWC own these systems by that time.

⁶⁴⁰ OCA MB at 67

review the associated filings. However, filing the feasibility study between rate cases will allow more time for review without the many distractions that can be associated with a base rate case. Accordingly, while we will recommend approval of the requested feasibility study, we also recommend that the Commission direct PAWC to file the feasibility study 90 days before its next base rate case so parties will have adequate time for review.

D. Cost of Service Studies – Allocation of Arrearage Management Program (AMP) Costs and Administrative Costs for H2O Programs

1. PAWC’s Position

OSBA witness Higgins proposes to directly assign AMP-related bad debt and administrative expenses for PAWC’s H2O Help to Others customer assistance programs (“H2O Programs”), totaling \$2.8 million to the residential class.⁶⁴¹ The Company accepted this recommendation in its revised COSSs presented in rebuttal testimony, because PAWC’s AMP credits are incremental to other uncollectible expense and PAWC’s customer assistance programs are designed to benefit residential customers.⁶⁴² PAWC MB at 60.

2. OCA’s Position

In rebuttal testimony, PAWC revised its Wastewater CCOS study to directly allocate its AMP costs, both credits and administrative costs, and its H2O Grant and Discount administrative costs to residential customers only.⁶⁴³ The OCA asserts that PAWC should allocate these costs consistent with the allocation of uncollectible cost generally, as PAWC did in its direct filing.⁶⁴⁴ OCA witness Colton provided data showing that the arrears that would be made subject to arrearage forgiveness are substantial and sufficiently high that PAWC will have already contributed to its reserve for write-offs before these low-income customers enter the

⁶⁴¹ OSBA Sts. 1, pp. 30-32, & 1S, pp. 16-18.

⁶⁴² PAWC St. 12-R, pp. 10-11; *see also* PAWC St. 5, p. 26.

⁶⁴³ PAWC St. 12R, pp. 10-11; OSBA St. 1SR, pp. 15-16.

⁶⁴⁴ OCA St. 5R, pp. 1-6.

arrearage forgiveness program.⁶⁴⁵ To the extent that the program succeeds in prompting future in-full payments toward current bills, plus a copayment toward arrears, PAWC will reduce the dollars that will ultimately be found to be uncollectible. There would be no new, and no incremental, arrearage forgiveness program costs to be directly assigned to the Residential class.⁶⁴⁶ OCA MB at 68-69.

Whatever determination is made regarding recovery of AMP costs going forward, the amortization of the regulatory liability for AMP costs anticipated in the last rate case, but never incurred, should be directly credited to the Residential class.⁶⁴⁷ While the AMP costs anticipated in the last PAWC base rate case were not directly assigned to the Residential class, in the settlement of PAWC's last base rate proceeding those costs were collected from residential customers. Having been collected from residential customers, these costs, which were included in rates but never incurred, should be refunded to residential customers.⁶⁴⁸ OCA MB at 69-70.

The OCA also opposes PAWC's proposal to directly allocate its customer assistance program administrative costs to residential customers only.⁶⁴⁹ The administration of the H2O Grant and Discount programs is expected to result in a corresponding decrease in PAWC's administrative costs associated in addressing the nonpayment of bills.⁶⁵⁰ PAWC directly assigns the administrative expenses associated with these programs, without also identifying and directly assigning the administrative savings, i.e. it imposes the costs without also crediting the benefits. The fact that there are both costs and cost reductions associated with these programs demonstrates how inextricably interrelated the programs are with other aspects of

⁶⁴⁵ OCA St. 5R, pp. 3-4.

⁶⁴⁶ OCA St. 5R, p. 4.

⁶⁴⁷ OCA St. 5R, p. 5.

⁶⁴⁸ *Id.*

⁶⁴⁹ PAWC St. 12R, pp. 10-11.

⁶⁵⁰ OCA St. 5R, pp. 5-6.

PAWC operations.⁶⁵¹ The OCA avers that the only way to appropriately capture, and to allocate, both the costs and the cost reductions, is to allocate the costs as PAWC initially proposed to do, based on an O&M composite factor. OCA MB at 70.

3. OSBA's Position

PAWC recovers the direct costs of the Company's residential low-income discounts from the residential class in the Company's rate design. However, in its original filing, PAWC allocated \$3,180,090 caused by the Company's AMP and administrative costs associated with its low-income residential programs among both residential and non-residential customer classes in its cost of service studies.⁶⁵² OSBA MB at 18.

For water service, PAWC allocates \$2,031,317 for its proposed AMP and \$416,569 in Dollar Energy administrative costs among its water classes based on the historical incurrence of bad debt. For wastewater service, PAWC allocates a total of \$345,883 in AMP expense and \$70,931 in Dollar Energy administrative costs among classes within its various wastewater cost of service studies.⁶⁵³ PAWC also allocates \$315,390 in administrative costs for its H2O Grant and Discount program among water customer classes using an operations & maintenance ("O&M") factor.⁶⁵⁴ OSBA MB at 18.

Originally, PAWC initially claimed that costs associated with its AMP are recovered in base rates from residential customers. Later, the Company acknowledged that these costs are not directly assigned to the residential class in its cost of service studies.⁶⁵⁵ The OSBA recommended that all the residential low-income program costs be directly assigned to the residential customer class, as these programs are not available to non-residential customers and

⁶⁵¹ *Id* at 6.

⁶⁵² OSBA St.1, p. 31.

⁶⁵³ OSBA St.1, p. 31.

⁶⁵⁴ OSBA St.1, p. 31.

⁶⁵⁵ OSBA St.1, p. 31-32

only benefit the residential customer class. PAWC adopted the OSBA's recommendation, and directly assigned AMP costs and residential low-income program administrative costs to the residential class.⁶⁵⁶ OSBA MB at 18.

The OSBA notes CAUSE-PA's position that it supports PAWC's practice of equitably allocating certain universal service program costs across all ratepayers. The OSBA asserts that there are two problems with CAUSE-PA's argument. First, as CAUSE-PA acknowledges, it recognizes that the CAP Policy Statement is not currently applicable to jurisdictional water/wastewater utilities in the Commonwealth. Second, as set forth in 52 Pa. Code Section 69.266, a proceeding must consider the revenue and expense impact of any proposed allocation of low-income programs. There is no record evidence that PAWC's residential class will suffer any undue economic impact by requiring it to be solely responsible for these programs and administrative expenses. Accordingly, the OSBA respectfully requests that AMP costs and residential low-income program administrative costs be solely assigned to the residential class. OSBA RB at 13.

4. CAUSE-PA's Position

Currently, PAWC recovers costs for bill discounts offered under its BDP solely from its residential customers.⁶⁵⁷ However, PAWC allocates a portion of its universal service costs, amounting to approximately \$3,180,090, among both residential and nonresidential customer classes.⁶⁵⁸ The costs allocated across rate classes included costs for PAWC's AMP, as well as a portion of administrative costs to operate its BDP and Hardship Fund Program. CAUSE-PA MB at 19.

CAUSE-PA supports PAWC's practice of equitably allocating certain universal service program costs across all ratepayers. The Commission has provided directives related to

⁶⁵⁶ OSBA St.1-S, p. 19.

⁶⁵⁷ OSBA St. 1, p. 31: 1-5.

⁶⁵⁸ OSBA St. 1, p. 31: 1-18.

the recovery of universal service costs in the context of electric and gas jurisdictional utilities.⁶⁵⁹ Specifically, the Commission has indicated that it is appropriate to consider cost recovery related to customer assistance programs from all ratepayers, explaining: “poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just ‘residential class’ problems.”⁶⁶⁰ The Commission further explained that providing universal services to assist low-income families afford and maintain services in their homes provides “a benefit to the economic climate of a community.”⁶⁶¹ While directing utilities and stakeholders to address universal service cost recovery in utility-specific rate cases, the Commission also indicated that it would “no longer routinely exempt non-residential classes from universal service obligations.”⁶⁶² CAUSE-PA MB at 20.

CAUSE-PA recognizes that the CAP Policy Statement is not currently applicable to jurisdictional water/wastewater utilities in the Commonwealth. However, directives and discussions contained in the CAP Policy Statement provide important guidance and precedents related to the Commission’s view of low-income assistance programs, and cost recovery for these programs. Accordingly, CAUSE-PA requests that the Commission allow PAWC to continue its current practice of recovering costs associated with the H2O program and Dollar Energy Fund (“DEF”), amongst both residential and nonresidential customers. CAUSE-PA MB at 20-22.

5. PAWLUG’s Position

PAWLUG concurs with OSBA that, to the extent the Commission approves recovery of incremental costs of the AMP, such costs are properly allocated to Residential customers. Similarly, the administrative costs of other low-income programs are properly allocated to Residential customers. Any positive impact on bad debt expense resulting from

⁶⁵⁹ CAUSE-PA St. 1-R.

⁶⁶⁰ CAUSE-PA St. 1-R, p. 4.

⁶⁶¹ *Id.*; 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-69.267, *Final Policy Statement and Order*, Docket No. M-2019-3012599, at 7, 94-96, 107 (Order Entered Sept. 19, 2019).

⁶⁶² CAUSE-PA St. 1-R, p. 4; 66 Pa. C.S. § 69.266(b).

these programs would benefit the Residential class by improving collectibles for Residential customers and reducing the class's allocation of bad debt expense. Moreover, CAUSE-PA's reliance on the Commission's policies related to cost recovery for mandatory electric and gas Customer Assistance Programs should be disregarded as irrelevant to PAWC's voluntary low-income programs.⁶⁶³ Accordingly, PAWLUG maintains that the Commission should approve PAWC's COSS revisions allocating any incremental AMP costs and administrative costs for other low-income programs to Residential customers. PAWLUG Main Brief at 22.

6. ALJs' Recommendation

OSBA witness Higgins proposes to directly assign AMP-related bad debt and administrative expenses for PAWC's H2O Help to Others customer assistance programs ("H2O Programs"), totaling \$2.8 million to the residential class. PAWLUG concurs with OSBA that, to the extent the Commission approves recovery of incremental costs of the AMP, such costs are properly allocated to Residential customers. PAWC accepted this proposal while the OCA opposes these proposals. We agree with OSBA and PAWLUG that these costs are appropriately assigned to the residential class. These programs are only available to residential customers, and as such, the costs of these programs are appropriately assigned to the residential class. Moreover, and as noted by the OSBA, there is no evidence in the record to demonstrate that the residential class will suffer an undue economic impact by requiring it to be solely responsible for these programs and administrative costs. We also agree with PAWLUG that any positive impact on bad debt expense resulting from these programs will benefit the residential class by improving collectibles for residential customers and reducing the class's allocation of bad debt expense. Accordingly, we recommend that the Commission adopt OSBA's proposal to assign these costs to the residential class.

Separately, the OCA requested that, regardless of what determination is made regarding recovery of AMP costs going forward, the amortization of the regulatory liability for AMP costs in the last base rate case, but never incurred, should be directly credited to the Residential class. The OCA observed that PAWC directly assigns the administrative expenses

⁶⁶³ See PAWLUG St. 1S, p. 15.

associated with these programs without also identifying and directly assigning the administrative savings. It stands to reason that if the costs are assigned to the residential class, any savings should similarly be assigned to the residential class. Accordingly, we find the OCA's proposal to be reasonable and recommend that it be adopted by the Commission.

E. Revenue Allocation and Act 11

1. PAWC's Position

The Company's proposed revenue allocation to customer class presented by Mr. Rea and set forth in PAWC Exhibits 10-A Revised, 10-B, 10-C, 10-D and 10-E Revised is generally based on the COSSs presented by Ms. Heppenstall. Several parties took issue with PAWC's proposal to use Section 1311(c) to mitigate the impact of rate increases on wastewater customers by recovering a portion of the Company's wastewater revenue requirement from its total water and wastewater customer base.⁶⁶⁴ Allocating \$69.5 million of the wastewater revenue requirement (excluding Brentwood),⁶⁶⁵ as proposed by PAWC, is in the public interest.⁶⁶⁶ While the Section 1311(c) allocation plays an important role in mitigating the increases to PAWC's 76,000 wastewater customers, it has a modest effect on water customers' bills – representing an increase of approximately \$6 per month to an average residential customer.⁶⁶⁷ PAWC MB at 60-61.

In addition, PAWC's proposed rates would make reasonable movement toward the system average rate of return by the various customer classes as measured by the COSSs.⁶⁶⁸ The Company's proposal will ensure approximate parity to residential bills for water service and

⁶⁶⁴ See I&E St. 3, p. 12; OCA St. 4, pp. 22-28; OSBA St. 1, pp. 33-34; Cleveland-Cliffs St. 1, pp. 7-8; PAWLUG St. 1, pp. 23-27.

⁶⁶⁵ See PAWC St. 1, pp. 19-20.

⁶⁶⁶ See PAWC 2020 at 82.

⁶⁶⁷ PAWC St. 1, pp. 20-21; PAWC St. 10; pp. 51-52.

⁶⁶⁸ PAWC St. 1, pp. 19-20.

wastewater service at average usage levels and promote affordability of wastewater.⁶⁶⁹ PAWC MB at 61.

While several parties point out that water customers may already take wastewater service from another provider as a reason to reject PAWC's proposed Section 1311(c) reallocation, Act 11 already contemplates that possibility.⁶⁷⁰ Furthermore, PAWC cannot consider the fees paid to other providers in its affordability analyses because the Company does not know the rates its customers may be paying to other wastewater service providers. It is simply not possible to do an affordability study as I&E witness Kubas suggests.⁶⁷¹ PAWC MB at 61.

When determining the level of Act 11 allocation that is in the public interest, the Commission must consider how the proposed allocation will impact all customers.⁶⁷² The Company's proposal will result in substantial benefits to wastewater customers and have a minimal impact on water customers. The Company's proposed allocation will: (i) make meaningful progress in moving the rates of its separate wastewater rate zones closer to a single consolidated wastewater rate design for all of the Company's wastewater operations;⁶⁷³ (ii) maximize the number of customers for whom services will fall below the desired 2% bill-to-income ratio;⁶⁷⁴ and (iii) increase the monthly water bill of a residential water customer by only approximately \$6 per month at proposed rates, while decreasing the monthly wastewater bill of a residential wastewater customer by approximately \$10 to \$90 per month at proposed rates, depending on the rate and location of the customer.⁶⁷⁵ PAWC avers that denial of the

⁶⁶⁹ PAWC St. 10, pp. 47-50; PAWC St. 10-R, p. 3; *see also* OCA St. 4, p. 22 (noting that absent any Act 11 allocation, PAWC's wastewater rates would need to increase, on average, by 40.4%).

⁶⁷⁰ PAWC St. 10-R, pp. 35-36.

⁶⁷¹ Tr. 2011-12.

⁶⁷² *See PAWC 2020* at 82.

⁶⁷³ PAWC St. 1, pp. 19-20.

⁶⁷⁴ PAWC St. 10, p. 50.

⁶⁷⁵ PAWC St. 1, pp. 20-21; PAWC St. 10; pp. 51-52.

Company's proposal could result in significant rate increases in several wastewater zones, eroding wastewater affordability posing potential for rate shock to the Company's wastewater customers.⁶⁷⁶ PAWC RB at 50-51.

The Company proposes allocating the Act 11 wastewater revenue requirement directly to water customer classes based on wastewater class contributions to the revenue requirement deficiency and, where such contributions are not class specific, allocating to water customers based on relative levels of water cost of service.⁶⁷⁷ The Company's methodology is supported by OSBA. PAWLUG proposes modifying the Company's allocation to SSS customers to assign costs based on wastewater cost of service. The OCA and Cleveland-Cliffs oppose the Company's proposal, arguing that the allocation to water classes should be based on water cost of service. The Company believes that its proposal is reasonable since, as Mr. Rea explains, there is not a complete match between wastewater and water customer classes.⁶⁷⁸ Accordingly, PAWC maintains that the Commission should reject the allocation proposals of the OCA, Cleveland-Cliffs, and PAWLUG. PAWC RB at 51.

2. I&E's Position

Concerning wastewater rates, the Company notes that cost causation is an important goal in establishing rates and that cost causation is the foundation of its wastewater rates.⁶⁷⁹ However, rather than proposing wastewater rates that recover the cost of service, the Company proposed various wastewater rates decrease, proposed certain wastewater rates not increase, and in some instance proposed wastewater increases. Based on I&E witness Kubas' review of the proposed rates, it appears that rather than cost causation, the primary goal of the

⁶⁷⁶ PAWC St. 10, pp. 48-50.

⁶⁷⁷ See PAWC Exs. 10-B through 10-E.

⁶⁷⁸ PAWC St. 10-R, pp. 34, 36.

⁶⁷⁹ PAWC St. 10, pp. 28-30.

Company's wastewater rates was to limit the average bill of a residential wastewater customer to make them comparable to the average water customer's bill.⁶⁸⁰ I&E MB at 70.

Section 1311(c) of the Public Utility Code,⁶⁸¹ more commonly referred to as Act 11, permits utilities that provide both water and wastewater service to combine the revenue requirements by allocating a portion of the wastewater revenue requirement to the water customer base if doing so is in the "public interest."⁶⁸² Section 1311(c), however, does not specify how the Commission should determine rates, nor does it dictate the percent or amount of revenue that should be allocated or shifted, leaving the Commission wide latitude in applying Act 11.⁶⁸³ What is required, however, is that it must be in the public interest for the utility to allocate a portion of its wastewater revenue requirement to the combined water and wastewater customer base.⁶⁸⁴ In this case, I&E witness Kubas applied his knowledge and experience in rate making design and revenue allocation to craft a rate design that both respects cost of service principles and is in the public interest. The Company is proposing that PAWC's water customers subsidize wastewater customers by \$71,087,394.⁶⁸⁵ I&E MB at 70-71.

In this case simply removing BASA and Brentwood⁶⁸⁶ systems from this proceeding reduces the Act 11 subsidy to \$47,969,463.⁶⁸⁷ Based upon I&E's proposed wastewater rates, the total subsidy needed to operate the SSS Operations wastewater systems is \$357,517.⁶⁸⁸ This \$357,517 is the amount necessary based on PAWC's full requested increase

⁶⁸⁰ I&E St. 3, pp. 9-10.

⁶⁸¹ 66 Pa. C.S. § 1311(c).

⁶⁸² *Id.*

⁶⁸³ *Ratemaking Guide*, p. 141.

⁶⁸⁴ 66 Pa. C.S. § 1311(c).

⁶⁸⁵ PAWC Initial Filing Volume 3, Ex. 3-A, p. 1.

⁶⁸⁶ PAWC agreed in Rejoinder testimony to remove the Brentwood system from this proceeding. Tr. 1970.

⁶⁸⁷ I&E St. 3, p. 12.

⁶⁸⁸ I&E St. 3, p. 12, and I&E Ex. 3, Sch. 1, columns C and D, line. 33.

being approved. If the I&E proposed increase is adopted, there is no need for a subsidy at all.⁶⁸⁹ I&E MB at 71.

The Company criticizes I&E's position stating that I&E's Act 11 allocation, or lack thereof, will result in rates that are too high relative to the average water bill and may result in rate shock for wastewater customers.⁶⁹⁰ This argument is without merit. As witness Kubas explains, the Company has already proposed that Zone 1 Residential water customers bill should increase by 24.9%, while under his proposal, the bill of an average rate Zone 1 Residential SSS wastewater customer would increase by 25.3%.⁶⁹¹ Therefore, the I&E increases are in-line with what the Company is already proposing. I&E MB at 71-72.

3. OCA's Position

The OCA's recommended revenue distribution for water service is based on OCA witness Mierzwa's CCOS adjusted for gradualism. OCA witness Mierzwa set the proposed revenues, inclusive of Act 11 shift, for each class equal to the cost of service indicated by his water CCOS study. Additionally, the OCA had several recommendations. First, the OCA recommends limiting the increase to the Industrial, Public (Municipal), Other Water Utilities Group B, and Public Fire Protection classes to 34.7% which is the increase indicated as appropriate for the Industrial class by the OCA's CCOS study. The OCA avers that an increase of 34.7% results in an increase of 1.9 times the system average increase of 17.8% for each of these classes which is consistent with the concept of gradualism. Next, the OCA recommends maintaining the increase proposed by PAWC for the Other Water Utilities, Group A class, as a significant decrease was indicated by both PAWC's revised and OCA's CCOS study. Lastly, the OCA recommends assigning the revenue deficiency (resulting from limiting the increase to

⁶⁸⁹ I&E St. 1, p. 12.

⁶⁹⁰ PAWC St. 1, pp. 23-24, and St. 10-R, pp. 58-59.

⁶⁹¹ I&E St. 4-SR, p. 24.

34.7%) to the Residential and Commercial customer classes based on the indicated cost of service for each class.⁶⁹² OCA MB at 71.

The OCA notes that Section 1311(c)⁶⁹³ allows, but does not require, the Commission to allocate a portion of the Wastewater revenue requirement to a combined Water and Wastewater customer base if it is in the public interest. However, the OCA asserts that PAWC's proposal to shift \$71 million of Wastewater revenue requirement to its water customers fails to meet the fundamental principles of fairness and efficiency in setting rates for Water and Wastewater customers.⁶⁹⁴ Shifting 94% of the claimed Wastewater revenue deficiency is in no way reasonable. This would recover 27% of the total Wastewater revenue requirement through the rates for Water service. Allocating such a significant percentage of the total Wastewater revenue requirement to Water moves all customers further from paying rates that reflect their indicated cost of service and would result in Wastewater rates that have no reasonable relationship to the cost of serving those customers.⁶⁹⁵ OCA MB at 72-73.

However, the OCA submits that it is reasonable to provide some Act 11 relief to customers, namely SSS and CSS customers, from rate increases while not overburdening Water customers.⁶⁹⁶ Accordingly, at the OCA's recommended revenue requirement, the OCA submits that it would be reasonable to shift up to 75% of the Wastewater SSS revenue requirement increase and up to 50% of the CSS Wastewater revenue requirement increase to Water customers.⁶⁹⁷ This results in an approximate increase in revenue requirement of 5.3% (\$5,078,655) for Wastewater SSS and 4.7% (\$3,667,604) for CSS Wastewater. This is comparable to a post-assignment increase of approximately 4.5% (\$36,690,821) for Water

⁶⁹² OCA St. 4, pp. 33-34; OCA St. 4SR, pp. 15-16.

⁶⁹³ 66 Pa. C.S. § 1311(c).

⁶⁹⁴ OCA St. 1, p. 39; 66 Pa.C.S. §§ 1301, 1304.

⁶⁹⁵ OCA St. 4, pp. 24, 26-27.

⁶⁹⁶ OCA St. 4, p. 28; OCA St. 4R, p. 7.

⁶⁹⁷ OCA St. 4, p. 28.

customers.⁶⁹⁸ This is a reasonable position, which by allocating a portion of the Wastewater revenue requirement to Water customers, moves the Wastewater SSS and CSS rates closer to their indicated cost of service while not disproportionately increasing rates for Water customers.⁶⁹⁹ OCA MB at 74.

Regarding how the Act 11 allocation is assigned to water classes, the OCA recommends using the cost of service indicated by the OCA's water CCOS study.⁷⁰⁰

⁶⁹⁸ OCA St. 2, Ex. LA-1, Sch. A; OCA St. 4, pp. 9, 28; OCA St. 4R, p. 7.

⁶⁹⁹ *Aqua 2022* at *112; 66 Pa. C.S §§ 1301, 1304.

⁷⁰⁰ *See* OCA Table 4SR; OCA St. 4SR, pp. 14-16.

Table 4-SR. Summary of OCA Cost of Service Study and Present and Proposed Rates for Water Service

Classification	Direct Cost of Service	Wastewater to Water Allocation	Total Cost of Service	Present Rates	Proposed Rates	Increase	Percent
Residential	\$606,110,184	\$12,306,954	\$618,417,138	\$528,290,043	\$619,195,214	\$90,905,171	17.2%
Commercial	230,359,742	4,677,412	235,037,154	202,779,636	235,332,871	32,553,235	16.1%
Industrial	49,618,335	1,007,491	50,625,826	37,580,738	50,625,826	13,045,088	34.7%
Public (Municipal)	26,459,930	543,497	26,997,194	22,559,539	27,031,161	4,471,622	19.8%
Other Water Utilities - Group A	12,399	252	12,651	51,822	53,666	1,844	3.6%
Other Water Utilities - Group B	450,547	9,148	459,696	202,436	272,706	70,270	34.7%
Private Fire Protection	7,115,758	144,484	7,260,242	5,301,032	7,141,135	1,840,103	34.7%
Public Fire Protection	13,666,426	0	13,666,426	9,519,368	12,823,747	3,304,379	34.7%
Other	18,473,554	216,761	18,690,315	17,832,568	18,690,315	857,747	4.8%
Total	\$952,266,876	\$18,899,766	\$971,166,642	\$824,117,182	\$971,166,642	\$147,049,460	17.8%

PAWC and OSBA propose instead that cost responsibility to water customers should correspond to the wastewater classes that create the revenue shortfall.⁷⁰¹ The OCA believes this proposal should be rejected because no reasonable argument can be made there is a cost causation basis to support class-for-class reallocation of the Act 11 shift, as most of PAWC's water customers do not obtain wastewater service from PAWC. The Company currently has seven times as many

⁷⁰¹ PAWC St. 10R, p. 34; OSBA St. 10-11.

water customers as wastewater customers. Moreover, there are several PAWC wastewater systems whose customers do not purchase water service from PAWC.⁷⁰² OCA MB at 74-75

Regarding wastewater revenue requirement, the OCA recommends a Wastewater SSS revenue requirement increase of \$20.3 million, and a CSS Wastewater revenue requirement increase of \$7.3 million for a combined total increase of \$27.6 million at PAWC's claimed revenue requirement.⁷⁰³ The OCA is also recommending that 75% of the Wastewater SSS revenue requirement increase and 50% of the CSS Wastewater revenue requirement increase be assigned to Water customers.⁷⁰⁴ The result is an approximate increase in revenue requirement as shown below:⁷⁰⁵

OCA Recommended Revenue Requirement		
Water Operations	Wastewater SSS Operations	Wastewater CSS Operations
4.5%	5.3%	4.7%
\$36,690,821	\$5,078,655	\$3,667,604

As shown, the OCA recommends an increase of 4.7% for Scranton, which is consistent with the OCA's recommended increase for all CSS Wastewater and less than the OCA's recommended increase for Wastewater SSS.⁷⁰⁶ The OCA avers that this is more reasonable than the Company's proposed zero increase for the Scranton system, given that PAWC is claiming that the CSS Wastewater, of which Scranton is the largest service area, has an annual revenue deficiency of \$15.8 million.⁷⁰⁷ OCA MB at 76; OCA RB at 49.

⁷⁰² OCA St. 4R, p. 10.

⁷⁰³ OCA St. 4, pp. 37-38.

⁷⁰⁴ *Id.*; OCA St. 4R, p. 7.

⁷⁰⁵ OCA St. 2, Ex. LA-1, Sch. A; OCA St. 4, pp. 9, 28; OCA St. 4R, p. 7.

⁷⁰⁶ OCA St. 4, pp. 38-39.

⁷⁰⁷ PAWC Ex. 3-A Revised Summary.

Regarding the City of Scranton's opposition to a 4.7% increase and its concern that increases to water or wastewater rates would be a hardship for its customers, the OCA notes that Customers in Scranton make up a significant portion of the dual Water/Wastewater customers discussed above who are facing potential increases to both types of service. As such, the recommendations by OCA and other parties to limit the overall revenue increase are particularly critical for Scranton customers. The OCA shares Scranton's concerns about affordability of wastewater and water service, but if there is to be an increase awarded to PAWC in this case, the OCA avers that its proposed increase and allocation strikes the most appropriate balance of all the parties in the proceeding in ensuring fairness and equitable distribution of the increase. OCA RB at 51-52.

4. OSBA's Position

The OSBA's recommended revenue allocation for water service is based upon OSBA witness Higgins' revised water COSS. Ultimately, Mr. Higgins recommended a reduction of PAWC's proposed revenue increases to both the Commercial and Residential classes.⁷⁰⁸

Regarding the Act 11 allocation, the OSBA recommends that if, as expected, the Commission approves the recovery of a portion of the wastewater revenue requirement from PAWC's water customers in this case, the approach provided by PAWC in response to OSBA 03-001 as a reasonable means of allocating the Act 11 subsidy among water classes, as updated for the Act 11 subsidy level and cost of service studies ultimately approved in this case, should be utilized.⁷⁰⁹ OSBA avers that this approach conforms to the requirements of Section 1311⁷¹⁰ of the Public Utility Code, and is a just and reasonable result for this issue. OSBA MB at 20-21.

⁷⁰⁸ OSBA St. 1-S, p. 19.

⁷⁰⁹ OSBA St. 1, pp. 33-34.

⁷¹⁰ 66 Pa. C.S. § 1311

Noting that OCA's and Cleveland-Cliffs' recommendation that the Act 11 subsidy be allocated among water classes based on the results of the water cost of service study, OSBA avers that the legal problem with the OCA and Cleveland-Cliffs Steel methodology is that it transforms wastewater costs into water costs, and then those "transformed" wastewater costs are allocated based upon PAWC's Water COSS. That "transformation," it's argued, violates the plain language of the statute. Specifically, Section 1311(c) explicitly uses the word "allocate," not "transform" or "change." The OSBA avers that while it is true that the Commission has latitude in interpreting its statutes, the Commission has no authority to change the words of those statutes. OSBA MB at 20-21.

OSBA further argues that such a transformation of wastewater costs into water costs so that a Water COSS can be applied violates the basic tenets of the *Lloyd* decision.⁷¹¹ The Commonwealth Court held, in 2006, that the cost of service was the polestar of setting rates. That is the law of the Commonwealth of Pennsylvania and must be followed by this Commission. If cost of service is the polestar, then diluting a Water COSS with wastewater costs is forbidden. OSBA MB at 21.

5. CAUSE-PA's Position

While CAUSE-PA did not take a specific position related to the Act 11 issues in this proceeding, CAUSE-PA's expert witness noted that there are inherent equity issues related to Act 11 proposals and modifications.⁷¹² For example, at the same time that PAWC proposes to shift wastewater costs onto water customers, it is also proposing to shift wastewater costs from higher income customers to lower income customers through its winter averaging methodology. CAUSE-PA MB at 22-23.

CAUSE-PA urges the Commission to view the Act 11 equity issues raised by other parties in this proceeding in the context of the overall equity considerations raised by CAUSE-PA, and through the testimony of CAUSE-PA's expert witness. CAUSE-PA submits

⁷¹¹ *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010 (Pa. Cmwlth. 2006).

⁷¹² CAUSE-PA St. 1, pp. 11-12.

that PAWC has failed to meet its burden to prove that its rate proposals will result in just and equitable rates. As such, its proposals, including its proposal to shift costs from wastewater to water customers, must fail. CAUSE-PA MB at 23.

6. PAWLUG's Position

PAWC's proposed revenue allocation adopts its COSS and incorporates a shift of \$71.1 million of the wastewater revenue requirement to the water customers pursuant to Act 11. PAWLUG supports adoption of PAWC's COSS subject only to the Residential customer class maximum hour demand ratio from 5.0 to 6.0. With regard to PAWC's proposed revenue allocation, PAWLUG recommends that the Commission slightly modify PAWC's allocation of the Act 11 subsidy to reflect cost causation for directly assignable costs:

PAWLUG Brief Table 1⁷¹³ Revised Re-allocation of Wastewater Subsidy (\$Millions)				
Customer Class	PAWC Proposed Re-allocation		PAWLUG Proposed Re-allocation	
	\$	%	\$	%
Residential	\$45.9	64.5%	\$46.0	64.8%
Commercial	\$17.6	24.7%	\$19.6	27.6%
Large Industrial	\$4.5	6.4%	\$4.3	6.0%
Municipal	\$2.7	3.8%	\$1.1	1.5%
Fire	\$0.4	0.6%	\$0.07	0.1%
Total	\$71.1	100.0%	\$71.1	100.0%

PAWLUG avers that its revised allocation acknowledges some incongruity between the water and wastewater customer classes, but appropriately aligns a greater portion of the Act 11 allocation on the basis of wastewater cost of service.⁷¹⁴ PAWLUG MB at 23-25.

⁷¹³ PAWLUG St. 1S, p. 7 (originally presented as PAWLUG Surrebuttal Testimony Table 1).

⁷¹⁴ PAWLUG St. 1, p. 26.

With regard to the amount of the proposed Act 11 subsidy, PAWLUG is deeply concerned that requiring water customers to absorb \$71.1 million of PAWC's wastewater revenue requirement under the circumstances of back-to-back rate cases unreasonably burdens PAWC's water customers. PAWLUG requests that the Commission act to moderate the impact of the proposed Act 11 allocation, including applying any approved reduction to the wastewater revenue requirement to first reduce the Act 11 allocation before scaling back any wastewater customer class revenue requirements.⁷¹⁵ PAWLUG MB at 23.

7. Cleveland-Cliffs' Position

Cleveland-Cliffs does not take a position regarding the reasonableness of assigning a subsidy of wastewater service customers to water service customers. However, if the Commission decides to assign such a subsidy, it should be assigned to water service customers in a manner consistent with current PAWC allocation of this subsidy. In current rates, the wastewater subsidy is recovered from water customers according to the customer class share of water costs. Since the total wastewater subsidy cannot be tracked to specific water service classes, the total wastewater subsidy reallocation is currently based on each water service class's proportionate share of total water service cost responsibility under current rates. This Commission-approved method is straightforward and equitable to each customer grouping. Cleveland-Cliffs MB at 3.

Cleveland-Cliffs notes, however, that PAWC is proposing a drastic change to the current methodology that would inappropriately link wastewater class subsidies to the water service classes. Cleveland-Cliffs avers that this new allocation methodology in which wastewater subsidies from wastewater service classes are directly assigned to the corresponding water service classes is not reasonable. The cost of water services and wastewater services are separate and distinct and should not be linked. A Residential water service customer is not directly responsible for a Residential wastewater service customer's subsidy. The same is true for Commercial and Industrial water service customers having to subsidize Commercial and

⁷¹⁵ *Id* at 26.

Industrial wastewater customers, respectively. PAWC's proposed direct assignment of wastewater subsidies should therefore be rejected.⁷¹⁶ Cleveland-Cliffs MB at 4.

Cleveland-Cliffs maintains that it is appropriate to allocate any subsidy approved by the Commission based on the underlying water cost of service percentages from PAWC's COSS. It is much simpler and more equitable for the Commission to reject PAWC's direct assignment of the wastewater subsidy and require the Company to maintain its current practice of allocating any subsidy approved by the Commission based on the underlying water cost of service percentages from PAWC's COSS. Cleveland-Cliffs MB at 5.

Cleveland-Cliffs disagrees with OSBA's statutory argument, averring that OSBA claims, without any factual or legal basis, that OCA and Cleveland-Cliffs' allocation proposal is somehow not an "allocation" of costs within the meaning of Section 1311(c),⁷¹⁷ but a "transformation" of costs, and therefore, Cleveland-Cliffs' proposal violates Section 1311(c) because it allows the Commission to "allocate" costs and not "transform" costs. Cleveland-Cliffs avers that this is an entirely invented "legal problem." An allocation proposal does not cease to be an allocation proposal simply because an opposing party declares that it is a "transformation." And as previously noted, the Commission's current allocation of Act 11 subsidies is consistent with Cleveland-Cliffs' proposal, not OSBA's. Accordingly, if Cleveland-Cliffs' proposal violates Section 1311(c), then the current Commission-approved allocation of Act 11 costs must also violate Section 1311(c). This is clearly not the case. Cleveland-Cliffs RB at 3.

8. Victory Brewing's Position

The purpose of revenue allocation is to establish the responsibility of each customer class for a portion of the revenue requirements that are approved by the Commission. A key factor in determining the appropriate portion of the revenue requirements that is allocated

⁷¹⁶ Baudino Rebuttal, pp. 3-4.

⁷¹⁷ 66 Pa. C.S. § 1311.

to each class is the COSS.⁷¹⁸ In proposing its revenue allocation, the Company's primary goal was to allocate the increase to each class in a way that moves the various rate classes closer to their full cost of service while avoiding applying an unreasonably large portion of the increases to any one of the customer classes. In addition, PAWC sought to recognize the principle of gradualism in proposing increases for some classes despite the costs incurred to serve those classes.⁷¹⁹ Given that the Company's revenue allocation goals were consistently applied in accordance with prior rate cases, Victory Brewing does not contest the results of costs being allocated to certain customer classes. Victory Brewing MB at 7-8.

9. ALJs' Recommendation

The allocation of revenue among a utility's various rate classes (and in this case, rate zones and services), while informed by science and engineering, also involves consideration of ratemaking policy and principles of gradualism. The application of science and policy to the allocation of a revenue increase is within the Commission's discretion: "[T]here is no set formula for determining proper ratios among the rates of different customer classes. What is reasonable under the circumstances, the proper difference among rate classes, is an administrative question for the Commission to decide."⁷²⁰

The Commission recently explained the interplay among ratemaking methodologies and the consideration of other factors to set just and reasonable rates:

These norms, or traditional ratemaking methodologies, are used to determine a utility's cost of providing service, or its revenue requirement, and to determine appropriate rate structure, which includes, among other things, the appropriate allocation of the revenue requirement to various customer classes. However, while these ratemaking norms provide a rational and methodical way to analyze and determine the utility's cost of service, they also permit the consideration and weighing of important factors

⁷¹⁸ *Lloyd*, 904 A.2d at 1019-21.

⁷¹⁹ PAWC St. 10, pp. 49-50.

⁷²⁰ *Peoples Nat. Gas Co. v. Pa. Pub. Util. Comm'n*, 409 A.2d 446, 456 (Pa. Cmwlth. 1979) (citations omitted).

or principles in setting just and reasonable rates, such as quality of service, gradualism, and rate affordability.

We acknowledge that there are several factors that must be considered when designing a rate recovery proposal, one of which is the concept of gradualism and affordability, which are classic small water company challenges faced by many similar-sized utilities across the nation. However, while affordability is permitted to be considered, it is but one of many factors to be considered and weighed by the Commission in determining a utility's rates. The rate increase reflects the business challenges the Company currently faces, including required investments in the repair/replacement or improvement of its distribution systems, including acquired troubled water utilities' distribution system; and the high costs associated with maintaining a distribution system necessary to provide safe and reliable water and wastewater service within the Commonwealth.^[721]

The Company relied upon the provisions of Act 11 in developing its proposed rates in this case. As explained by PAWC witness Everette:

[T]he authority granted by Act 11 would be used to mitigate the increases that wastewater customers in certain service areas would experience if their rates were established on a stand-alone basis. The Company's proposed rates would also make meaningful progress in moving rates of its separate wastewater rate zones closer to a single consolidated wastewater rate design for all of the Company's wastewater operations.^[722]

Moreover, the Company averred that its proposed rates would make reasonable movement toward the system average rate of return by the customer classes as measured by the cost of service studies,⁷²³ and that its proposal will ensure approximate parity to residential bills for water service and wastewater service at average usage levels, and promote affordability of wastewater.⁷²⁴

⁷²¹ *Pa. Pub. Util. Comm'n v. Cmty. Utils. Inc.*, Docket R-2021-3025206, at 65-66 (Opinion and Order entered January 13, 2022) (citations omitted).

⁷²² PAWC St. 1, p. 20.

⁷²³ PAWC St. 1, pp. 19-20.

⁷²⁴ PAWC St. 10, pp. 47-50; PAWC St. 10-R, p. 3.

I&E notes that simply removing BASA and Brentwood systems from this proceeding reduces the Act 11 subsidy to \$47,969,463, ultimately removing the need for any subsidy at all. The OCA believes that it is reasonable to provide some Act 11 relief to customers, namely SSS and CSS customers, from rate increases while not overburdening Water customers. PAWLUG supports adoption of PAWC's cost of service studies subject only to the Residential customer class maximum hour demand ratio from 5.0 to 6.0. With regard to PAWC's proposed revenue allocation, PAWLUG recommends that the Commission slightly modify PAWC's allocation of the Act 11 subsidy to reflect cost causation for directly assignable costs. For its part, Cleveland-Cliffs maintains that it is appropriate to allocate any subsidy approved by the Commission based on the underlying water cost of service percentages from PAWC's cost of service studies.

Act 11 became effective in 2012 and is codified in Section 1311(c) of the Public Utility Code. This section permits wastewater revenue to be allocated to a utility's water customers which is in the public interest to do so:

When any public utility furnishes more than one of the different types of utility service, the commission shall segregate the property used and useful in furnishing each type of such service, and shall not consider the property of such public utility as a unit in determining the value of the rate base of such public utility for the purpose of fixing base rates. A utility that provides water and wastewater service shall be exempt from this subsection upon petition of a utility to combine water and wastewater revenue requirements. The commission, when setting base rates, after notice and an opportunity to be heard, may allocate a portion of the wastewater revenue requirement to the combined water and wastewater customer base if in the public interest.

Thus, Act 11 allows a utility that provides both water and wastewater service, such as PAWC, to allocate a portion of the wastewater requirement to the combined water and wastewater customer base if doing so is in the public interest. In its policy statement implementing Act 11, the Commission noted that one of the benefits of Section 1311(c) is that the costs of necessary upgrades to wastewater systems to maintain safe and reliable service,

which can be substantial on a stand-alone basis, can be spread among the common customer base of water and wastewater utilities.⁷²⁵ On this premise, the Commission has approved such allocation of revenue from wastewater customers to water customers.⁷²⁶

Upon review of the positions of the parties as well as the record, we recommend that the Commission adopt the OCA's proposed methodology for revenue allocation of the Act 11 subsidy in this case. The OCA's approach constitutes a reasonable balance that will afford some rate relief to PAWC's wastewater customers while still moving Wastewater SSS and CSS rates closer to their cost of service without excessively burdening PAWC's water customers.

We further agree with OCA's recommendation that 75% of the Wastewater SSS revenue requirement increase and 50% of the CSS Wastewater revenue requirement increase be assigned to water customers. While this will result in more substantial rate increases for WW CSS customers like those in Scranton, we agree this is more reasonable than the Company's 0% increase. Consistent with the adjustments discussed throughout this Recommended Decision, this results in the Act 11 Wastewater Allocations and Proposed Revenues for Water, WW SSS, and WW CSS detailed in Table Act 11.

F. Tariff Structure – Residential Customer Charge

1. PAWC's Position

OCA witness Mierzwa recommends keeping existing customer charges at the current rate level for residential water customers, based on his analysis of direct customer

⁷²⁵ Docket No. M-2012-2293611 (Tentative Implementation Order entered May 12, 2012, and Final Implementation Order entered August 2, 2012).

⁷²⁶ See, e.g., *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket Nos. R-2018-3003558, R-2018-3003561, et al., 2019 Pa. PUC LEXIS 170 (Order entered May 9, 2019) ("Aqua 2018"); *Pa. Pub. Util. Comm'n v. Pa.-Am. Water Co.*, Docket No. R-2017-2595853 (Order entered December 7, 2017) ("2017 PAWC Order"); *Pa. Pub. Util. Comm'n v. Pa.-Am. Water Co.*, Docket No. R-2013-2355276 (Order entered December 19, 2013) ("2013 PAWC Order"); *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket Nos. R-2012-2336379 (Recommended Decision dated Dec. 6, 2013), adopted without modification (Order entered Jan. 9, 2014) ("York Water 2013").

costs.⁷²⁷ As PAWC witness Heppenstall explained, the OCA’s direct cost analysis improperly omits office building and furniture expenses that are directly related to billing and collections functions.⁷²⁸ The OCA sought to exclude similar costs from consideration of the customer charge in Aqua’s most recent rate case. The Commission rejected the OCA’s claims, finding that the customer-related costs, which Aqua described as necessary for the support of customer facilities and customer accounting, are includable and that OCA’s proposed limitation was “unreasonably narrow.”⁷²⁹ The Commission should reach the same conclusion here. The Commission should also find that the Company’s wastewater cost analysis properly reflects a portion of infiltration and inflow costs. PAWC MB at 62; PAWC RB at 52.

CEO witness Jennifer Warabak also opposes any increase in PAWC’s fixed monthly customer charge for residential water customers but did not offer a cost of service basis for her recommendation.⁷³⁰ PAWC’s proposed residential customer charges supported by Ms. Heppenstall’s direct cost analysis should be accepted. PAWC MB at 62.

2. I&E’s Position

A customer cost analysis is a part of a cost of service study that is used to determine the appropriate fixed customer charges for the various classes and meter sizes. It is necessary to perform a customer cost analysis because a fixed customer charge represents the revenue that the Company is guaranteed to receive each month, regardless of the level of usage. As acknowledged in the seventh edition of the American Water Works Association M1 Manual, there is a tradeoff between revenue stability from a high customer charge, and affordability and conservation from a low customer charge and higher usage rates.⁷³¹ I&E MB at 72.

⁷²⁷ OCA St. 4, pp. 35-36

⁷²⁸ PAWC St. 12-R, pp. 9-10.

⁷²⁹ *Aqua 2022* at 268-69.

⁷³⁰ CEO St. 1, pp. 5-6.

⁷³¹ AWWA Manual of Water Supply Practices M1 Principles of Water Rates, Fees, Charges, Seventh Edition, pp. 154-155.

There are two different types of customer costs: direct and indirect. A direct customer cost is a cost that changes with the increase or decrease of a single customer. An indirect customer cost is a customer related cost that does not change with the increase or decrease of a single customer. Fixed costs assigned to the customer charge are limited to those fixed costs for which there is a direct impact from an individual customer. For example, each individual customer requires a meter and a bill. Therefore, fixed costs associated with meters and billing are properly attributable to the fixed customer charge. The Commission has allowed, in past instances, certain indirect customer costs to be included in a customer cost analysis and thus recovered in a customer charge. As an example, in previous cases, the Commission has allowed the indirect cost of Employee Pension and Benefits. I&E MB at 72-73.

a. Water Customer Charges

For water customers, I&E recommends a residential customer charge of \$20.00. The customer charges presented by I&E would all be the result of the Commission granting PAWC its full requested increase. In the event that less than the full requested increase is granted, I&E recommends these customer charges be scaled back. I&E MB at 73-74.,

Regarding residential customers with meter sizes over 2", commercial, and municipal customers, I&E witness Cline accepted the Company's proposed customer charges for those customers as all increases were in the 7%-8% range which Mr. Cline finds to be reasonable for a customer charge.⁷³² In addition, Mr. Cline did not make any adjustments to the Company's proposed customer charge for the Industrial and Other Water Utilities Monthly, Groups A and B, because while those classes have a larger percentage increase in their customer charge, the percent increase for an average industrial customer is reasonable.⁷³³ I&E MB at 75.

⁷³² I&E St. 4, pp. 34-35.

⁷³³ I&E St. 4, p. 35.

b. Wastewater Customer Charges

The Company provided one COSS for the SSS Operations - Zones 1, 2, 5, 7, 8, and 9.⁷³⁴ This COSS included a customer cost analysis that claims the SSS Operations wastewater customer cost is comprised of \$13.87 per month of direct customer costs, and \$29.63 per month of Inflow and Infiltration (I&I) costs for a total cost of \$43.50 for a Residential customer.⁷³⁵ I&E MB at 75.

Regarding Wastewater SSS Operations, I&E witness Kubas recommends a \$15.00 per month customer charge, which is an increase of \$0.70.⁷³⁶ Mr. Kubas explains that the \$15.00 per month customer charge will recover more than the direct customer cost of \$13.87 per month plus a small portion of the I&I costs identified by the Company. Furthermore, this 4.9% increase will provide sufficient revenue, while limiting the increase to low-usage residential customers. Regarding the inclusion of I&I costs, Mr. Kubas notes that these costs relate to flow, which does not vary with the number of customers.⁷³⁷ Nonetheless, Mr. Kubas notes that it is appropriate to recover a small portion of these costs through the customer charge, but it would be improper to recover more than a small portion of those I&I costs through this mechanism.⁷³⁸ I&E MB at 75-76.

For Wastewater SSS Operations commercial customers, I&E witness Kubas recommends a customer charge of \$36.70, or an increase of \$1.70 from the current \$35.00

⁷³⁴ PAWC Initial Filing Volume 17, Ex. 12-B.

⁷³⁵ PAWC Initial Filing Volume 17, Ex. 12-B, Sch. RS1 j. Responses p. 2.

⁷³⁶ I&E St. 3, p. 19

⁷³⁷ I&E St. 3, p. 19.

⁷³⁸ I&E St. 3, p. 19.

customer charge.⁷³⁹ This is a 4.9% increase, which matches the increase Mr. Kubas recommended for residential customers.⁷⁴⁰ I&E MB at 76.

3. OCA's Position

a. Water

The current customer charge for Residential customers in Rate Zones 1 through 5 with 5/8-inch, 3/4-inch, 1-inch, and 1½-inch meters is \$17.50 per month.^{741, 742} PAWC's proposal to increase the Residential customer charge from \$17.50 to \$20.00 (14.3%) for these customers is not reasonable. Only those costs that vary directly with the addition or subtraction of a customer should be included in the calculation of a customer charge.⁷⁴³ PAWC's analysis for customer charges, which it claims only reflects direct costs, indicates a cost-based charge of \$19.31, which is less than its proposed charge of \$20.⁷⁴⁴ OCA MB at 76-77.

Moreover, PAWC's analysis includes costs that are not direct customer costs and do not change with the addition or subtraction of a customer, including office building and furniture expenses.⁷⁴⁵ These costs relate to PAWC's general operation as a utility. Not all of a utility's fixed expenses for operation are properly included in a customer cost analysis and the Commission has generally permitted only expenses directly related to meter reading, customer

⁷³⁹ I&E St. 3, p. 26.

⁷⁴⁰ I&E St. 3, pp. 26-27.

⁷⁴¹ Most Residential water customers in PAWC's service territory are served by a 5/8-inch meter. OCA St. 4, p. 34.

⁷⁴² PAWC Ex. CBR-3.

⁷⁴³ OCA St. 4, p. 35.

⁷⁴⁴ PAWC Ex. 12-A, Att. RS1j, 2-3.

⁷⁴⁵ OCA St. 4, pp. 35-36.

service, accounting and customer records and collections.⁷⁴⁶ Where the Commission has permitted allocated portions of indirect costs, on a case-by-case basis, it has allowed costs associated with direct labor costs, including employee benefits, workers compensation insurance and payroll taxes.⁷⁴⁷ Significantly, the Commission stated: “We caution that these are costs which may be considered for inclusion in the customer charge, but such claims are subject to scrutiny on a case-by-case basis.”⁷⁴⁸ Furthermore, since *PSW 2004*, the Commission has rejected a utility’s proposed customer charge increase based on a cost analysis that included indirect costs.⁷⁴⁹ OCA Schedule JDM-4SR provides a calculation adjusting the Company’s calculated direct customer charge, at PAWC’s filed-for revenue requirement increase, to remove the improperly included office building and furniture costs and to reflect the OCA’s recommended rate of return. As shown in Schedule JDM-4SR, these adjustments reduce the calculated charge to \$18.73. Other Commission-approved adjustments to PAWC’s revenue requirement claim are likely to further reduce the calculated direct customer charge.⁷⁵⁰ Based on the OCA’s overall position on revenue requirement, the OCA recommends the existing \$17.50 monthly charge for Residential customers should be maintained. Any additional revenue to be recovered from Residential customers should be recovered through increases in volumetric usage charges.⁷⁵¹ OCA MB at 77-78.

⁷⁴⁶ See, e.g., *Pa. Pub. Util. Comm’n v. Metro. Edison Co.*, 60 Pa.P.U.C. 349 (1985); *Pa. Pub. Util. Comm’n v. Nat’l Fuel Gas Dist. Corp.*, 83 Pa.P.U.C. 262, 371 (1994); *PPL 2004* at 461.

⁷⁴⁷ *Pa. Pub. Util. Comm’n v. Aqua Pa., Inc.*, 236 PUR 4th 218 (Pa. PUC 2004) (*PSW 2004*).

⁷⁴⁸ *Id.* at 251.

⁷⁴⁹ *Pa. Pub. Util. Comm’n v. PPL Gas Util. Corp.*, 2007 Pa.P.U.C. LEXIS 2, *210 (Order Feb. 8, 2007).

⁷⁵⁰ OCA St. 4, p. 36.

⁷⁵¹ *Id.* at 35.

b. Wastewater

For Wastewater, the current residential monthly customer charge for most Rate Zones is \$14.30 per month.⁷⁵² PAWC is proposing to increase that charge to \$20 per month, or by 39.9%, with the exception of Scranton Rate Zone 3 where it proposes to set the Residential customer charge at \$19.72 per month.⁷⁵³ The Company presents a customer cost analysis which it claims only reflects direct costs, which indicates that a cost-based monthly customer charge for a 5/8-inch meter would be \$43.50.⁷⁵⁴ However, PAWC's direct customer charge calculation improperly includes the costs associated with collecting and treating Infiltration and Inflow (I/I). I/I cannot reasonably be considered a direct cost because it is largely a function of precipitation and, therefore, does not vary directly with the addition or subtraction of a customer.⁷⁵⁵ OCA MB at 78.

Exclusive of I/I costs, the Company's calculation of customer costs would indicate a direct cost of \$13.87 at PAWC's proposed revenue requirement, which is less than current Wastewater customer charges.⁷⁵⁶ As such, the current customer charges in Rate Zones 1, 2, 5, and 6 should be maintained, the current Residential customer service charges in Rate Zones 3, 4, 7, and 9 should be reduced to \$14.30, and any additional revenue to be recovered from Residential customers should be recovered through increases in volumetric usage charges.⁷⁵⁷ These recommendations are supported by the testimony of OCA witness Colton with regard to the impact of higher fixed charges on customers' ability to control their bills. OCA MB at 78-79.

⁷⁵² OCA St. 4, p. 46.

⁷⁵³ PAWC St. 10, pp. 41-42.

⁷⁵⁴ PAWC Ex. 12-B, Attachment RS1j, page 2.

⁷⁵⁵ OCA St. 4, p. 46.

⁷⁵⁶ *Id* at 47

⁷⁵⁷ *Id*.

Given these cost-based and bill affordability reasons, the argument of PAWC witness Rea that the customer charges should be increased to match the \$20 proposed for water customers should be rejected.⁷⁵⁸ I&E witness Kubas's objections should also be dismissed. Mr. Kubas's primary concern is with the customer charges for CSS Wastewater Rate Zones 3, 4, and 6. His support for a \$20 charge is not cost-based, whereas maintaining the \$14.30 charge would set the charge at a level that was comparable to a cost-based rate.⁷⁵⁹ Further, for each of the CSS Wastewater rate zones, the decrease in revenues from reducing the customer charge would only require an increase of 7% to 10% in volumetric usage charges.⁷⁶⁰ OCA MB at 79.

4. ALJs' Recommendation

a. Water

In the present case, PAWC has proposed to increase the residential 5/8, ¾, 1, and 1½, inch customer charges from \$17.50 to \$20.00 in the FPFTY. I&E agreed with PAWC's proposed increase to the monthly water residential customer charge, noting that all of the proposed increases were in the 7% to 8% range, which it deemed to be a reasonable increase for a customer charge.⁷⁶¹ OCA averred that PAWC's monthly residential water customer charges should remain at their current rates.⁷⁶² The OCA further averred that PAWC's analysis includes costs that are not direct customer costs and do not change with the addition or subtraction of a customer, including office building and furniture expenses.

Upon review of the record, we find that PAWC's proposal to increase the monthly water residential customer charge from \$17.50 to \$20.00 in the FPFTY is justified. As noted by I&E, the Company provided a second customer cost analysis that relies on the allocation of costs

⁷⁵⁸ PAWC St. 10R, p. 61.

⁷⁵⁹ OCA St. 4SR, p. 40.

⁷⁶⁰ *Id.*

⁷⁶¹ I&E St. 4, pp. 34-35; I&E St. 4-SR, p. 26.

⁷⁶² OCA MB at 78.

that is more directly applicable to customers, which clearly supported the Company's proposed \$20.00 monthly water residential customer charge.⁷⁶³ We disagree with the OCA's argument that PAWC's analysis includes costs that are not direct customer costs. As noted by the Company, the OCA sought to exclude similar costs from consideration of the residential customer charge in Aqua's most recent base rate case which the Commission rejected.⁷⁶⁴ In its Order, the Commission indicated that "[w]e find that the OCA proposed limitation of costs excludes customer costs that should be included in a customer charge and is unreasonably narrow."⁷⁶⁵ We believe the same to be true in this instance.

Accordingly, we recommend that the Commission adopt PAWC's proposal to increase the monthly residential customer charge from \$17.50 to \$20.00.

b. Wastewater

Regarding PAWC's Wastewater SSS operations, most rate zones currently have a monthly wastewater residential customer charge of \$14.30. PAWC is proposing to increase that charge to \$20.00 per month. The OCA avers that the monthly wastewater residential customer charge should remain unchanged in Rate Zones 1, 2, 5, and 6, while the monthly residential wastewater customer charges in Rate Zones 3, 4, 7, and 9 should be reduced to \$14.30 with any additional revenue to be recovered from residential customers through increases in volumetric usage charges. I&E supports a monthly wastewater residential customer charge of \$15.00.

We recommend that the Commission adopt I&E's proposed increase to the monthly wastewater residential customer charge. As noted by I&E, a \$15.00 per month customer charge will recover more than the direct customer cost of \$13.87 per month plus a small portion of the I&I costs identified by the Company. We also agree with I&E's proposal to

⁷⁶³ I&E St. 4-SR, pp. 21, 25-26.

⁷⁶⁴ *Aqua 2022* at 268-69.

⁷⁶⁵ *Id* at 269.

limit the amount of I&I costs to be recovered through the customer charge. As explained by I&E Witness Kubas:

I recognize that I&I costs are a large portion of the cost of operating wastewater systems. However, I&I costs relate to flow, which does not vary with the number of customers, a typical criterion for determining if a cost should be recovered in the customer charge. Therefore, I recommend only a small part of I&I costs be recovered in the customer charge to generate revenue, but I believe it is improper to recover more than a small amount of the cost of I&I in the customer charge.^[766]

Lastly, we agree with I&E that its \$0.70 increase, which constitutes a 4.9% increase, will provide the Company with sufficient revenue while limiting the increase to low-usage residential customers.⁷⁶⁷

Although no one else addressed it, we also agree with I&E's proposal to increase the monthly wastewater customer charge from \$35.00 to \$36.70, or by \$1.70, for Wastewater SSS Operations commercial customers. Similar to the residential customer charge, this constitutes an increase of 4.9%, which is a reasonable increase to the monthly wastewater customer charge for Wastewater SSS' commercial customers.

G. Tariff Structure – Water Rate Design

1. PAWC's Position

a. Class Revenue Allocations

OSBA witness Higgins and Cleveland Cliff witness Baudino offered alternative water class revenue allocations. Mr. Higgins initially recommended a \$5.3 million reduction to

⁷⁶⁶ I&E St. 3, p. 19.

⁷⁶⁷ *Id.*

the Commercial class offset by a \$5.3 million increase to the Municipal class.⁷⁶⁸ Mr. Higgins subsequently updated his proposed revenue allocation based on the results of his rebuttal cost of service study.⁷⁶⁹ Mr. Baudino recommends an alternative revenue allocation that results in a higher increase for the Municipal class and a lower increase for the Residential, Commercial, Industrial, and Private Fire classes.⁷⁷⁰ The OSBA and Cleveland Cliff both propose a higher increase to the Municipal class than proposed by the Company, with corresponding lower increases to other customer classes to compensate. While the Company believes that its proposed water revenue allocation is reasonable for the reasons explained by Mr. Rea, it does not oppose the higher increases for the Municipal class proposed by Mr. Higgins and Mr. Baudino with offsetting decreases to other customer classes.⁷⁷¹ OCA witness Mierzwa also presents an alternative revenue allocation for water service based on his alternative cost of service study, adjusted to provide for gradualism.⁷⁷² Mr. Mierzwa's proposal should be rejected since it is based on a deficient COSS. PAWC MB at 62-63.

b. Meter Charges

PAWC's proposed meter charges are reasonable and the Commission should reject the alternative proposals from OCA, CEO, Cleveland Cliff, PAWLUG, and I&E.⁷⁷³ PAWLUG witness LaConte's and Mr. Baudino's proposals would result in increased meter charges with no cost-basis. I&E witness Cline's recommendation to adopt a Rate Zone 1 residential customer charge of \$19.50 should also be rejected, as it is based on Mr. Cline's

⁷⁶⁸ OSBA St. 1, p. 35.

⁷⁶⁹ OSBA St. 1-SR, p. 19.

⁷⁷⁰ Cleveland-Cliffs St. 1, p. 12

⁷⁷¹ PAWC St. 10-R, p. 43.

⁷⁷² OCA St. 4, pp. 33-34.

⁷⁷³ See OCA St. 4, pp. 35-36; Cleveland-Cliffs St. 1, pp. 13-14; PAWLUG St. 1, pp. 28-29; I&E St. 4, pp. 30-35.

“extreme” decision to calculate the customer charge based solely on a cost allocation study restricted to direct customer-related costs only.⁷⁷⁴ PAWC MB at 63.

c. Volumetric Rates

The alternative volumetric rates proposed by I&E, the OCA, PAWLUG, and Cleveland-Cliffs should be rejected.⁷⁷⁵ Mr. Cline and Mr. Mierzwa have not shown that the Company’s proposed Rate Zone 2 and Rate Zone 4 rates are unreasonable, and adoption of their recommendations would impede the full integration of those rate zones into Rate Zone 1.⁷⁷⁶ Further, Ms. LaConte’s and Mr. Baudino’s recommendations conflict with the intent to design industrial rates to collect total revenue allocated to that class less revenues from current industrial meter charges.⁷⁷⁷ PAWC MB at 63-64.

2. I&E’s Position

I&E notes that the Company’s filing includes primarily six different rate zones. Most of PAWC’s customers are included in Rate Zone 1 – PAWC and pay the Rate Zone 1 rates. Customers in the remaining rate zones pay present rates that are different from Rate Zone 1 present rates. The remaining rate zones are as follows: Rate Zone 2 – Valley, Rate Zone 3 – SLIBCO, Rate Zone 4 – Turbotville, Rate Zone 5 – Steelton, Rate Zone X – Audubon, and Rate Zone X - Farmington. It should be noted that, per the I&E recommendation that Audubon and Farmington be removed from this case, the Audubon and Farmington rate zones should also be removed in this case, and, therefore, I&E has not proposed rate changes for those customers. I&E MB at 76.

The Company is proposing to consolidate the monthly metered rates for all classes of customers in Rate Zone 2 – Valley, Rate Zone 3 – SLIBCO, Rate Zone 4 – Turbotville, and Rate

⁷⁷⁴ PAWC St. 10-R, p. 44.

⁷⁷⁵ See I&E St. 4, pp. 36-41; OCA St. 4, pp. 36-37; PAWLUG St. 1, pp. 28-29; Cleveland-Cliffs St. 1, pp. 13-14.

⁷⁷⁶ PAWC St. 10-R, p. 47.

⁷⁷⁷ *Id.*

Zone 5 - Steelton into Rate Zone 1 in the FPFTY.⁷⁷⁸ In I&E witness Cline's opinion, the rates proposed by the Company that merge the various rate zones described above into Rate Zone 1, are reasonable, except for the proposal to merge Rate Zone 2 – Valley usage rates into Rate Zone 1.⁷⁷⁹ I&E MB at 76-77.

As a result of the revenue produced by the customer charge being decreased based on I&E's recommended customer charges compared to the Company's proposed customer charges, under the fully requested revenue increase, I&E avers that the proposed usage rates for the Rate Zone 1 residential class would need to increase slightly, as would the usage rates for any Rate Zones that are being proposed to merge with Rate Zone 1 rates.⁷⁸⁰ However, because of I&E's recommendations regarding the Act 11 subsidy, as well as the adjustments made by I&E witnesses Patel and Okum, it is more likely that the usage rate will be subject to a scale back rather than an increase. Therefore, I&E witness Cline did not calculate what the increase would be at the fully proposed increase. I&E MB at 77.

I&E witness Cline recommended adopting the Company's proposed customer charges for the Commercial, Municipal, Industrial, and Other Water Utilities Monthly – Groups A and B rate classes.⁷⁸¹ I&E MB at 77.

Regarding Rate Zone 2, the Company is proposing to set Rate Zone 2 residential and commercial usage rates equal to Rate Zone 1.⁷⁸² The Company's proposal to set Rate Zone 2 residential and commercial usage rates equal to Rate Zone 1 would result in the bill for an average Rate Zone 2 residential customer to increase by 63.64%, and the average bill for a commercial customer would increase by 64.37%.⁷⁸³ For residential customers in Rate Zone 2,

⁷⁷⁸ PAWC St. 10, p. 35.

⁷⁷⁹ I&E St. 4-SR, p. 21.

⁷⁸⁰ I&E St. 4, p. 36.

⁷⁸¹ I&E St. 4, pp. 34-35.

⁷⁸² PAWC Ex. 10-A, pp. 4 and 11.

⁷⁸³ PAWC Ex. 10-A, pp. 77, 83.

the proposed percent increase is at least double that of the average residential customers in the other rate zones. For Rate Zone 2 commercial customers, the disparity between the percent increases for the other rate zones, apart from Rate Zone 4, is even greater than that of the residential customers. The table presented below shows I&E witness Cline's recommendation regarding Rate Zone 2:

Rate Zone 2 Residential and Commercial Usage Rates ⁷⁸⁴			
Usage Level	Present Rate per hundred gal.	I&E Proposed Rate per hundred gal.	Revenue Percent Increase
Residential			
First 3,400 gal.	\$1.1000	\$1.6000	45.5%
Over 3,400 gal.	\$1.1000	\$1.6000	45.5%
Commercial			
First 16,000 gal.	\$1.1000	\$1.6500	55%
Over 16,000 gal.	\$1.1000	\$1.2540	14%

Witness Cline selected a \$1.60 per hundred-gallon usage rate for residential customers because it generated a reasonable percent increase on the total bill of a Rate Zone 2 residential customer. The analysis for Rate Zone 2 Commercial customers were similar, however, Mr. Cline kept the second block usage rate at approximately 76% of the first block, which is the same ratio as the Company's proposed rates.⁷⁸⁵ I&E asserts that the percentages resulting from Mr. Cline's recommendation are reasonable and should be adopted. I&E MB at 77-78.

I&E witness Cline agrees with the Company's recommendation to set Rate Zone 3 commercial and municipal usage rates equal to Rate Zone 1.⁷⁸⁶ I&E MB at 78.

In addition, the Company has proposed to set Rate Zone 4 usage rates for residential, commercial, and municipal customers equal to Rate Zone 1. I&E witness Cline agrees with the Company's recommendation in part. Witness Cline explains the Company's proposal to set the Rate Zone 4 residential and municipal rates equal to Rate Zone 1 is reasonable, but the

⁷⁸⁴ I&E St. 4, p. 38.

⁷⁸⁵ I&E St. 4, p. 38.

⁷⁸⁶ I&E St. 4, p. 39.

Company's proposal to set Rate Zone 4 commercial usage rates equal to Rate Zone 1 would result in the bill for an average Rate Zone 4 commercial customer to increase by 68.56%.⁷⁸⁷ This increase is unnecessarily large when compared to the increase proposed for Rate Zone 1 commercial customers. I&E avers that, compared to the proposed increase for Rate Zone 1 commercial customers, the 68.65% increase is far too large. To remedy this, Mr. Cline set the Rate Zone 4 commercial usage rates equal to those of Rate Zone 2 so that Rate Zone 2 and Rate Zone 4 can be merged after this base rate case and likely merged with Rate Zone 1 after the next base rate case.⁷⁸⁸ The effect of this is that the percentage increases become far more reasonable. Witness Cline recommends the following usage rates as set forth in the table below:

Rate Zone 4 Residential and Commercial Usage Rates ⁷⁸⁹			
Usage Level	Present Rate per hundred gal.	I&E Proposed Rate per hundred gal.	Revenue Percent Increase
Commercial			
First 16,000 gal.	\$1.1000	\$1.6500	55%
Over 16,000 gal.	\$1.1000	\$1.2540	14%

I&E MB at 78-79.

Lastly, regarding Rate Zone 5, I&E witness Cline accepts the Company's proposal to set Rate Zone 5 residential, commercial, municipal, and industrial rates equal to that of Rate Zone 1.⁷⁹⁰ I&E MB at 79.

3. OCA's Position

In addition to its recommendations regarding the residential customer charges, the OCA also objected to the residential Water usage charge proposed by PAWC for Valley

⁷⁸⁷ I&E St. 4, pp. 39-40.

⁷⁸⁸ I&E St. 4, p. 40.

⁷⁸⁹ I&E St. 4, p. 40.

⁷⁹⁰ I&E St. 4, p. 41.

customers currently in Rate Zone 2.⁷⁹¹ PAWC proposes to apply the consolidated Rate Zone 1 usage charge, which would cause a 63% rate increase for a residential customer using 3,201 gallons per month at PAWC's Water revenue requirement claim.⁷⁹² PAWC's proposal is more than 2x the system average increase and is not reasonable. To provide for gradualism and to reduce rate shock, the OCA recommends the usage charge for Valley customers currently served under Rate Zone 2 to be set at 70% of the Rate Zone 1 usage charge established in this proceeding. This reduction in the usage charge would limit the increase for a Valley residential customer currently in Rate Zone 2 using 3,201 gallons per month to about 1.7x the OCA's proposed system average increase, which is consistent with the concept of gradualism. I&E agrees that PAWC's proposed increase for Valley customers is unnecessarily large and recommends a more moderate increase.⁷⁹³ OCA MB at 79-80.

4. PAWLUG's Position

As part of its justification for proposing the RDM and ECIC, PAWC asserts an interest in reducing revenue volatility. PAWLUG opposes approval of the RDM and ECIC. However, for Industrial customers, PAWC can address revenue stability through more traditional means by increasing the Industrial customer charge for customers with meters that are 6" or larger. In this proceeding, PAWC proposed no increase at all to the Industrial customer charge.⁷⁹⁴ In order to ensure more stable revenue from the Industrial customer class, PAWLUG proposes that adoption of the below modified rate design developed by witness LaConte:

⁷⁹¹ OCA St. 4, pp. 36-37.

⁷⁹² *Id.*; PAWC Ex. 10-A at 77.

⁷⁹³ I&E St. 4, pp. 37-38; I&E St. 4SR, p. 28.

⁷⁹⁴ PAWLUG St. 1, p. 28.

PAWLUG Main Brief Table 2⁷⁹⁵ Revised Industrial Rate Design			
Description	Current	PAWC	PAWLUG
Customer Charge			
6" Meter	\$1,401	\$1,401	\$2,802
8" Meter	\$2,243	\$2,243	\$4,486
10" Meter	\$3,223	\$3,223	\$6,446
Volumetric Charge			
First 16,000 Gal	\$1.4200	\$1.9128	\$2.8565
Next 584,000 Gal	\$1.0804	\$1.4824	\$1.4083
All Over 600,000 Gal	\$0.8499	\$1.1477	\$1.0329
Above 15,000,000 Gal	\$0.5110	\$0.6852	\$0.6167

PAWLUG's revised rate design would recover 17% of PAWC's Industrial revenue requirement through the fixed charges, compared to PAWC's determination that 95% of its operating costs are fixed.⁷⁹⁶ PAWLUG MB at 26.

PAWC opposes PAWLUG's proposed rate design on the basis that it is not cost-based.⁷⁹⁷ However, PAWC's customer charge analysis only provides a cost basis for the 5/8 meter customer charge.⁷⁹⁸ As PAWC has not established the cost-basis for the existing Industrial customer charge and the overall revenue requirement allocated to Industrial customers would remain unchanged by PAWLUG's proposed rate design, the proposal is reasonable and should be approved by the Commission. PAWLUG MB at 27.

⁷⁹⁵ *Id* at 29 (originally presented as PAWLUG Direct Testimony Table 3).

⁷⁹⁶ *Id* at 28.

⁷⁹⁷ PAWC St. 10-R, p. at 45.

⁷⁹⁸ PAWC St. 10, Ex. 10-A.

5. Cleveland-Cliffs' Position

PAWC does not propose any increase to the existing Industrial meter charges and instead seeks to collect the entire Industrial revenue increase through the volumetric charges. This is problematic because, as PAWC witness Rea himself notes on page 86 of his Direct Testimony, over 95% of the Company's costs are fixed and do not vary with water consumption. Volumetric rates collect these costs based on the volumes of water consumed by the water service rate classes. As consumption varies month to month and year to year, PAWC's collection of its fixed costs will vary as well, introducing more variability in its revenues and earnings than if more of these costs were collected from fixed charges, such as meter charges.⁷⁹⁹ Cleveland-Cliffs MB at 6.

To the extent practicable, fixed costs should be collected through fixed charges. PAWC's proposed rate design would collect even more of the Company's fixed costs through volumetric rates, which moves in the opposite direction from cost-causation. On the other hand, PAWLUG witness LaConte recommended an Industrial rate design that more closely aligns with cost-causation than that of PAWC.⁸⁰⁰ Ms. LaConte proposes to approximately double the Industrial meter charges and provide for smaller percentage increases to the volumetric charges. While PAWC's description of its variable versus fixed costs would justify an even greater increase in Industrial fixed charges than proposed by PAWLUG, Ms. LaConte's proposal is a step in the right direction and would ensure that more of the Company's fixed costs would be collected through a meter charge. Cleveland-Cliffs MB at 6-7.

Cleveland-Cliffs recommends that the Commission either approve Ms. LaConte's proposed rate design for the Industrial class, or at the very least, increase Industrial customer charges by the same percentage as Industrial volumetric charges. Cleveland-Cliffs MB at 7.

⁷⁹⁹ *Id* at 13-14.

⁸⁰⁰ LaConte Direct, p. 28.

6. Victory Brewing's Position

PAWC presented its proposed rate design in the direct testimony of Charles Rea.⁸⁰¹ In critiquing PAWC's proposed rate design, witness Richard A. Baudino for Cleveland-Cliffs recommended higher customer charges and lower volumetric charges for large industrial customers.⁸⁰² Victory Brewing agrees with this approach as it allows a customer to reduce their bills through conservation, when possible. This outcome is consistent with prior rulings of the PUC. For instance, the Commission has recognized that it is appropriate to set a customer charge that ensures the recovery of fixed costs that are "clearly more customer-related than usage-related, while still allowing some revenue to be recovered through usage-based charges."⁸⁰³ Victory Brewing MB at 8.

7. City of Scranton's Position

The City of Scranton respectfully requests that the Commission deny the request for a water tariff increase. The City notes that its residents are already struggling to make ends meet, and the additional burden of an increase to water rates would make meeting those ends even harder for a population that deserves a break from rate increases.

8. ALJs' Recommendation

PAWC currently offers water service in five different rate zones. These include: Rate Zone 1 – General Statewide Rate; Rate Zone 2 – Valley; Rate Zone 3 – SLIBCO; Rate Zone 4 – Turbotville; and Rate Zone 5 – Steelton. The largest of these rate zones is Rate Zone 1, which includes over 99% of the Company's total water revenue. PAWC is proposing to move

⁸⁰¹ PAWC St. 10.

⁸⁰² Cleveland-Cliffs St. 1, pp. 13-14.

⁸⁰³ *Pa. Pub. Util. Comm'n v. PPL Elec. Utils. Corp.*, Docket No. R-2012-2290597, 2012 Pa. PUC LEXIS1757 (Recommended Decision issued Oct. 19, 2010, Opinion and Order entered Dec. 28, 2012) (rejecting I&E's and OCA's position of "no increase" to the customer charge because it was not based on a proper cost analysis) (citing *Pa. Publ. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00038805, 2004 Pa. PUC LEXIS 39, 236 P.U.R.4th 218 (Aug. 5, 2004)).

Rate Zone 2 Valley, Rate Zone 3 SLIBCO, Rate Zone 4 Turbotville, and Rate Zone 5 Steelton rates to Rate Zone 1 rates. The only changes in volumetric rate structure proposed by PAWC in this matter are changes in the steps for volumetric rates necessary to move Steelton, Valley, and SLIBCO rate zones to Rate Zone 1 rates. The Company has not proposed any other changes to volumetric rate structure.⁸⁰⁴

We agree with I&E that the Company's proposal to consolidate the monthly metered rates for all classes of customers in Rate Zone 2 – Valley, Rate Zone 3 – SLIBCO, Rate Zone 4 – Turbotville, and Rate Zone 5 – Steelton into Rate Zone 1 in the FPFTY are reasonable, with the exception of Rate Zone 2 – Valley. The proposed change would cause a 63% rate increase for a residential customer using 3,201 gallons per month, making it twice the system average. We agree with I&E's alternate proposal of \$1.60 per hundred-gallon usage rate for residential customers. We agree with I&E's proposed rate as it will generate a reasonable increase on the total bill of a Rate Zone 2 residential customer. We similarly agree with I&E's proposed adjustment to commercial customer rate (\$1.6500 for the first 16,000 gallons, \$1.2540 over 16,000 gallons) will generate a reasonable increase for the commercial customer class and should be adopted.

We also agree with I&E's concerns regarding the Company's proposed consolidation of Rate Zone 4 – Turbotville into Rate Zone 1. I&E witness Cline agreed with the proposal insofar as it consolidated residential and municipal rates with Rate Zone 1, which is reasonable. However, Mr. Cline highlighted that the Company's proposal as it relates to commercial usage would result in a 68.56% average bill increase for the Rate Zone 4 – Turbotville customer, which is excessive when compared to the Rate Zone 1 commercial customer. Accordingly, we agree with I&E witness Cline's proposal to set the Rate Zone 4 commercial usage rates equal to the Rate Zone 2 commercial usage rate (\$1.6500 for the first 16,000 gallons, \$1.2540 over 16,000 gallons) so that Rate Zones 2 and 4 may be merged after this base rate case, with the goal to merge Rate Zone 4 with Rate Zone 1 after PAWC's next base rate case. We agree that this proposal will result in a far more reasonable increase than proposed by the Company.

⁸⁰⁴ PAWC St. 10, pp. 31, 35.

Separately, we agree with the Company that PAWLUG's proposal to increase the Industrial customer charge for customers with meters that are 6" or larger should be rejected. As noted by the Company, PAWLUG's proposed rate design is not cost based. PAWLUG's response to the Company's position, that PAWC's customer charge analysis only provides a cost basis for the 5/8" meter customer charge, PAWC has not established the cost-basis for the existing Industrial customer charge, and the overall revenue requirement allocated to Industrial customers would not change is not persuasive. As noted by PAWC witness Rea, volumetric rates for industrial customers should be designed to collect the total revenue allocated to that class less revenue from current industrial meter charges.

Lastly, since the Company does not oppose the higher increases for the Municipal class proposed by OSBA and Cleveland-Cliffs, we recommend that the Commission adopt this proposal.

H. Tariff Structure – Wastewater Rate Design

1. PAWC's Position

a. General SSS Operations

I&E and the OCA proposed various increases to SSS rates.⁸⁰⁵ I&E witness Kubas's and OCA witness Mierzwa's recommendations take into account their COSS recommendations and modifications to the Company's Act 11 allocation, which should be rejected for the reasons set forth previously relating to cost of service studies and revenue allocation and Act 11. In addition, Mr. Kubas's recommendations do not properly take into account affordability for SSS customers. The Commission should also reject Mr. Kubas's and Mr. Mierzwa's proposed reduction to the residential service charge to be consistent with charges to other residential customers, as well as Mr. Kubas's recommended charges for unmetered

⁸⁰⁵

See I&E St. 3, Sch. 3; OCA St. 4, pp. 39, 46-48.

service, and rates for special flat rate customers, in order to be consistent with the overall increase for the SSS group.⁸⁰⁶ PAWC MB at 64.

i. York Bulk Customers

PAWC's proposed rate increase for seven bulk wastewater customers that are served by the York system (the "York Bulk Customers") are reasonable.⁸⁰⁷ Consistent with the contracts that PAWC negotiated with these customers when PAWC acquired the York system, PAWC proposed a 9.9% increase in rates over two years, resulting in an annual increase of approximately 4.45%. These modest increases are justified because the York Bulk Customers have viable competitive alternatives to receiving service from PAWC.⁸⁰⁸ The proposed rate increases, while modest will nevertheless cover the variable costs of bulk treatment service and provide a meaningful contribution to the total fixed costs incurred to furnish wastewater service to retail customers in the Company's WW SSS General Operations.⁸⁰⁹ PAWC MB at 64-65.

I&E witness Kubas disputes PAWC's claim that the York Bulk Customers have competitive alternatives and recommends a 50% increase to their contract rates.⁸¹⁰ Contrary to Mr. Kubas's claim, PAWC presented extensive evidence about the competitive alternatives available to the York Bulk Customers, including affidavits demonstrating that they had competitive alternatives at the time of the acquisition of the York system and continue to have alternatives to bulk wastewater service from PAWC.⁸¹¹ Moreover, Mr. Kubas admitted during

⁸⁰⁶ OCA St. 10-R, pp. 58-59.

⁸⁰⁷ The Bulk Customers consist of The York Water Company, which is the owner of the former West York Borough Collection System; Springettsbury Township; North York Borough; York Township; Manchester Township; West Manchester Township; and Spring Garden Township.

⁸⁰⁸ PAWC St. 3, pp. 66-69; PAWC St. 6-R, p. 18.

⁸⁰⁹ PAWC St. 12, p. 9.

⁸¹⁰ I&E St. 3, pp. 48-50.

⁸¹¹ PAWC St. 6-R, pp. 19-22; PAWC Ex. ECA-1R (CONFIDENTIAL); PAWC Ex. ECA-2R.

the evidentiary hearing that the York Bulk Customers have competitive alternatives.⁸¹² Accordingly, PAWC avers that the Commission should deny Mr. Kubas's unsupported rate increase for the York Bulk Customers. PAWC MB at 65.

b. BASA Operations

PAWC avers that the Commission should accept PAWC's proposed rate design for BASA. Mr. Kubas and Mr. Mierzwa do not address rate design for BASA, as their rate design recommendations assume BASA has been removed from the Company's claim.⁸¹³ PAWC MB at 67.

c. CSS Operations

Mr. Kubas' and Mr. Mierzwa's recommendations⁸¹⁴ take into account their cost of service recommendations and modifications to the Company's Act 11 allocation, which should be rejected for the reasons provided by the Company regarding Cost of Service Studies and Revenue Allocation and Act 11. In addition, the Commission should reject Mr. Mierzwa's proposal with respect to the residential service charge for the same reasons described above relative to the SSS customer charge.⁸¹⁵ PAWC MB at 67-68.

2. I&E's Position

a. Wastewater SSS Operations

The Company provided a COSS for wastewater SSS Operations – Zones 1, 2, 5, 7, 8, and 9. This COSS included a customer cost analysis that claims the SSS Operations

⁸¹² Tr. 2155-56.

⁸¹³ PAWC St. 10-R, p. 62.

⁸¹⁴ See I&E St. 3, Sch. 17; OCA St. 4, pp. 39; 46-48.

⁸¹⁵ PAWC St. 10-R, p. 51.

wastewater customer cost is comprised of \$13.87 per month of direct customer costs, and \$29.63 per month of Inflow and Infiltration costs for a total cost of \$43.50 for a Residential customer.⁸¹⁶ The Company proposed that present rate revenue be decreased from \$95,470,866 to \$95,301,613 which is a decrease of \$169,253 or 0.2% which creates a revenue shortfall of \$31,962,411.⁸¹⁷ I&E witness Kubas' goal was to reduce the \$31,962,411 subsidy the Company claims is needed in the SSS Operations.⁸¹⁸ Most PAWC water customers are not wastewater customers, which would make it unreasonable for them to subsidize wastewater customers to the extent PAWC has proposed. OCA witness Hoover explains that PAWC has approximately nine times the water customers than wastewater customers.⁸¹⁹ The total increase in the SSS system that is recommend by Mr. Kubas is \$32,265,198 which results in a remaining subsidy in the SSS Operations of \$321,682.⁸²⁰ Mr. Kubas used the Company's COSS to develop the various wastewater rates that moves the relative rate of return of each class towards 1.0.⁸²¹ I&E MB at 79-80.

In the Wastewater SSS Operations, Caln, West Brandywine, the VA Medical Center (VA), St Lawrence Borough (St. Lawrence) in Zone 1, and various Bulk contracts in Zone 7 are charged special municipal rates.⁸²² For Caln, West Brandywine, and the VA, the Company proposed the customer charge increase from \$415.00 to \$430.00 per month and the usage \$1.450 per hundred gallons to \$1.490 per hundred gallons; for St. Lawrence, the Company does not charge a customer charge but did propose to increase the present usage rate of \$0.400 per hundred gallons to \$0.412 per hundred gallons.⁸²³ However, it is I&E's position that these customers should receive a higher percentage increase. Rates should be based on cost. A review

⁸¹⁶ I&E St. 3, p.15.

⁸¹⁷ I&E St. 4, pp. 15-16.

⁸¹⁸ I&E St. 4, p. 17.

⁸¹⁹ OCA St. 1, p. 7.

⁸²⁰ I&E St. 4, p. 17.

⁸²¹ I&E St. 4, p. 17.

⁸²² PAWC Initial Filing Volume 9, Ex, 10-B, p. 31.

⁸²³ PAWC Initial Filing Volume 9, Ex. 10-B, p 31.

of the rates charged to the VA/Bulk class demonstrates that the rates proposed are not cost based. After applying PAWC's increase, the relative rate of return for these customers is 0.87, which demonstrates they are not paying their cost to serve.⁸²⁴ Therefore, Mr. Kubas recommends rates that move these customers closer to the cost to serve. For Caln, West Brandywine, and the VA, I&E witness Kubas recommends a monthly charge of \$456.50 and a usage rate of \$1.680 per hundred gallons.⁸²⁵ In addition, Mr. Kubas recommends the Company begin to charge St. Lawrence a monthly customer charge of \$456.50 in accordance with the general tariff provision requiring all customers to pay a monthly customer charge.⁸²⁶ I&E MB at 80-81.

b. York Bulk Rates

For the York Bulk customers, PAWC has proposed to charge two different usage rates. For the first rate, the Company proposed the present usage rate be increased from \$0.3750 per hundred gallons to \$0.4123 per hundred gallons. For the second usage rate, the Company proposed the present usage rate of \$0.249 per hundred gallons increase to \$0.2737 per hundred gallons. These 9.9% increases are over the two-year period 2023-2025 which results in an annual increase of approximately 4.45% per year.⁸²⁷ The Company limited these increases claiming these customers have competitive alternatives. I&E witness Kubas finds the Company's argument that these customers have competitive alternatives to be speculative at best and recommends further increases to these rates of approximately 50%. I&E MB at 81.

Under present rates, the York Bulk Users are receiving a subsidy from the other customers of \$9,879,620 even after contributing \$7,702,598 of revenue, putting the low level of revenue from these bulk customers into perspective.⁸²⁸ The Company has not provided sufficient evidence to demonstrate these customers have a competitive alternative, and without that

⁸²⁴ I&E St. 3, p. 45.

⁸²⁵ *Id* at 46.

⁸²⁶ *Id.*

⁸²⁷ PAWC Initial Filing Volume 9, Ex. 10-B, p. 31.

⁸²⁸ I&E St. 3, p. 49.

information, the rates must be increased to move these customers closer to their cost to serve. After applying Mr. Kubas' suggested rate design, the York Bulk Customers will still receive a significant subsidy of \$7,999,227.⁸²⁹ This demonstrates the reasonableness of the I&E recommendation, as the subsidy has not been completely eliminated. Mr. Kubas does, however, recommend that this subsidy continue to be decreased in future cases.⁸³⁰ I&E MB at 81-82.

c. Wastewater CSS Operations

Regarding Wastewater CSS Operations the Company provided one COSS for the CSS Operations - Zones 3, 4, and 6 which did not include a customer cost analysis.⁸³¹ The Company proposed that present rate revenue be decreased from \$78,636,222 to \$78,409,294, which is a decrease of \$226,926 or 0.30%.⁸³² To achieve this reduction, the Company proposed to increase and decrease various customer charges, usage rates, and flat rates.⁸³³ When designing rates for Wastewater CSS Operations, I&E witness Kubas' goal was to reduce the \$16,007,052 subsidy the Company claims is needed to fund the CSS Operations. Mr. Kubas recommends a total increase in the CSS system of \$15,744,287.⁸³⁴ This recommendation reduces the CSS Operations subsidy to \$35,835.⁸³⁵ Under Mr. Kubas' proposal the highest average bill increase, 47.7%, goes to industrial customers.⁸³⁶ As with wastewater SSS Operations, Mr. Kubas' goal for Wastewater CSS Operations was to move the relative rate of return toward 1. The rates proposed by I&E all serve to move customers closer to their cost to serve and represent reasonable increases. I&E avers that the rates proposed by Mr. Kubas are cost based, and based

⁸²⁹ *Id* at 53.

⁸³⁰ *Id*

⁸³¹ *Id* at 57.

⁸³² PAWC Initial Filing Volume 9, Ex. 10-C, p. 1.

⁸³³ PAWC Initial Filing Volume 9, Ex. 10-C, pp. 3-38.

⁸³⁴ I&E St. 3, pp. 57-58, citing I&E Ex. 3, Sch. 16, column G, line 14.

⁸³⁵ I&E St. 3, p. 58, citing I&E Ex. 3, Sch. 1, column H, line 3.

⁸³⁶ *Id* at 58.

on sound, Commission approved ratemaking principles. I&E asserts that its recommended rates should therefore be adopted. I&E MB at 82-83; I&E RB at 36.

3. OCA's Position

PAWC's volumetric rate proposals should be proportionately adjusted to recover the cost of service approved by the Commission for each current Wastewater SSS and CSS Wastewater customer class, and for Wastewater SSS and CSS Wastewater residential customers, any revenue deficiency resulting from the adoption of the OCA's monthly residential customer charge recommendations.⁸³⁷ OCA MB at 80.

PAWC and the OCA agree: if the Commission approves PAWC's proposal to delay the effective date for new rates for certain Wastewater rate zones, it should also adopt PAWC's proposal to impute revenues, by calculating the proof of revenues as if the customers were paying the new rates without any delay.⁸³⁸ This is necessary to prevent other ratepayers from paying the cost of rate commitments that PAWC chose to make in its agreements to purchase those systems. OCA MB at 80.

4. City of Scranton's Position

The City of Scranton opposes the recommendations of I&E witness Kubas, as it is the City's understanding that his recommendations include higher rates for the City of Scranton than those originally proposed by the Company. The City notes that PAWC proposed that Scranton CSS rates remain consistent with the purchase agreement for that system. The City of Scranton agrees with this proposition and further pleads that the Commission refrain from increasing costs for the City of Scranton, especially due to the terms of the Asset Purchase Agreement. The City agrees with PAWC that if the Commission entertains any increase in

⁸³⁷ OCA St. 4, p. 47.

⁸³⁸ PAWC St. 4R, p. 12; OCA St. 4, pp. 48-49.

wastewater rates for Scranton CSS rate payers, that the increase should be just and reasonable and consistent with the concept of gradualism to avoid rate shock.

5. ALJs' Recommendation

PAWC provides wastewater service under a variety of different rate schedules in a variety of different rate zones. “Sanitary Sewer Systems” (“SSS”) includes the following rate zones: Rate Zone 1 – PAWC Statewide; Rate Zone 2 – New Cumberland; Rate Zone 5 – Valley; Rate Zone 7 – York; Rate Zone 8 – Foster Township; and Rate Zone 9 – Royersford. “Combined Sewer Systems” (“CSS”) includes the following rate zones: Rate Zone 3 – Scranton; Rate Zone 4 – Kane; and Rate Zone 6 – McKeesport.⁸³⁹ As discussed previously, the Company has proposed to reallocate a portion of the wastewater revenue requirement calculated in this case to its water service customers under the provisions of Act 11.⁸⁴⁰

The Company is proposing to move all CSS customers to a single tariff with a single set of rates, with the exception of the Scranton system, and is also proposing to move New Cumberland and Valley to SSS Wastewater Rate Zone 1. The Company is also proposing to set fixed charges to be the same for all wastewater customers, unless prohibited by prior agreement, and move rates in the SSS group for the York and Royersford system closer to Zone 1 Rates.⁸⁴¹

The Company’s proposal for wastewater service rate design and tariff consolidation is, in pertinent part, as follows:

- PAWC is proposing to set all residential service charges at \$20 per month and all non-residential service charges at \$50 per month;
- No changes are proposed for Scranton rates except for the roll-in of the DSIC mechanism;

⁸³⁹ PAWC St. 10, pp. 36-37.

⁸⁴⁰ *Id* at 40.

⁸⁴¹ *Id* at 41.

- To merge rates for Kane and McKeesport customers into a single rate design that results in residential bills at average usage levels of approximately \$110 per customer. Volumetric rates for non-residential customers for Kane and McKeesport are set at \$1.90 per hundred gallons. Port Vue rates are proposed to be merged into McKeesport/Kane rates, with no increase proposed for McKeesport bulk customers;
- SSS volumetric rates are increased to a level that brings residential bills for average levels of usage for Zone 1 customer to approximately \$100 per month, with proportional increases to non-residential volumetric rates. No increases are proposed for large industrial customers;
- To phase out the allowance for the first 2,000 gallons in York rates by setting the volumetric rates for York at \$0.75 per hundred gallons for the first 2,000 gallons for residential customers, and \$0.40 per gallon for non-residential customers. Volumetric rates above 2,000 gallons are set equal to Zone 1 rates; and
- Royersford volumetric rates are increased to a level that results in residential bills for average usage at approximately \$65 per month, which is a \$15 increase. Non-residential volumetric rates in Royersford are increased to \$0.75 per hundred gallons.^[842]

Lastly, the Company proposed to change the way it determines the volumetric component of bills for residential customers from the current method of billing based on total metered usage for a month to the winter averaging methodology.⁸⁴³

We agree with the OCA that PAWC's volumetric rate proposals should be proportionately adjusted to recover the cost of service approved by the Commission for each current Wastewater SSS and CSS Wastewater customer class. As explained by OCA witness Mierzwa, in pertinent part:

⁸⁴² *Id* at 41-42.

⁸⁴³ *Id* at 42.

I agree with PAWC’s proposal to phase out the allowance for York customers. The remainder of PAWC’s volumetric rate proposals are based on the Company-proposed assignment of a significant 27% of the wastewater revenue requirement to water service customers. Under this proposed assignment, SSS and CSS wastewater customers receive no rate increase and, in fact, a slight decrease in rates. As previously explained . . . this is unreasonable. I recommend that PAWC’s volumetric proposals be proportionately adjusted to recover the cost of service approved by the Commission for each current SSS and CSS customer class, and for SSS and CSS Residential customers.^[844]

I&E proposed increasing rates to York Bulk customers by approximately 50% on the basis that these Company’s argument that these customers have competitive alternatives is speculative at best. However, as explained by PAWC witness Aiton:

The York Bulk customers are in close geographic proximity – which means that they could enter into (and have in some circumstances already entered into) intermunicipal flow agreements to transmit wastewater flow between themselves and to other surrounding municipalities with existing treatment capacity, instead of sending their flows to the York WWTP. The York Bulk customers are sophisticated, knowledgeable, and experienced. Therefore, they could divert flows to alternative treatment providers or develop a new treatment system.^[845]

Additionally, Mr. Aiton advised:

In the proceeding for approval of PAWC’s acquisition of the York wastewater system at Docket Nos. A-2021-3024681 et al. (“Acquisition Proceeding”), the York Bulk Customers opposed the transaction and testified that [they] were planning for a competitive alternative to bulk treatment service from PAWC. As witnesses for the York Bulk Customers explained in their testimony in the Acquisition Proceeding and discussed in detail by Company witness Bernard D. Grandusky in Statement No. 7-R submitted on August 19, 2022 in PAWC’s 2022 rate case, unless PAWC entered into the Bulk Agreements on the terms and rates set forth in those contracts, each of the York Bulk

⁸⁴⁴ OCA St. 4 at 48

⁸⁴⁵ PAWC St. 3, pp. 66-67.

Customers would leave the York system after PAWC's acquisition and pursue alternative treatment.^[846]

Based on the testimony of Mr. Aiton, we find that it is more than speculative to conclude that York Bulk customers do not have competitive alternatives. Accordingly, we recommend that the Commission reject I&E's proposed rate increase for the York Bulk Customers. However, we agree with I&E witness Mr. Kubas' recommendation that the Company begin to charge St. Lawrence a monthly customer charge. I&E MB at 80-81. This change will ensure that St. Lawrence Borough contributes appropriate revenues to fund PAWC's direct and indirect customer costs for service. However, we will recommend that PAWC charge St. Lawrence the same service charge per month that the Commission approves for other WW SSS Rate Zone 1 bulk metered usage customers, including Caln, West Brandywine, and the VA Medical Center, that have special rates for bulk metered usage.

I. Tariff Structure – Winter Averaging Proposal

1. PAWC's Position

Winter averaging is a method for determining volumetric components of wastewater bills that attempts to separate metered water usage that is likely to go through the wastewater system from water usage that is used for outdoor purposes in the summertime.⁸⁴⁷ Under winter averaging, a customer's bill in the wintertime is determined by actual metered water usage for the month, and in the summertime the customer's bill is determined by the lesser of the actual metered water usage for the month or the average water consumption for that customer in the winter months.⁸⁴⁸ PAWC offers the following explanation of winter averaging. If a customer's metered water use is 4,000 gallons in the winter period, the customer is billed for 4,000 gallons of water usage on their wastewater bill.⁸⁴⁹ In the summer period, if a customer's

⁸⁴⁶ *Id* at 67.

⁸⁴⁷ PAWC St. 10 at 43.

⁸⁴⁸ *Id.*

⁸⁴⁹ *Id.*

metered water use is 6,000 gallons and their average winter usage over the previous winter months was 5,000 gallons per month, then the customer will only be billed for 5,000 gallons on their wastewater bill.⁸⁵⁰ If that customer's metered usage was 3,000 gallons and their average winter usage over the previous winter months was 5,000 gallons per month, the customer would be billed for 3,000 gallons of usage on their wastewater bill.⁸⁵¹ PAWC proposed this winter averaging methodology to more closely align wastewater bills in the summertime with cost-causation rate design principles.⁸⁵² PAWC notes that under the current rate structure, customers are charged for wastewater service in the summertime based on metered water usage that is not actually going through the wastewater system.⁸⁵³ PAWC avers that this winter averaging methodology remedies that inconsistency in the Company's wastewater rate design and better aligns customer usage with the amounts billed.⁸⁵⁴

The Company disagrees with I&E witness Kubas' recommendation to only approve winter averaging as a temporary program.⁸⁵⁵ Doing so would require the Company to implement "shadow billing," which would be unnecessary and impractical for the reasons described by PAWC witness Rea.⁸⁵⁶ The Commission should also find that the OCA's and CAUSE-PA's opposition is unwarranted.⁸⁵⁷ OCA witness Mierzwa contends that seasonal usage can be explained by "a few extra showers and clothes washing loads," ignoring PAWC's modeling that there are statistically significant changes in water consumption tied to changes in weather during the summer period.⁸⁵⁸ PAWC disagrees with the views of OCA witness Colton

⁸⁵⁰ *Id.*

⁸⁵¹ *Id.*

⁸⁵² *Id.* at 44

⁸⁵³ *Id.*

⁸⁵⁴ *Id.* at 45.

⁸⁵⁵ See I&E St. 3, p. 55.

⁸⁵⁶ See PAWC St. 10-R, p. 54; Tr. 2010-11.

⁸⁵⁷ See OCA St. 4, p. 43; OCA St. 5, pp. 97-109; CAUSE-PA St. 1, pp. 13-14.

⁸⁵⁸ PAWC St. 10-R, p. 54.

and CAUSE-PA witness Geller that winter averaging will penalize low-income customers.⁸⁵⁹ Winter averaging will benefit all customers and is reflective of cost-causation.⁸⁶⁰ PAWC MB at 68.

2. I&E's Position

Initially, I&E proposed two conditions related to the winter averaging proposal set forth by PAWC. First, that none of the revenue shortfall from this proposal be recovered from other wastewater customers or water customers as the program was designed to help only residential wastewater customers, who should, thereby, be the ones to fund the program and any resulting shortfall should be recovered from residential wastewater rates. Second, that the Commission determine that the proposal is approved initially as a temporary program to permit the resulting revenue impacts to be evaluated in the first rate case following its implementation.⁸⁶¹ I&E witness Kubas explained that new proposals such as these reduce revenue, and therefore, should not be approved in perpetuity.⁸⁶² The outcome of these types of proposals should be reviewed and studied in the next base rate case following their implementation. At that point, the Commission and the parties would have sufficient information to make a determination as to whether the program should be continued as is, modified, or ended in its entirety.⁸⁶³ I&E MB at 84.

While PAWC witness Rea notes that he agrees that revenue differences resulting from this program should be recovered from other wastewater customers and explains that this is, in fact, the way the program is set up, he disagrees with Mr. Kubas that the program should

⁸⁵⁹ OCA St. 5, pp. 97-109; CAUSE-PA St. 1, pp. 13-14.

⁸⁶⁰ PAWC St. 10-R, p. 55.

⁸⁶¹ I&E St. 3, p. 55.

⁸⁶² I&E St. 3, p. 55.

⁸⁶³ I&E St. 3, p. 56.

only be approved as a temporary program.⁸⁶⁴ Mr. Rea states that it would not be practical to approve this program as temporary with the results being examined in a future base rate case because to do so would require the Company engage in “shadow billing.”⁸⁶⁵ Shadow billing would involve tracking the customer’s bills as if this proposal did not exist to see what those bills would have been in order to provide the necessary comparison. I&E MB at 84.

I&E recommended that the program not be approved, noting that it is important that when approving these types of programs, the Commission is afforded the opportunity to see if the program is causing more harm than good to ratepayers. In this instance, the only issue with approving this program as temporary appears to be that PAWC does not want to track multiple sets of numbers. As a result, Mr. Kubas recommends the program be denied.⁸⁶⁶ I&E MB at 85.

I&E references the testimony of OCA witness Colton who notes that low-income customer are less likely to have substantial outdoor summer consumption and because of this, those households are less likely to have their summer wastewater bills capped at a lower level than those bills have historically been.⁸⁶⁷ As explained by OCA witness Colton, these are the ratepayers that “will fall within that population of customers who are called upon to bear the burden of foregone revenue ... with little opportunity to be the recipient of any reduced bills.”⁸⁶⁸ CAUSE-PA witness Geller expressed a similar concern. After considering the arguments presented by OCA and CAUSE-PA regarding the disproportionate adverse impact on low-income customers, combined with the Company’s refusal to adopt the program as temporary, I&E witness Kubas recommends the winter averaging program be rejected in its entirety.⁸⁶⁹ I&E MB at 85-86.

⁸⁶⁴ PAWC St. 10-R, p. 54.

⁸⁶⁵ PAWC St. 10-R, p. 54.

⁸⁶⁶ I&E St. 3-SR, p. 38.

⁸⁶⁷ OCA St. 5, p. 105.

⁸⁶⁸ OCA St. 5, p. 105.

⁸⁶⁹ I&E St. 3-SR, pp. 38-39.

3. OCA's Position

PAWC's proposal to change the way it determines the volumetric component of bills for Residential Wastewater customers should be rejected for the reasons set forth in the testimony of OCA witnesses Mierzwa and Colton, CAUSE-PA witness Geller, and I&E witness Kubas.⁸⁷⁰ Their collective testimony demonstrates that the proposal put forth by PAWC would disproportionately harm low-income customers. OCA MB at 80-81.

PAWC witness Rea concedes that the beneficiaries of the Company's winter averaging proposal are likely to be higher income customers because it is these customers that are more likely to be (1) absent from their homes during the winter, (2) residents of single family homes with substantial outdoor water consumption, both factors making them more likely to have seasonal water usage in the summertime that would no longer be billed for Wastewater service.⁸⁷¹ Conversely, the record shows that customers who will pay the increase in charges are disproportionately likely to be low-income.⁸⁷² OCA MB at 81.

While unquestionably disadvantaging low-income customers, PAWC has failed to demonstrate that its proposed methodology for recognizing outdoor usage would reasonably achieve its stated purpose. PAWC's data shows there is not a substantial variability in residential water bills (and thus in residential consumption) between the three "winter months" (as defined by PAWC) and the remaining nine "non-winter" months.⁸⁷³ The three-month average median bill (\$62.06) did not substantially differ from the average of the median bills for the remaining nine months (\$63.49). In fact, the January 2023 median residential bill (\$67.43) was identical to the

⁸⁷⁰ OCA St. 4, pp. 40-44; OCA St. 4SR, pp. 19-20; OCA St. 5, pp. 97-109; OCA St. 5SR, pp. 9-11; CAUSE-PA St. 1, pp. 13-14; I&E St. 3SR, pp. 38-39.

⁸⁷¹ PAWC St. 10R, p. 55; OCA St. 5SR, pp. 9-10; OCA St. 5, pp. 105-06; CAUSE-PA St. 1, pp. 13-14.

⁸⁷² OCA St. 5, pp. 101-09; OCA St. 5SR, pp. 9-11; I&E St. 3, pp. 38-39.

⁸⁷³ OCA St. 5, p. 97.

median residential bills in both June 2023 and July 2022 and higher than the median residential bills in each of the other seven non-winter months.⁸⁷⁴ OCA MB at 81.

Likewise, OCA witness Mierzwa's analysis of PAWC's data for average monthly water usage showed that for Residential customers the difference between the winter average period usage and usage during the remaining months is de minimis, and for the last two years ranged from 100 to 173 gallons per month. In other words, a difference that could be made up by a few extra showers and loads of laundry and not necessarily by outdoor water usage.⁸⁷⁵ Another discrepancy is that some Residential customers have higher usage in the summer months not due to outdoor usage but because they are absent from their homes in the winter.⁸⁷⁶ In this scenario, PAWC's winter averaging proposal would understate summer months usage that flows through the sewer system. PAWC witness Rea does not dispute this effect.⁸⁷⁷ OCA MB at 81-82.

Under the methodology proposed by PAWC, any benefits are outweighed by the disproportionate harm to low-income customers and the proposal should be rejected. If adopted, despite the reasoned objections by the OCA, CAUSE-PA and I&E witnesses, the volumetric charges should be made subject to the same low-income discounts to which other PAWC volumetric charges are subject.⁸⁷⁸ OCA MB at 82.

4. CAUSE-PA's Position

Under PAWC's proposed winter averaging method, a customer's wastewater bill in the winter averaging months (January-March) would be determined by actual metered water

⁸⁷⁴ *Id* at 98-99.

⁸⁷⁵ *See* OCA St. 4, pp. 43-44 (Table 6).

⁸⁷⁶ OCA St. 4, pp. 43-44; OCA St. 5, pp. 99-101.

⁸⁷⁷ PAWC St. 10R, p. 55.

⁸⁷⁸ OCA St. 5, p. 109.

usage for the month.⁸⁷⁹ In non-winter months, a customer's wastewater bill would be based on the lesser of their actual monthly metered water usage or the average water usage for that customer in the winter months.⁸⁸⁰ PAWC's expert acknowledged that the winter averaging method, if approved, would increase volumetric wastewater rates for all customers.⁸⁸¹ CAUSE-PA MB at 25.

CAUSE-PA avers that PAWC's proposed winter averaging methodology is inequitable and contrary to the public interest, as it improperly favors customers that reside in larger properties and have greater levels of discretionary water usage in the non-winter months – to the detriment of customers that reside in smaller homes and apartments that do not have the same discretionary water use.⁸⁸² The methodology would also favor customers with summer vacation homes, which may have very low average usage in the winter months. In short, PAWC's proposed winter methodology would shift costs from higher income customers with greater discretionary usage onto lower income customers that are already struggling to afford basic services to their home. It would also deter conservation, making it more affordable for some households to maintain swimming pools – at the expense of other families' ability to maintain drinking water. CAUSE-PA MB at 25-26.

Notably, the assumptions built into PAWC's winter averaging methodology are flawed. First, PAWC's methodology assumes outdoor water usage does not impact wastewater system costs, without consideration of whether a given system is combined stormwater and wastewater. Moreover, PAWC's methodology assumes that increased summer water usage is all attributable to outdoor water usage, without any individualized determination of whether a customer's average winter usage is reflective of their average summer usage.⁸⁸³ This means that customers with a vacation home used primarily in the summer months, families with children

⁸⁷⁹ PAWC St. 10, pp. 43, 44: 3-6.

⁸⁸⁰ PAWC St. 10, p. 43.

⁸⁸¹ PAWC St. 10, p. 45: 3-10.

⁸⁸² CAUSE-PA St. 1, p. 13: 5-15.

⁸⁸³ CAUSE-PA St. 1, p. 13.

returning from college for summer vacation, and other households with higher summer usage would be charged the lower winter rates all year long. CAUSE-PA MB at 26.

PAWC's proposed winter averaging methodology is unreasonable and contrary to the public interest because it is premised on faulty assumptions about summer usage and it improperly shifts the revenue burden from customers who reside in single-family homes with greater discretionary water usage and/or who own summer vacation homes (most often higher income customers) onto customers that live in smaller properties or apartments with little discretionary water usage (most often lower income customers).⁸⁸⁴ For these reasons, CAUSE-PA recommends that the Commission reject PAWC's proposed winter averaging methodology. CAUSE-PA MB at 27.

5. ALJs' Recommendation

We agree with I&E, OCA, and CAUSE-PA that PAWC's Winter Averaging Proposal should be rejected. We agree with the OCA that the Company has failed to show that its proposed methodology for recognizing outdoor wastewater usage would reasonably achieve its stated purpose. Moreover, both OCA and CAUSE-PA raised legitimate concerns that PAWC's Winter Averaging Proposal might have a disproportionate adverse impact on low-income customers.

I&E attempted to address these concerns by suggesting that this program be approved on a temporary basis until the Company's next base rate case so that interested parties, and the Commission, would have an opportunity to evaluate whether this program achieved its stated goals, or if it did have an adverse impact on low-income customers. The Company rejected this suggestion because it would be required to track the information needed for evaluation during the next base rate case. The Company's unwillingness to take such measures for future evaluation of the program does not instill confidence in the proposal.

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CAUSE-PA St. 1, p. 13; 16 – 14; 7.

Accordingly, we recommend that the Commission reject PAWC's Winter Averaging Proposal.

J. Scale Back of Rates

1. PAWC's Position

If the Commission approves a revenue requirement that is less than that proposed by the Company, PAWC proposes to proportionally reduce the water and wastewater revenue requirements and the proposed amount of reallocation from wastewater to water under Act 11.⁸⁸⁵ I&E, OCA, OSBA, and PAWLUG submitted alternative scale back proposals.⁸⁸⁶ The Company opposes the parties' recommendation that any reductions in revenue requirements for wastewater service be applied first to the amount being allocated to water customers pursuant to Act 11. This would effectively result in a revenue requirement reduction to water service.⁸⁸⁷ Under these proposals, wastewater rates would only be reduced in the event that PAWC's wastewater revenue requirement is reduced by a greater amount than its proposed Act 11 allocation amount.⁸⁸⁸ If the Commission approves a scale back, the wastewater revenue requirement should be reduced by the same proportion as the Company's water revenue requirement.⁸⁸⁹ PAWC MB at 68-69; PAWC RB at 58.

⁸⁸⁵ PAWC St. 10, pp. 16-17; PAWC St. 10-R, p. 37.

⁸⁸⁶ See I&E St. 4, pp. 41-44; OCA St. 4, p. 30; OSBA St. 1, pp. 36-37; PAWLUG St. 1, pp. 29-30.

⁸⁸⁷ PAWC St. 10-R, pp. 40-41.

⁸⁸⁸ *Id.*

⁸⁸⁹ PAWC St. 10, pp. 45-46; PAWC St. 10-R, p. 37.

2. I&E's Position

a. Water Scale Back of Rates

If the Commission grants less than the Company's requested increase and adopts the I&E customer charges, the Company's proposed rates would be reduced, or scaled back, to produce the revenue requirement allowed by the Commission. The first step that must be completed in any scale back is to determine the revenue requirements and scale backs of the wastewater operations. The wastewater operations revenue requirement must be set first because that will determine the amount of revenue requirement that must be allocated to Water Operations under Act 11. Once the wastewater to water allocation is determined, then the full Water Operations revenue requirement will be known, and those rates can be scaled back. I&E recommends that any scale back be netted against the subsidy the Commission determines for the wastewater operations. I&E MB at 86-87.

If the Commission grants an increase less than the fully requested increase for Water Operations, I&E witness Cline recommends that the usage rates and customer charges be decreased to produce the revenue level the Commission approves. Because the \$20.00 per month customer charge is based upon the direct customer cost, any reduction in any of the ratemaking inputs by the Commission would reduce the inputs used in the customer cost analysis that was used to determine the \$20.00 per month customer charge. The Commission recently reaffirmed its commitment to including the customer charge in the scale back of rates in the *PGW 2023* base rate case.⁸⁹⁰ I&E MB at 87.

Additionally, I&E recommends that the usage rates for the Rate Zone 2 residential and commercial and the Rate Zone 4 commercial rate classes not be scaled back as long as they remain lower than the usage rates in Rate Zone 1. I&E MB at 87.

⁸⁹⁰ *Pa. Pub. Util. Comm'n. v. Phila. Gas Works*, Docket No. R-2023-3037933 (Opinion and Order entered Nov. 9, 2023).

b. Wastewater Scale Back of Rates

i. SSS Operations

If the Commission grants less than the full increase for the SSS Operations, I&E recommends the following steps to reduce revenue and rates for SSS Operations customers. First, any subsidy from Water customers should be eliminated. That way, water customers will not subsidize any of the SSS Operations. I&E MB at 87.

The scale back should start with the Zone 1, 2, and 5 Residential usage rate, reducing it to achieve the desired level of increase together with a reduction in the Non-Residential usage rate proportional to the percentage increase that I&E proposed for each rate under the full increase. This will keep the total increase in the Residential class and Non-Residential class relatively proportional. The Special Commercial rate of \$2.350 per hundred gallons for Cleveland-Cliffs and Victory Brewing should be similarly scaled back based upon the 67.9% increase shown on I&E Ex. 3, Sch. 3, p. 1, line 11. The Special Commercial flat monthly charges shown on I&E Ex. 3, Sch. 3, p. 1, lines 13-16 and line 18 should also be similarly scaled back. The Non-Residential flat rate of \$150.00 per month should not be scaled back since it is below the average bill of a Non-Residential customer. The special customer charge of \$465.50 per month should not be scaled back because the increase is only 10.0%.⁸⁹¹ The usage rates for Caln, West Brandywine, the VA, and St. Lawrence should not be scaled back because the rates are below the corresponding usage rate in Zone 1.⁸⁹² The customer charge and usage rate paid by Rainbow Washhouse where the usage rate that I&E proposes is below the present Commercial usage rate, should not be scaled back.⁸⁹³ I&E MB at 87-88.

In Zones 7 and 9, the general usage rates should not be scaled back since they are below the Zone 1 usage rate. The Zone 8 Residential and Commercial flat charge can be made

⁸⁹¹ I&E Ex. 3, Sch. 3, p. 1, line 19.

⁸⁹² I&E Ex. 3, Sch. 3, p. 1, lines 20-21.

⁸⁹³ I&E Ex. 3, Sch. 3, lines 35-38.

the same as the corresponding Zone 1 flat charge. However, the Butler Township flat rate of \$40.00 per month and the Zone 9 flat rate of \$75.00 should not be scaled back because they are below the \$132.00 per month flat rate proposed by I&E in Zone 1. The Bulk rates for the York Bulk customers and the Bulk rates in Royersford should not be scaled back since the revenue received from these classes is so far below the cost to provide service to these classes.⁸⁹⁴ I&E MB at 88-89.

ii. CSS Operations

Regarding CSS operations, I&E recommends that the customer charges not be scaled back. In Zone 4, the charge decreased, thus no further decrease is appropriate. I&E MB at 89.

Regarding Residential flat rate customers, I&E witness Kubas recommends that the Residential flat rate be adjusted downward based upon the final average Residential Zone 1 bill established when rates are scaled back.^{895, 896} The scale back should start with the Zone 3, 4, and 6 Residential, reducing the usage rate to achieve the desired level of increase together with a reduction in the Non-Residential usage rate proportional to the percentage increase that Witness Kubas proposed for each rate under the full increase. This will keep the total increase in the Residential class and No-Residential class relatively proportional. Finally, the Bulk rates in Zone 6 should not be scaled back since they are not being increased.⁸⁹⁷ I&E MB at 89.

3. OCA's Position

For water service, the OCA recommends the revenue increases the OCA proposed for each class at PAWC's claimed revenue requirement based on the OCA's CCOS study, i.e.

⁸⁹⁴ I&E Ex. 3, Sch. 3, p. 2, line 1-21.

⁸⁹⁵ I&E Ex. 3, Sch. 3, p. 1, lines 4-5.

⁸⁹⁶ I&E St. 3-SR, p. 27.

⁸⁹⁷ I&E Ex. 3, Sch. 17, lines 22-24.

what is shown in OCA Table 4-SR, should be scaled back proportionately to reflect the actual water revenue increase (including revenues reallocated to water service under Act 11) authorized by the Commission in this proceeding.⁸⁹⁸ For the direct cost of Wastewater service, the OCA accepted PAWC's proposed CCOS study and recommends that any scale back to the revenue increases for each class should be made consistent with PAWC's allocation proposal.⁸⁹⁹ OCA MB at 82.

As discussed previously, the amount reallocated under Act 11 should be substantially reduced from what PAWC proposed.⁹⁰⁰ The OCA does not recommend that any reduction in the Wastewater requirement should be applied first to the Act 11 reallocation, however, as that may not provide an adequate level of relief to Wastewater customers.⁹⁰¹ While the specific amount of revenues shifted under Act 11 should be determined by the Commission based on the authorized Wastewater revenue requirement, the OCA recommends that an Act 11 reallocation that results in comparable percentage increases for Water and Wastewater customers would be in the public interest.⁹⁰² OCA MB at 82-83.

4. OSBA's Position

In the likely event that the Commission approves a lower revenue increase than that requested by PAWC, the OSBA recommends that the decrease be applied primarily to water rates. If the Commission approves a lower revenue requirement increase associated with PAWC's wastewater systems than proposed by PAWC, the incremental revenue requirement reduction should not reduce PAWC's proposed wastewater rates, so long as the cost-based wastewater revenue requirement is greater than PAWC's proposed wastewater rates. This means

⁸⁹⁸ OCA St. 4SR, pp. 16-17 and Table 4-SR.

⁸⁹⁹ *Id* at 17.

⁹⁰⁰ *See also* OCA St. 4SR, pp. 17-18; OCA St. 4, pp. 25-27.

⁹⁰¹ OCA St. 4SR, pp. 17-18, 35.

⁹⁰² *Id.*

that a lower revenue requirement will reduce Act 11 revenues and PAWC's proposed water rates generally.⁹⁰³ OSBA MB at 21-22.

Regarding water rates at a lower revenue requirement, the OSBA recommends scaling-back the revenue allocation to each customer class in proportion to each class's share of the total non-Act 11 revenues shown in Mr. Higgins' Schedule KCH-12, page 1. OSBA also recommends that each water class recover its allocated share of any approved Act 11 subsidy. The reasoning for this recommendation is straight-forward: it fixes the admitted errors in PAWC's originally-filed Water COSS; it employs more reasonable and accurate maximum day and maximum hour allocators; and it will recover the Act 11 subsidy allocated to each water class. OSBA MB at 22.

5. PAWLUG's Position

PAWLUG avers that the Commission should accept PAWC's revised COSS with the sole exception of modifying the Company's proposed maximum hour demand ratio for the Residential customer class. PAWC's proposal to allocate \$71.1 million of the wastewater revenue requirement to water customers pursuant to Act 11 should be modified to adopt witness LaConte's revised allocation method and apply any approved scaleback of the wastewater revenue requirement to offset the total \$71.1 million allocation amount. PAWLUG's proposal to increase the Industrial customer charge consistent with LaConte's recommendation should be approved. PAWLUG MB at 27.

Lastly, to the extent the Commission approves a lower water revenue requirement than as proposed by PAWC, the Commission should implement a proportional scale back. For the portion attributable to Industrial and Municipal customers, the Commission should scale back only the volumetric rates for PAWC's Industrial and Municipal customer classes.⁹⁰⁴ This is appropriate for both classes due to the high proportion of total class revenues recovered through

⁹⁰³ OSBA St. 1, pp. 36-37.

⁹⁰⁴ PAWLUG St. 1, p. 29.

the respective volumetric rates.⁹⁰⁵ While applying any scaleback to volumetric rates for both the Industrial and Municipal classes remains appropriate in conjunction with PAWLUG's proposed increase to the Industrial customer charge, it becomes particularly necessary in the event the Commission denies PAWLUG's proposal to increase the Industrial customer charge. PAWLUG MB at 27-28.

6. Victory Brewing's Position

In the event that the Commission approves a revenue requirement that is less than the Company's request, PAWC argued that the proposed water rates, wastewater rates, and reallocation from wastewater to water under Act 11, should all be scaled back proportionally so that the same relative percentages be maintained.⁹⁰⁶ Victory Brewing accepts the scale back proposal presented by PAWC. Victory Brewing MB at 8.

7. ALJs' Recommendation

We recommend that the Commission adopt PAWC's position on the scale back of rates. As explained by PAWC witness Rea:

The Company's position for the scale back of rates is that in the event that the Commission approves a revenue requirement that is less than that proposed by the Company, the Company proposes to reduce the revenue requirements for water service and wastewater service, and the proposed amount of reallocation from wastewater to water under Act 11 to be proportional so that the same relative percentages to the total of water service revenue requirement, wastewater service revenue requirement, and Act 11 reallocation amounts be maintained at proposed levels. The Company believes that the levels of rates for water service and wastewater service relative to each other should be maintained as proposed in the event that a lower revenue requirement is approved by the Commission in this case.^[907]

⁹⁰⁵ *Id* at 30.

⁹⁰⁶ PAWC St. 10, pp. 45-46.

⁹⁰⁷ PAWC St. 10-R, p. 37.

Adopting the Company's proposal to proportionately reduce the water and wastewater revenue requirements and the proposed amount of reallocation from wastewater to water under Act 11 would be an equitable scaleback while still allowing for some rate relief for wastewater customers under Act 11.

XII. ALTERNATIVE RATEMAKING REQUESTS

A. Revenue Decoupling Mechanism

1. PAWC's Position

PAWC's proposed revenue decoupling mechanism ("RDM") is an alternative rate design mechanism that couples traditional rate design with elements of Straight Fixed Variable ("SFV") Pricing. This mechanism couples the benefits of traditional rate design, including cost causation, affordability, gradualism, and efficiency of use, with the increased revenue stability available to the Company through an SFV rate design. This mechanism compares the revenues collected under the actual Commission-approved rates customers pay with the revenues that would have been collected through an SFV rate design on a forward-looking basis and accrues the differences, which are either credited to customers or collected from customers at a later time. The proposed RDM identifies three cost components as the basis for revenues that would be collected through the SFV rate design that form the basis of the revenue comparisons going forward. These three cost components are: a Volumetric Charge, which is a charge in dollars per hundred gallons that applies to all water volumes sold to customers; a Residential Fixed Charge, which is a flat dollar charge per month that applies to all residential customers; and a Non-Residential Fixed Charge, which is a flat dollar amount that applies to all non-residential customers. The RDM is an alternative rate design mechanism whose purpose is to more reliably recover the revenue requirement and associated fixed costs approved by the Commission.⁹⁰⁸

⁹⁰⁸ PAWC St. 10, pp 89-90; PAWC St. 10-R, pp 64-65.

Decoupling mechanisms such as the RDM are explicitly authorized by Section 1330(b)(2).⁹⁰⁹ Recovery of fixed costs is a concern for PAWC as approximately 81% of PAWC's water and wastewater revenues are collected under volumetric rates while over 95% of its costs are fixed.⁹¹⁰ PAWC's ability to recover Commission-approved costs, therefore, will be diminished if water sales are less than anticipated. PAWC MB at 69.

PAWC's continued focused investment on non-revenue producing investments for the benefit of customers, coupled with variability in usage, means that revenues remain largely outside of PAWC's control.⁹¹¹ The RDM will compare revenues collected under Commission-approved rates with revenues that would have been collected through Straight Fixed Variable SFV Pricing. As noted, if actual revenues are higher than would have been collected under the RDM formula, the difference is credited to customers in the following year. If actual revenues are lower than would have been collected under the RDM formula, the difference will be collected from customers in the following year. PAWC MB at 70.

PAWC maintains that the RDM does not shift risk either to or away from customers; both PAWC and customers continue to share revenue risk, as the RDM can result in either a credit or surcharge to customers depending on PAWC's actual results compared to the SFV price components.⁹¹² Further, the RDM does not guarantee recovery of PAWC's authorized return. PAWC also avers that subjecting the RDM to a cap would decrease the utility of the RDM and undermine the revenue requirement authorized by the Commission in this proceeding, as the express purpose of the RDM is to collect the revenues authorized in this proceeding reflective of PAWC's cost of service.⁹¹³ PAWC MB at 70-71.

⁹⁰⁹ 66 Pa.C.S. § 1330(b).

⁹¹⁰ PAWC St. 10, p. 86.

⁹¹¹ PAWC St. 1, p. 25.

⁹¹² PAWC St. 10-R, pp. 73-74.

⁹¹³ PAWC St. 10-R, p. 77.

While recognizing that there are other rate recommendations available to PAWC such as a declining use adjustment, the use of the FPFTY and the DSIC,⁹¹⁴ PAWC avers that none of these mechanisms address the specific issue that the RDM is intended to solve, which is revenue volatility resulting from declining consumption and other events that impact forecasted usage.⁹¹⁵ PAWC MB at 71.

PAWC explains that any credits or surcharges generated as a result of application of the RDM are not expected to affect affordability, and any credits or surcharges will also be subject to PAWC's BDP, which will minimize any effects on low-income customers.⁹¹⁶ In addition, PAWC maintains that there is no evidence to suggest that declines in usage are more concentrated in higher-income households than lower-income households. While changes in revenue arising from weather can be more attributable to higher income customers, general declines in consumption are attributable to all residential customers.⁹¹⁷ The RDM will also not discourage conservation as customers that undertake conservation efforts will still be rewarded with a lower bill regardless of the actual rates in effect.⁹¹⁸ PAWC contends that the bill savings from conservation will outweigh the estimated surcharge resulting from implementation of the RDM. Moreover, application of the RDM removes the "throughput incentive" associated with the volumetric components of PAWC's rate structure, which removes any financial disincentive to promote end-use efficiency.⁹¹⁹ PAWC MB at 71-72.

PAWC disagrees that the RDM should be limited to residential customers, or that it should exclude the Industrial class.⁹²⁰ The purpose of the RDM is to address revenue volatility. Revenue volatility is not constrained to the residential class. All non-residential

⁹¹⁴ See I&E St. 4, p. 15; OCA St. 1, pp. 46-47; Cleveland-Cliffs St. 1, p. 15.

⁹¹⁵ PAWC St. 10-R, pp. 75-76.

⁹¹⁶ PAWC St. 10-R, p. 74.

⁹¹⁷ *Id* at 74-75.

⁹¹⁸ *Id* at 72.

⁹¹⁹ PAWC St. 1, p. 25.

⁹²⁰ See OSBA St. 1, p. 39; Cleveland-Cliffs St. 1, p. 15-16.

customers are susceptible to revenue volatility including industrial and municipal customers.⁹²¹ PAWC also does not expect the RDM to negatively impact cross-subsidization of costs between customer classes,⁹²² since any RDM credit or surcharge will be minor compared to the overall level of volumetric rates approved in the proceeding.⁹²³ PAWC MB at 72.

PAWC also disagrees with parties that criticized the RDM due to alleged complexity or that it would lead to rate instability and rate confusion. The primary purpose of the RDM is to reduce instability. Application of the RDM will reduce volatility in rates resulting from unexpected usage, and will “smooth out” revenues over the longer term for the benefit of customers and PAWC.⁹²⁴ In addition, no party has shown that the RDM will be more confusing to customers than any of the other riders or credits that are regularly approved by the Commission.⁹²⁵ Furthermore, PAWC disagrees with contentions that the RDM does not satisfy the fourteen factors of the Commission’s alternative ratemaking policy statement.⁹²⁶ PAWC avers that it provided a detailed response as to how the RDM addresses each of the fourteen factors that the Commission may consider and, when taken together, those detailed responses support the approval of the RDM.⁹²⁷ PAWC MB at 72-73.

Additionally, PAWC disagrees with arguments that low-income customers will be harmed. These arguments are predicated on the unsupported assumption that usage will decrease due to the widespread adoption of water efficient appliances or other efforts to increase efficiency, which are only within reach of higher-income customers. PAWC counters that changes in revenue resulting from consumption arise from all customers, not just higher-income

⁹²¹ PAWC Sts. 10-R, p. 70 & 10-SR, p. 2.; Tr. 2008-09.

⁹²² PAWLUG St. 1, pp. 17-18.

⁹²³ PAWC St. 10-R, pp. 76-77.

⁹²⁴ *Id* at 73.

⁹²⁵ *Id.*

⁹²⁶ 52 Pa. Code § 69.3302.

⁹²⁷ PAWC St. 10, p. 101; PAWC St. 10-R, pp. 70-71; PAWC Ex. CBR-10.

customers.⁹²⁸ Additionally, efficiencies achieved through appliance replacement affect all customers, not just higher income customers.⁹²⁹ Therefore, low-income customers would not be disadvantaged, and the RDM will be applied to customer bills after the BDP discount has been applied, which, in the event there is an RDM charge, will result in a reduced RDM charge compared to the RDM absent the BDP.⁹³⁰ Low-income customers would also enjoy the benefit of a credit in the event of over-recovery by the Company. PAWC RB at 61.

2. I&E's Position

The proposed RDM is an alternative rate design mechanism whose purpose is to more reliably recover the revenue requirement and associated fixed costs approved by the Commission in this case. In other words, the Company is proposing to stabilize its revenue level received from customers by charging or crediting the difference between the revenue requirement and fixed cost authorized in this case and actual revenues to customers in the subsequent year.⁹³¹

I&E does not agree that the Company has established a need for revenue stabilization, especially when it is also simultaneously proposing a declining usage adjustment in this case. The proposed RDM will devalue conservation efforts undertaken by customers that can afford efficiency measures and harm customers who cannot afford these measures by assessing an additional charge to all customers. Furthermore, the proposal does not achieve the policy goals supported based on the Commission's policy statement associated with Section 1330 of the Code, or the Code itself. Finally, it is likely to cause rate confusion with yet another surcharge on PAWC's customer bills. I&E MB at 94.

⁹²⁸ PAWC St. 10-R, p. 74.

⁹²⁹ *Id.*

⁹³⁰ *Id.* at n. 5.

⁹³¹ PAWC St. 10, pp. 86-87.

Generally, the sole way for a utility customer to reduce their bill is through conservation efforts. This is particularly true for water customers. Unlike gas and electric utilities, there is no way for a water customer to shop for a new supplier. As explained by OCA witness Mierzwa, the RDM will force these customers who take measures to reduce their water consumption to share some, or nearly all, of their bill savings with the utility.⁹³² I&E MB at 94.

The purpose of revenue stabilization is to remove the inherent risk of not recovering the full amount of revenue requirement allowed by the Commission due to changes in usage. However, through Act 11 and the FPFTY, the Company is permitted to build into its revenue requirement an adjustment for revenue lost due to a decline in usage that is projected to occur after rates go into effect. Between the frequent base rate cases filed by the Company, only one and a half years since the last previous filing, the FPFTY, and the DSIC, the Company has demonstrated no need for further revenue stabilization measures. I&E MB at 94.

Additionally, PAWC has not demonstrated that the RDM would even decrease the need to file base rate cases. In fact, the Company notes, “if future rate cases are driven by future investment needs and associated cost recovery, the RDM would not reduce the need for such cases.”⁹³³ The main driver of the Company’s most recent four base rate cases seems to be its investment in infrastructure. Taking into account that the Company has not indicated that it will not continue to make substantial infrastructure investments, it does not appear likely that the RDM would lessen the frequency with which PAWC files base rate cases. Taking all this into account indicates that all the benefits of the RDM would flow to PAWC, while all the risk of having to return cost savings achieved through conservation would fall on PAWC’s ratepayers. I&E MB at 95.

I&E avers that for the RDM to be approved, it should have some benefit to customers; however, in this case, it not only would not provide any benefit, but it may harm customers by causing them to overpay and negating any cost incentive to conserve water.

⁹³² OCA St. 4, p. 58.

⁹³³ PAWC Ex. CBR-10.

Customers who undertake conservation efforts will see their savings eroded and their investment payback time increased as the Company is permitted to increase rates in response to usage declines. I&E MB at 96.

I&E further avers that customers who lack the financial means to undertake conservation efforts such as low-flow toilets, low flow faucets, and the like, will be penalized by the RDM, which increases rates to address usage reductions. PAWC has specifically stated in its response to OCA 6-59 that the RDM does not account for low-income participation.⁹³⁴ Therefore, there are potentially many customers whose ability to pay may be compromised as their rates increase to address conservation efforts undertaken by those more able to afford such measures, or from more low-income customers enrolling in the BDP than was originally anticipated.⁹³⁵ Finally, there is no expectation it will lead to fewer base rate cases. The facts show that customers would be harmed by the proposal and all benefits will flow only to the Company; therefore, there is no demonstrated need for the RDM. I&E MB at 96.

Additionally, I&E argues that the RDM is unlikely to serve to encourage water efficiency and conservation, and is instead likely to discourage conservation as cost savings are eroded. As I&E witness Cline explained, the RDM will appear as a random surcharge or credit on the customer's bill that is completely removed from their own usage and will create confusion. Specifically, by calculating the RDM based on a total class-wide (or multiple classes in the case of non-residential customers) basis, a single customer, particularly low-usage customers, will be unable to affect whether they are assessed an additional surcharge or a credit on their bill in the subsequent year. It is the bill based on base charges where the customer can see an impact of their own conservation efforts that would encourage water efficiency and conservation. The only thing the RDM provides customers is the fear that the savings derived from conservation efforts will be lessened or eliminated, thus removing any real incentive to conserve.⁹³⁶ Regarding low-income customers, Mr. Cline notes that there are potentially many

⁹³⁴ I&E Ex. 4, Sch. 5.

⁹³⁵ I&E Ex. 4, Sch. 6.

⁹³⁶ I&E St. 4, p. 22.

customers who cannot undertake their own cost saving measures (such as installing low-flow appliances, faucets, or toilets).⁹³⁷ However, there are also those customers who do have the funds to install water saving devices in their homes. Mr. Cline explains “there are potentially many customers ... whose ability to pay may be compromised as their rates increase to address conservation efforts undertaken by more affluent customers or from more low-income customers enrolling in the BDP than was originally anticipated.”⁹³⁸ I&E MB at 97.

Currently, the only means by which a water customer may affect a reduction to their bill is through conservation. With the frequent base rate cases and increasing rates customers are already facing, along with the potential for the RDM to erode the benefits of conservation, it would not be in the public interest for the Commission to approve this alternative rate mechanism. I&E maintains that the risk to ratepayers of seeing their conservation savings eroded is not worth the benefit of proving this type of revenue stabilization to PAWC. I&E MB at 98.

3. OCA’s Position

The OCA avers that PAWC has failed to demonstrate that the RDM will “enhance the safety, security, reliability or availability of utility infrastructure.”⁹³⁹ The OCA further avers that PAWC has failed to demonstrate by a preponderance of evidence that the RDM is “consistent with efficient consumption of utility service.”⁹⁴⁰ The OCA notes that the RDM uses rate true-ups resulting from over- or under-recovery of revenues, and such true-ups produce after-the-fact surcharges or credits that misalign consumption decisions with actual utility costs. If sales decrease, the RDM formula will adjust rates to charge customers to make-up for the reduced recovery due to decreased sales.⁹⁴¹ Moreover, the RDM does not provide rate stability

⁹³⁷ I&E St. 4, p. 23.

⁹³⁸ I&E St. 4, p. 23.

⁹³⁹ 66 Pa.C.S. § 1330(a)(2).

⁹⁴⁰ 66 Pa.C.S. § 1330(a)(2).

⁹⁴¹ OCA St. 1, p. 47.

to customer bills because the design of the RDM uses adjustments to customers' bills to maintain revenue levels.⁹⁴² Additionally, the RDM will not be understandable to customers, especially when combined with the quarterly rate changes that occur under PAWC's DSIC, as the RDM would add another surcharge to customers' bills which would change on a monthly basis and would be unlikely to reduce the frequency of base rate or DSIC rate filings.⁹⁴³ OCA MB at 84-85.

The OCA is also concerned that the RDM is monopolistic excess that will harm customers unless the Company's ROE is adjusted downward to reflect the shifting of risk from PAWC to consumers. Under the RDM, the risk of recovery of PAWC's revenue requirement due to declining consumption is shifted wholly to customers; however, PAWC has not proposed to reduce its equity return to reflect the reduction in risk associated with implementation of the RDM.⁹⁴⁴ Moreover, PAWC's FPFTY consumption projections in this proceeding already reflect declining per-customer water usage and investors benefit from the reduction in regulatory lag associated with use of the FPFTY.⁹⁴⁵ The RDM shifts risk from the Company, which is compensated for that risk, to customers who would be forced to bear that risk for no compensation.⁹⁴⁶ The RDM would lower PAWC's risk profile, and the OCA believes that this lower risk would then need to be reflected in the approved ROE.⁹⁴⁷ Accordingly, the OCA recommends that if the Commission decides to adopt the RDM, then the Commission should adopt a ROE at the lower end of the OCA's modeling range at 8.7% to reflect the commensurate decrease in risk that PAWC will experience.⁹⁴⁸ OCA MB at 86-87.

⁹⁴² OCA St. 1SR, p. 26; OCA St. 4, p. 59.

⁹⁴³ OCA St. 4, p. 59; OCA St. 4SR, p. 22.

⁹⁴⁴ OCA St. 4, p. 60.

⁹⁴⁵ OCA St. 4, p. 60; OCA St. 4SR, p. 23.

⁹⁴⁶ OCA St. 3, p. 19; OCA St. 4, p. 60; OCA St. 4SR, pp. 23-24.

⁹⁴⁷ OCA St. 3, p. 19.

⁹⁴⁸ OCA St. 3, p. 19.

An additional concern raised by the OCA is that the RDM would result in a transfer of costs from higher-income customers to lower-income customers because actions taken by customers to reduce water consumption are disproportionately taken by higher income households.⁹⁴⁹ The RDM takes revenue that has historically been billed to all customers and, as more customers take steps to reduce their consumption, it reallocates those dollars to the customers (and their consumption) that remain. The customers left behind by this reallocation are disproportionately low-income customers. Thus, PAWC proposes to take those revenues that had been billed to higher income households and reallocate them to low-income households who do not have the financial capacity to make investments in water conservation measures. OCA St. 5 at 81. OCA MB at 87.

The OCA also believes that the RDM proposal does not make provision for customer arrearages in its calculation of actual revenues recovered. PAWC would be “recovering not merely revenues that have been reduced due to weather or conservation investments, but also revenues the payment of which have merely been delayed or postponed.”⁹⁵⁰ Regarding AMP, as participants enter the program their arrearages will be frozen, and with successful participation, ultimately forgiven. Once a participant’s arrearages are frozen or forgiven, there will be a reduction in the actual revenues recovered element of the RDM. New BDP participants, who are expected to comprise the bulk of AMP participants, will bring substantial pre-program arrearages into the AMP. But under the RDM, those unrecovered pre-program arrearages will be recovered as lost revenues since they would be a component of any reduction in actual revenues recovered. The OCA avers that it would be inappropriate to recover these reductions through the RDM and then also recover them through a specific AMP adjustment to the revenue requirement.⁹⁵¹ OCA MB at 87-88.

⁹⁴⁹ OCA St. 5, pp. 79-80.

⁹⁵⁰ OCA St. 5, pp. 84-85.

⁹⁵¹ OCA St. 5, pp. 87-88.

Lastly, and similar to I&E, the OCA argues that PAWC has failed to demonstrate that its proposal meets the fourteen factors set forth in the Commission Statement of Policy to be considered when proposing an alternative ratemaking mechanism.⁹⁵² OCA MB at 88.

4. OSBA's Position

The OSBA notes that if the Commission approves the proposed RDM, it would operate by comparing the difference between actual revenue collected and hypothetical revenue collected, which would be calculated by using a SFV rate design. If actual revenues are greater than hypothetical revenues, PAWC would credit the difference to customers in a subsequent year. If actual revenues are less than hypothetical revenues, PAWC would collect the difference from customers in a subsequent year.⁹⁵³ Under this mechanism, if a larger small business, such as an industrial facility, went out of business or moved to Kentucky, the remaining small businesses would have to pick up the revenue shortfall calculated by PAWC's RDM.⁹⁵⁴ Accordingly, the OSBA opposes the PAWC's proposed RDM, and requests that the Commission reject it. OSBA MB at 22-23.

5. CAUSE-PA's Position

CAUSE-PA is opposed to the proposed RDM, as it unreasonably prejudices and disadvantages residential customers who practice conservation to lower their monthly bills and will disproportionately impact low-income customers. CAUSE-PA MB at 30.

PAWC's argument that customers will retain some ability to reduce costs through conservation does not negate the fact that the RDM will detract from savings that may be achieved through customers' conservation efforts.⁹⁵⁵ As proposed, the RDM improperly affects

⁹⁵² 52 Pa. Code § 69.3302(a)(1)-(14).

⁹⁵³ OSBA St. 1, pp. 37-38.

⁹⁵⁴ OSBA St. 1, p. 39.

⁹⁵⁵ CAUSE-PA St. 1, p. 16: 1-14.

customer consumption and demand level so that customers are disincentivized from practicing conservation.⁹⁵⁶ Of note, PAWC's proposed winter averaging methodology also disincentivizes conservation in the summer months, when water usage is highest, compounding conservation impacts of the RDM. CAUSE-PA MB at 30.

Similar to I&E and OCA, CAUSE-PA avers that the proposed RDM fails to meet the factors set forth in Section 69.3302(a).⁹⁵⁷ CAUSE-PA maintains that PAWC failed to meet its burden to show that the alternative rate mechanism is just and reasonable. CAUSE-PA concludes that the proposed RMD would significantly and negatively disincentive customers conservation efforts and incentives to practice conservation and access efficiency programs. In addition, pursuant to Section 69.3302(a)(7) and (8),⁹⁵⁸ the proposed RDM is particularly problematic for low-income customers who already face significant water and wastewater burdens. Low-income customers often lack funds to invest in conservation devices and upgrades.⁹⁵⁹ CAUSE-PA asserts that these customers should not be hampered in their ability to practice conservation and achieve resulting bill savings by imposing the proposed RDM.⁹⁶⁰ CAUSE-PA MB at 30.

CAUSE-PA further argues that PAWC's proposed RDM does not contain adequate consumer protections, a factor for consideration pursuant to Section 69.3302(a)(12).⁹⁶¹ The proposed RDM is designed to apply to both water and wastewater services⁹⁶² – and to all customers in the residential, commercial, industrial, municipal, and sales for resale classes

⁹⁵⁶ CAUSE-PA St. 1, p. 16: 1-14.

⁹⁵⁷ 52 Pa. Code § 69.3302(a).

⁹⁵⁸ 52 Pa. Code § 69.3302(a)(7), (8).

⁹⁵⁹ CAUSE-PA St. 1, p. 16: 1-14.

⁹⁶⁰ *Id.*

⁹⁶¹ 52 Pa. Code § 69.3302(a)(12).

⁹⁶² CAUSE-PA St. 1, pp. 16-17; PAWC St. 10, pp. 93-94.

(except for those customers with service under contract rates) classes.⁹⁶³ PAWC's low-income customers would have to bear additional costs stemming from the RDM, if approved, without any specific mitigation.⁹⁶⁴ These additional costs would exacerbate any increases in unaffordability if PAWC is permitted to increase its base rates, apply its proposed winter averaging methodology, or implement its proposed ECIC. As proposed, the RDM does not insulate low-income customers from additional and inequitable rate burdens.⁹⁶⁵ In addition, pursuant to Section 69.3302(a)(8),⁹⁶⁶ low-income customers will be placed in greater risk of arrears and termination as a result of this increased unaffordability, jeopardizing their ability to access consistent and reliable services.⁹⁶⁷ CAUSE-PA MB at 31.

CAUSE-PA is further concerned that the RDM will not be understandable to consumers, a factor for consideration pursuant to Section 69.3302(a)(13). As Mr. Geller explained, the proposed RDM "is a highly complex design and formula underpinned by rate design principles."⁹⁶⁸ Moreover, there is no indication of what, if any, consumer education efforts PAWC intends to make around the RDM if the mechanism is approved, or whether consumers will have any recourse if they have questions or concerns about RDM-related charges.⁹⁶⁹ CAUSE-PA MB at 31-32.

Section 69.3302(a)(10)⁹⁷⁰ sets forth a factor for consideration related to how a ratemaking mechanism would impact the frequency of rate case filings and effect of regulatory lag. CAUSE-PA argues that there is no evidence to suggest that implementation of the RDM

⁹⁶³ CAUSE-PA St. 1, pp. 16-17; PAWC St. 10, p. 94.

⁹⁶⁴ CAUSE-PA St. 1, pp. 16-17

⁹⁶⁵ CAUSE-PA St. 1, pp. 16-17.

⁹⁶⁶ 52 Pa. Code § 69.3302(a)(8).

⁹⁶⁷ CAUSE-PA St. 1, pp. 16-17

⁹⁶⁸ CAUSE-PA St. 1, pp. 16-17. Supplement No. 45 to Tariff Water-PA P.U.C. No. 5 Seventh Revised Page 40.

⁹⁶⁹ CAUSE-PA St. 1, pp. 16-17.

⁹⁷⁰ 52 Pa. Code § 69.3302(a)(10).

will lessen the severity or frequency of future rate increases. As discussed by PAWC's expert witnesses, PAWC's justification for its instant rate increase proposal stems from various factors unrelated to customer conservation.⁹⁷¹ CAUSE-PA MB at 32.

CAUSE-PA concludes that the RDM disincentivizes conservation, falling hardest on PAWC's low-income customers. CAUSE-PA urges the Commission to reject the proposed RDM in its entirety. If the Commission ultimately permits PAWC to implement an RDM, CAUSE-PA recommends that BDP customers be exempted from RDM charges to protect these financially vulnerable customers from the negative effects of the RDM.⁹⁷² CAUSE-PA MB at 33.

6. PAWLUG's Position

PAWC's proposed RDM disadvantages customers on multiple fronts by creating additional administrative burdens, eroding conservation incentives, and exposing customers to interclass subsidization. PAWLUG witness LaConte describes PAWC's RDM as follows:

The RDM would track changes in net revenues (water revenues less production costs) between the authorized revenues for all customers in the residential, commercial, industrial, municipal, and sales for resale classes, excluding customers taking service under contract rates. Production costs, which include power, chemicals, purchased water and waste disposal, would be removed. Any positive (negative) difference would be refunded (surcharged) to customers. The RDM would apply to water operations and wastewater operations.⁹⁷³

Ms. LaConte also confirms that the RDM would apply straight-fixed variable rates to actual sales to determine the revenues PAWC should have recovered.⁹⁷⁴ PAWLUG MB at 28-29.

⁹⁷¹ PAWC St. 1, pp. 7-8. CAUSE-PA St. 1, pp. 16-17

⁹⁷² CAUSE-PA St. 1, pp. 16-17

⁹⁷³ PAWLUG St. 1, p. 11.

⁹⁷⁴ *Id* at 12.

PAWLUG argues that PAWC's proposed RDM suffers from multiple flaws and would result in unjust, unreasonable, and unduly discriminatory rates.⁹⁷⁵ The proposed surcharge would impose administrative burdens on PAWC's customers by creating a new annual regulatory filing subject to comments and potential hearings.⁹⁷⁶ PAWLUG avers that the RDM will erode customers' incentive to conserve water.⁹⁷⁷ Of great concern to PAWLUG is that the RDM conflicts with cost causation by applying a uniform surcharge to all non-residential customers. As concluded by PAWC witness LaConte, this rate structure would "impact interclass cost shifting between the various non-residential customer classes, including commercial, industrial, and municipal water customers."⁹⁷⁸ PAWLUG MB at 29.

For these reasons, PAWLUG maintains that PAWC's RDM should be rejected. If the Commission resolves to approve the RDM despite its flaws, PAWLUG avers that the Commission should exempt Industrial and Municipal customers from the RDM due to the lack of evidence that these customers are materially impacted by conservation measures, weather, or a declining number of customers.⁹⁷⁹ At the minimum, the Commission should condition any approval of the RDM on heightened protections detailed by PAWC witness LaConte, including implementation of an "earnings" test and an asymmetrical 3% cap on a surcharge. As explained by Ms. LaConte, capping the RDM is a critical customer protection because the cap provides customers with a range of impacts for their own annual budgeting.⁹⁸⁰ An earnings test, requiring PAWC to monitor its earnings under the RDM and, where earnings show the Company exceeding its authorized rate of return by more than 50 basis points, refund 50% of the excess

⁹⁷⁵ 66 Pa.C.S. §§ 1301 & 1304.

⁹⁷⁶ PAWLUG St. 1, p. 12.

⁹⁷⁷ *Id* at 13.

⁹⁷⁸ *Id* at 13.

⁹⁷⁹ PAWLUG St. 1-R, p. 10.

⁹⁸⁰ *Id* at 14.

earnings to customers through adjustments to the RDM surcharge or credit.⁹⁸¹ PAWLUG MB at 29-30.

7. Cleveland-Cliffs' Position

Cleveland-Cliffs recommends that the Commission reject the proposed RDM. Cleveland-Cliffs first notes that the Commission has already approved the Company's DSIC, a mechanism designed to provide accelerated cost recovery to PAWC for certain system improvements. The DSIC has been and will continue to be an important ongoing source of additional revenue collection outside of traditional rate case proceedings for PAWC.⁹⁸² Cleveland-Cliffs MB at 7.

Additionally, Cleveland-Cliffs notes that the Company already has the opportunity to include forecasted costs and investments through the use of a forecasted test year. In this case, PAWC used a fully projected future test year through June 30, 2025. This provides a significant benefit to PAWC compared to using an historic test period, which in this case would be a 12-month period ending June 30, 2023.⁹⁸³ Cleveland-Cliffs MB at 8.

Cleveland-Cliffs avers that both the DSIC and the use of a future test year serve to reduce regulatory lag and enhance PAWC's revenue stream between rate proceedings. Therefore, the implementation of another revenue recovery tracker is unnecessary. Cleveland-Cliffs MB at 8.

Cleveland-Cliffs suggests that, if the Commission does decide to approve the proposed RDM, it should not include the Industrial class in the tracker. PAWC witness Rea only provided an analysis of conservation-related revenue losses from the Residential, Commercial, and Public (Municipal) classes. Mr. Rea did not present any analysis suggesting that weather

⁹⁸¹ *Id.*

⁹⁸² Cleveland-Cliffs St. 1, p. 15.

⁹⁸³ *Id.*

influences industrial water consumption. Therefore, Cleveland-Cliffs asserts that PAWC has failed in its burden to support the implementation of an RDM for industrial water users.⁹⁸⁴ Cleveland-Cliffs MB at 8.

Cleveland-Cliffs avers that there is no evidence in this case that the Industrial class is affected by conservation measures, weather, or declining numbers of customers. It is generally understood that industrial customers have a natural incentive to implement cost-effective investments in efficient use (as well as electricity and natural gas) and are therefore unsuitable customers for an RDM tracker. PAWC's case does nothing to counter this argument.⁹⁸⁵ Cleveland-Cliffs MB at 8.

Cleveland-Cliffs argues that the proposed RDM also presents significant problems with interclass allocations of lost revenues. If the RDM were applied to all customers in the Residential, Commercial, Industrial and Municipal classes, as PAWC proposes, any revenue shortfall would be collected from all customers. If continued conservation in Residential class's revenues declined from the Commission-authorized level in this case, that revenue shortfall would be collected from all customers, not just from the Residential class. Cleveland-Cliffs maintains that it is unreasonable to allow lost revenue in one customer class to bleed over to other classes in between rate cases.⁹⁸⁶ Cleveland-Cliffs MB at 8-9.

Cleveland-Cliffs explains that this problem would not be solved by confining lost Industrial revenues to the Industrial class. Industrial class revenues could rise or fall based on market conditions and on the general economy. Further, if a single industrial customer left PAWC's system, the loss in revenues from that customer would be confined to the rest of the Industrial customers and would have to be picked up by those customers. This could have a devastating rate impact on those customers depending on the volumes that were lost from the

⁹⁸⁴ Baudino Direct, p. 16.

⁹⁸⁵ *Id.*

⁹⁸⁶ *Id.* at 17-18.

departing industrial customer. Industrial customers must not be placed in such a risky and potentially damaging position by the operation of an RDM.⁹⁸⁷ Cleveland-Cliffs MB at 9.

Accordingly, Cleveland-Cliffs recommends that the Commission reject PAWC's RDM, or exclude the Industrial class of customers if it decides to implement a RDM in this case. Cleveland-Cliffs MB at 9.

8. Victory Brewing's Position

Victory Brewing referenced testimony offered by several of the other party witnesses in support of its position opposing PAWC's RDM. Victory Brewing referenced OCA witness Hoover's testimony, noting the many proposals PAWC has set forth to guarantee recovery of all costs between rate cases which would effectively shift all risk of recovery away from the Company and wholly onto ratepayers.⁹⁸⁸ The RDM would not "*enhance* the safety, security, reliability or availability of utility infrastructure" as required by Section 1330(a)(2), and also sends inaccurate price signals to customers.⁹⁸⁹ Victory Brewing MB at 9.

Additionally, Victory Brewing referenced PAWLUG witness LaConte's description of straight-fixed variable method as a form of revenue decoupling. Ms. LaConte explained that PAWC proposes to adjust the ADM annually, creating a new burden for PAWC's customers.⁹⁹⁰ She further pointed to the interclass cost shifting that would occur among various non-residential customer classes, concluding that this "is not a reasonable outcome."⁹⁹¹ Victory Brewing MB at 10.

⁹⁸⁷ *Id* at 18.

⁹⁸⁸ OCA St. 1, pp. 44-48.

⁹⁸⁹ *Id* at 46; 47-48.

⁹⁹⁰ PAWLUG St. 1, pp. 11-12.

⁹⁹¹ PAWLUG St. 1, pp. 12-13.

Lastly, Victory Brewing noted I&E witness Cline’s testimony explaining that, revenue stability “is not sufficient support to base monthly or annual goal revenues on rate components that are not consistent with cost-causation principles [and] has the potential to reduce incentives to use utility service efficiently.”⁹⁹² In sum, Mr. Cline testified that this mechanism “strays too far from the concerns of affordability and conservation in the name of revenue stability for the Company.”⁹⁹³ Victory Brewing MB at 10.

Victory Brewing agrees with the positions of I&E, OCA, Cleveland-Cliffs and PAWLUG arguing that the RDM should be rejected. If the proposal is accepted, Victory Brewing agrees with the recommendation proffered by Cleveland-Cliffs to exclude the Industrial class. Victory Brewing MB at 10.

9. ALJs’ Recommendation

The Public Utility Code provides that “[i]t is the policy of the Commonwealth that utility ratemaking should encourage and sustain investment through appropriate cost-recovery mechanisms to enhance the safety, security, reliability or availability of utility infrastructure and be consistent with the efficient consumption of utility service.”⁹⁹⁴

Regarding alternative rate mechanisms, the Public Utility Code provides in pertinent part:

Notwithstanding any other provision of law, including, but not limited to, sections 2806.1(k)(2) (relating to energy efficiency and conservation program) and 2807(f)(4) (relating to duties of electric distribution companies), the commission may approve an application by a utility in a base rate proceeding to establish alternative rates and rate mechanisms, including, but not limited to, the following mechanisms . . . decoupling mechanisms.^[995]

⁹⁹² I&E St. 4, pp. 13-14.

⁹⁹³ I&E St. 4, p. 14.

⁹⁹⁴ 66 Pa.C.S. § 1330(a)(2)

⁹⁹⁵ *Id* at § 1330(b)(i).

Additionally, the Commission's policy statement on distribution rate considerations provides the following:

(a) In determining just and reasonable alternative distribution ratemaking mechanisms and rate designs that promote the purpose and scope of this statement of policy and the objectives of 66 Pa.C.S. § 1330 (relating to alternative ratemaking for utilities), the Commission may consider, among other relevant factors, the following:

- (1) How the ratemaking mechanism and rate design align revenues with cost causation principles as to both fixed and variable costs.
- (2) How the ratemaking mechanism and rate design impact the fixed utility's capacity utilization.
- (3) Whether the ratemaking mechanism and rate design reflect the level of demand associated with the customer's anticipated consumption levels.
- (4) How the ratemaking mechanism and rate design limit or eliminate interclass and intraclass cost shifting.
- (5) How the ratemaking mechanism and rate design limit or eliminate disincentives for the promotion of efficiency programs.
- (6) How the ratemaking mechanism and rate design impact customer incentives to employ efficiency measures and distributed energy resources.
- (7) How the ratemaking mechanism and rate design impact low-income customers and support consumer assistance programs.
- (8) How the ratemaking mechanism and rate design impact customer rate stability principles.
- (9) How weather impacts utility revenue under the ratemaking mechanism and rate design.

(10) How the ratemaking mechanism and rate design impact the frequency of rate case filings and affect regulatory lag.

(11) If or how the ratemaking mechanism and rate design interact with other revenue sources, such as Section 1307 automatic adjustment surcharges, 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments), riders such as 66 Pa.C.S. § 2804(9) (relating to standards for restructuring of electric industry) or system improvement charges, 66 Pa.C.S. § 1353 (relating to distribution system improvement charge).

(12) Whether the alternative ratemaking mechanism and rate design include appropriate consumer protections.

(13) Whether the alternative ratemaking mechanism and rate design are understandable to consumers.

(14) How the ratemaking mechanism and rate design will support improvements in utility reliability.^[996]

We agree with I&E, OCA, OSBA, CAUSE-PA, PAWLUG, and Cleveland-Cliffs that approval of PAWC's proposed RDM is not in the public interest. PAWC's proposed RDM will ultimately negate consumer conservation efforts, and those who do take measures to conserve water usage will end up giving some of their monetary savings back to the Company.

The purpose of revenue stabilization is to remove the risk of not recovering the full amount of permitted revenue requirement. However, the Company has already compensated for revenue shortfalls through Act 11, the FPFTY, its DSIC and its frequent rate case filings. We agree that the Company has not demonstrated a need for a further revenue stabilization measure.

Additionally, a review of the proposed RDM in light of the Commission's policy statement further demonstrates that it is not a just and reasonable alternative distribution ratemaking mechanism. As noted by the OCA, the RDM does not provide rate stability to customer bills because the design of the RDM uses adjustments to customers' bills to maintain

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52 Pa. Code § 69.3302

revenue levels.⁹⁹⁷ Moreover, as noted by CAUSE-PA, low-income customers will be placed in greater risk of arrears and termination as a result of this increased unaffordability, jeopardizing their ability to access consistent and reliable services.⁹⁹⁸

Also, PAWC has not established how its RDM will impact the frequency of rate case filings. The Company advised:

To the extent that future rate cases are driven by lower-than-expected usage, the RDM likely would result in fewer rate cases, or at least rate cases seeking lower rate increases. However, the RDM does not affect future revenue requirements and does not recover fixed costs that are incurred after a rate case that are over and above those approved by the Commission. Therefore, if future rate cases are driven by future investment needs and associated cost recovery, the RDM would not reduce the need for such cases.^[999]

Since the Company could not take a firm position, the RDM's impact on the frequency of rate case filings is unknown.¹⁰⁰⁰

Also as noted by OCA, the RDM will not be understandable to customers, especially when combined with the quarterly rate changes that occur under PAWC's DSIC, as an RDM would add another surcharge to customers' bills which would change on a monthly basis.¹⁰⁰¹ Moreover, as noted by CAUSE-PA, there is no indication of what, if any, consumer education efforts PAWC would make around the RDM if approved.

For the aforementioned reasons, we recommend that the Commission reject PAWC's RDM.

⁹⁹⁷ 52 Pa. Code § 69.3302(a)(8).

⁹⁹⁸ *Id.*

⁹⁹⁹ PAWC Ex. CBR-10.

¹⁰⁰⁰ 52 Pa. Code § 69.3302(a)(10).

¹⁰⁰¹ 52 Pa. Code § 69.3302(a)(13).

B. Environmental Compliance Investment Charge

1. PAWC's Position

One of the alternative rate mechanisms specifically authorized by Section 1330(b)(2) is an automatic adjustment clause like the ECIC. PAWC's environmental compliance requirements are continuously evolving and increase the costs of water and wastewater service driving the need for rate relief.¹⁰⁰² The need for and timing of measures to comply with new or changed government mandates under applicable environmental laws are outside PAWC's control.¹⁰⁰³ The proposed ECIC will provide a reasonable mechanism for adjusting PAWC's rates between base rate cases to support full and timely rate recognition of costs to comply with new and updated environmental regulatory mandates in a prudent and efficient manner as they emerge.¹⁰⁰⁴ The ECIC will also mitigate customer exposure to less frequent but more significant rate increases in a general base rate case by producing much smaller, gradual increases to customer bills.¹⁰⁰⁵ Costs that are recoverable through the ECIC must be consistent with the set of projects and activities set forth in an annual environmental compliance plan ("ECP") that will be subject to PUC review and approval.¹⁰⁰⁶ PAWC MB at 73.

Environmental compliance is part of PAWC's "normal" responsibilities in providing service to its customers. Nonetheless, emerging regulations or re-interpretations of existing regulations often result in new governmental mandates that disrupt PAWC's proactive five-year plan of construction work and require the Company to undertake additional projects on

¹⁰⁰² I&E St. 3-SR, p. 35.

¹⁰⁰² PAWC Sts. 3, pp. 5-8, & 8, pp. 22-23; PAWC Ex. JCS-1.

¹⁰⁰³ PAWC St. 3, p. 5.

¹⁰⁰⁴ PAWC St. 8, pp. 21-22.

¹⁰⁰⁵ *Id.*

¹⁰⁰⁶ *Id.* at 25-26.

an expedited basis to comply with those changes that increase the cost of water and wastewater service.¹⁰⁰⁷ PAWC MB at 74.

One example of such a rapidly changing set of regulatory mandates involves the combination of federal and state regulations concerning per- and polyfluoroalkyl substances (“PFAS”). On March 14, 2023, the United States Environmental Protection Agency (“EPA”), issued proposed drinking water regulations for six PFAS that will establish maximum contaminant levels (“MCLs”), Maximum Contaminant Level Goals (“MCLGs”), and monitoring, public notice and treatment requirements.¹⁰⁰⁸ The EPA is expected to finalize those PFAS standards before the end of 2024 at which point public water systems will be required to modify their facilities to comply within three years.¹⁰⁰⁹ In addition, PADEP has promulgated state drinking water standards establishing strict MCLs and MCLGs for two PFAS with compliance monitoring mandates effective January 1, 2024. For PAWC, these impending federal and state regulations will require investments in the range of \$200 million before the end of 2027, based on preliminary estimates.¹⁰¹⁰ The ECIC will provide PAWC a reasonable opportunity to recover the capital costs and expenses incurred after June 30, 2025, to meet the challenges of providing high-quality water and wastewater service. PAWC MB at 74; PAWC RB at 63.

The ECIC will not lessen scrutiny of PAWC’s environmental compliance costs. If the ECIC is approved, the PUC and all parties will have the opportunity to proactively evaluate PAWC’s proposed investments and measures to comply with new environmental mandates before any costs are incurred.¹⁰¹¹ Whether or not a party is inclined to review the Company’s ECP and focus attention on the associated capital costs and expenses is at the

¹⁰⁰⁷ PAWC St. 3, pp. 3-5.

¹⁰⁰⁸ *Id.* at 5-9.

¹⁰⁰⁹ *Id.* at 6-7.

¹⁰¹⁰ *Id.*

¹⁰¹¹ PAWC St. 8-R, p. 11.

discretion of each party, but PAWC's proposal allows for full and fair ratemaking review of ECIC-eligible costs.¹⁰¹² PAWC MB at 74-75.

PAWC rejects any contention that PAWC's proposed ECIC is premature.¹⁰¹³ The Code requires utilities to propose alternative rate mechanisms as part of a base rate case, so it is timely for the Company to propose the ECIC in this case in advance of the need to file its first ECP.¹⁰¹⁴ PAWC analyzed how the fourteen factors in the PUC's alternative ratemaking policy statement apply to the ECIC in PAWC Exhibit JCS-1, which means the Commission has all of the information necessary to evaluate it as part of this proceeding.¹⁰¹⁵ Moreover, PAWC asserts that Rate adjustment mechanisms for infrastructure investments are not new to the utility industry. PAWC notes that utility commissions in 30 states have approved various forms of environmental compliance riders for energy utilities, and PAWC's affiliate, Indiana-American Water Company, has a reconcilable surcharge that allows for the recovery of environmental compliance costs.¹⁰¹⁶ PAWC MB at 75; PAWC RB at 64.

Regarding concerns raised in this proceeding about interclass cost shifting because the ECIC will be assessed as a flat percentage increase across PAWC's customer base,¹⁰¹⁷ PAWC avers that the ECIC is modeled upon the DSIC, with a similar formula and customer safeguards.¹⁰¹⁸ The PUC-approved DSICs of PAWC and other utilities do not draw a distinction between customer classes in calculating their percentage of billed revenues charged to customers.¹⁰¹⁹ All customers are charged the same percentage on the theory that the revenue

¹⁰¹² *Id.*

¹⁰¹³ *See* I&E St. 3, p. 26; PAWLUG St. 1, pp. 15-17.

¹⁰¹⁴ 66 Pa.C.S. § 1330(b)(1).

¹⁰¹⁵ *See* 52 Pa. Code § 69.3302.

¹⁰¹⁶ PAWC St. 8, p. 23.

¹⁰¹⁷ OCA Sts. 4, pp. 66-68 & 4-SR, pp. 30-31.

¹⁰¹⁸ PAWC St. 8-R, pp. 12-13.

¹⁰¹⁹ *Id.*

requirement was fairly allocated between customer classes in setting rates in the prior base rate.¹⁰²⁰ PAWC maintains that the ECIC should not be treated differently. PAWC MB at 75-76.

Regarding challenges to the design of the ECIC because the Company is not proposing an annual percentage cap on revenue like the DSIC,¹⁰²¹ PAWC witness Swiz explained that PAWC's DSIC investments are ongoing and programmatic, with ratable plans.¹⁰²² In contrast, ECIC-eligible costs could be similar in magnitude, but greater in scope and potentially over a much shorter period.¹⁰²³ Accordingly, PAWC avers that the application of rate caps for the ECIC presents unique challenges as each annual ECP could be different.¹⁰²⁴ PAWC RB at 64.

Lastly, PAWC notes that BDP participants will receive a discount on ECP costs. As PAWC witness Swiz explained, the discount would reduce the total bill before the proposed ECIC (and current DSIC) is applied.¹⁰²⁵ Accordingly, PAWC believes that the Commission should grant PAWC's request to implement the ECIC. PAWC MB at 76.

2. I&E's Position

I&E opposes the implementation of the ECIC for several reasons. First, the proposed environmental compliance plan would be filed outside the parameters of a base rate case, disrupting the ability of the Commission to review the data in the context of the total impact to ratepayers and with respect to other expenses that may be increasing or decreasing between rate cases, which constitutes single-issue ratemaking. I&E MB at 99.

¹⁰²⁰ *Id.*

¹⁰²¹ OCA MB at 95; PAWLUG MB at 31.

¹⁰²² PAWC St. 9-R, p. 15.

¹⁰²³ *Id.*

¹⁰²⁴ *Id.*

¹⁰²⁵ PAWC St. 8-R, pp. 13-15.

Second, I&E disagrees with PAWC witness Swiz's assertion that the ECIC will not impact efficiency incentives.¹⁰²⁶ The fact that changing regulations require the Company to make investments or increase spending in certain areas does not mean they should be virtually guaranteed recovery of all environmental compliance projects it undertakes no matter what. There may be more than one option for compliance or other ways to save money, but the ECIC could take away the incentive for the Company to explore the options if it can rely on guaranteed recovery. I&E MB at 99.

Third, I&E witness Okum explains, "it is difficult to adequately evaluate the impact of such a charge when the Company has not provided any measurable data associated with the charge."¹⁰²⁷ The Company has not projected any data related to the ECIC.¹⁰²⁸ The Company argues in response to I&E-RE-46-D¹⁰²⁹ that it plans to submit an environmental plan to the Commission before implementing the charge, therefore, the expense won't be unknown. However, the fact remains that the Company has not provided any forecasted data, so costs are, in fact, entirely unknown at this time. It is difficult, if not impossible, to evaluate the mechanism and methodology without better understanding the impact to ratepayers. I&E MB at 99-100.

Finally, although environmental issues will be ongoing as environmental science continues to evolve, the implementation of such a charge indefinitely seems, in I&E's view unnecessary. Environmental compliance has always been a normal part of a utility's expenditures and will be a normal part of PAWC's expenditures whether the ECIC is approved or not. All water and wastewater utilities nationwide face these same emerging contaminant issues. In I&E's view, implementing a rider recovery mechanism for just one company before any universal Commission action could occur and before any potential government funding has been established is simply premature. I&E does not dispute that a utility should generally be able to recover costs associated with environmental compliance; however, I&E does not believe

¹⁰²⁶ PAWC St. 8, Ex. JCS-1, p. 1.

¹⁰²⁷ I&E St. 1, p. 35.

¹⁰²⁸ I&E Ex. 1, Sch. 7.

¹⁰²⁹ I&E Ex. 1, Sch. 8.

that an open-ended surcharge, such as what has been proposed by PAWC, is the proper way to do so, and not while there are still so many unknowns. I&E MB at 100.

The issue of environmental rules changes to deal with PFAS and other issues is an industry-wide concern facing all water utilities in the Commonwealth. At this juncture, final regulations have not been formulated, and the Commission has not had the opportunity to react to this situation on a utility-wide basis as it has done in other areas such as COVID cost impacts. Moreover, this is not a concern that is limited just to Pennsylvania utilities, and like other issues such as lead, there may be federal or state programs and funding that have yet to be established to address this problem on a nationwide or state basis. Therefore, I&E maintains that approval of the ECIC in this proceeding would be premature and would not be in the public interest. I&E MB at 100-101.

3. OCA's Position

The OCA avers that PAWC has failed to demonstrate by a preponderance of evidence that the ECIC will “enhance the safety, security, reliability or availability of utility infrastructure.”¹⁰³⁰ Although PAWC has sought to model the ECIC on the DSIC/Long Term Infrastructure Investment Plan (LTIIIP) model with a plan/surcharge, the similarities are superficial. Unlike DSIC/LTIIP, which is aimed at accelerating the replacement of aging underground infrastructure above and beyond what is required under the law, the ECIC is aimed at shifting the risk of recovery of sizable and wide-ranging environmental capital investments from the Company to its customers based on what has traditionally been part of the Company’s normal business risk of complying with environmental laws.¹⁰³¹ The Company’s compliance with environmental laws is part and parcel of PAWC’s duty to meet the requirements of Section 1501 of the Code to maintain adequate, safe and reasonable service and facilities. The OCA maintains that PAWC has already shown that it can do this without any additional incentive or

¹⁰³⁰ 66 Pa.C.S. § 1330(a)(2).

¹⁰³¹ OCA St. 1, pp. 49-50.

inducement. Thus, PAWC has not shown how the ECIC will enhance the safety, security, or availability of utility infrastructure.¹⁰³² OCA MB at 88-89.

The OCA notes that traditionally the utility invests in capital projects, and if found to be just and reasonable, used and useful, and prudently incurred then the utility recovers those capital expenditures in rates. Contrary to PAWC witness Swiz's contention that the Environmental Plan review process will afford parties a full and fair opportunity to assess whether proposed projects are prudent and reasonable, a full and fair review can occur only as part of a base rate case.¹⁰³³ Similarly, in response to Mr. Swiz's statement that the ECIC helps ensure that PAWC receives adequate revenue to maintain safe, reliable and compliant Water and Wastewater service, this is the process that occurs in rate cases where all components of the cost of service are reviewed.¹⁰³⁴ As for Mr. Swiz's position that the ECIC will promote transparency of the ratemaking process as to environmental costs because a process will be put in place to review the Company's Environmental Plan, consumers and statutory advocates have limited resources and cannot realistically expect to review recurring ECIC plans filings with the same degree of scrutiny given to base rate cases.¹⁰³⁵ Nor does PAWC's proposal give parties time to do so. Under PAWC's proposed review process, quarterly updates would take effect on only 10 days' notice.¹⁰³⁶ Parties would be required to conduct review and discovery in an expedited time frame during which parties would also be required to respond to two different sets of revisions that the Company would have the option of filing within the same period.¹⁰³⁷ OCA MB at 91.

¹⁰³² OCA St. 1, pp. 49-50.

¹⁰³³ OCA St. 1 SR, p. 26.

¹⁰³⁴ OCA St. 1 SR, pp. 26-27.

¹⁰³⁵ OCA St. 4SR, p. 28.

¹⁰³⁶ OCA St. 4SR, p. 28.

¹⁰³⁷ OCA St. 4, pp. 69-70; OCA St. 4SR, p. 28.

The OCA further avers that PAWC has failed to demonstrate by a preponderance of evidence that the ECIC is “consistent with efficient consumption of utility service.”¹⁰³⁸ The ECIC does not align revenues with cost causation as to both fixed and variable costs.¹⁰³⁹ The ECIC will be assessed as a percentage applied to each customer’s total bill. Over 80% of the Company’s Water and Wastewater revenues will be collected under volumetric rates under the Company’s proposed rate structure in this case. However, the OCA notes that 95% of the costs associated with providing Water and Wastewater service are fixed.¹⁰⁴⁰ The ECIC is likely to result in interclass and intraclass cost shifting because it will be assessed as a percentage increase to the total amount billed and will not be assigned based on cost causation principles.¹⁰⁴¹ OCA MB at 91-92.

The OCA is also concerned that the ECIC is monopolistic excess that will harm customers unless the Company’s ROE is adjusted downward to reflect the shifting of risk from the Company to consumers. The ECIC is a broad, unrestricted surcharge to recover capital and operating expenses between rate cases that could prove to be a large component of a customer’s bill for usage, and even if limits were imposed on the surcharge, it is unnecessary and unreasonable. Expenditures of the magnitude proposed for the ECIC should be reviewed as part of a base rate case when they are reasonably certain to become used and useful.¹⁰⁴² The ECIC unreasonably shifts the risk of recovery of environmental investments from the Company to consumers. The challenges PAWC faces in complying with new and emerging environmental regulations or regulatory policy objectives are typical of the challenges faced by any utility management. The ECIC unreasonably places greater risk on consumers for the benefit of company shareholders because through the ECIC, PAWC would be able to immediately recover

¹⁰³⁸ 66 Pa.C.S. § 1330(a)(2).

¹⁰³⁹ OCA St. 4, p. 70.

¹⁰⁴⁰ OCA St. 4, p. 67.

¹⁰⁴¹ OCA St. 4, p. 70.

¹⁰⁴² OCA St. 1, p. 51.

costs, including a return to investors. This risk is currently, and can in the future, be appropriately addressed through traditional ratemaking.¹⁰⁴³ OCA MB at 93.

The OCA further avers that the ECIC would harm low-income customers because it is an additional charge to be paid and the ECIC would remove environmental compliance costs from the set of charges that would otherwise be subject to reduction under the Company's BDP. PAWC proposes to maintain the low-income bill discounts at their historic levels despite the fact that the Company is proposing to substantially increase its fixed and volumetric charges. Imposing a non-discounted ECIC would simply increase low-income bills. The unaffordable Bill to Income (BTI) Ratios identified in OCA witness Colton's testimony would be driven even higher, because the BTIs he cited do not include the environmental costs proposed to be collected through the ECIC.¹⁰⁴⁴ Additionally, low-income customers would pay a greater proportion of the ECIC charges than residential customers generally because low-income customers have monthly consumption greater than residential customers overall, according to PAWC's own data.¹⁰⁴⁵ OCA MB at 94.

Lastly, the OCA argues that PAWC has failed to demonstrate that its proposal meets the fourteen factors set forth in the Commission Statement of Policy to be considered when proposing an alternative ratemaking mechanism.¹⁰⁴⁶ OCA MB at 94.

4. OSBA's Position

The OSBA argues that PAWC's proposed ECIC is the textbook example of single-issue ratemaking, a practice that runs afoul of traditional utility regulation before the PUC. It is true that PAWC's proposed ECIC might be considered alternative regulation. However, PAWC has shown a predilection for entering into costly expenditures, the acquisition of the

¹⁰⁴³ OCA St. 4, pp. 68-69.

¹⁰⁴⁴ OCA St. 5, pp. 90-91.

¹⁰⁴⁵ OCA St. 5, pp. 91-92.

¹⁰⁴⁶ 52 Pa. Code § 69.3302(a)(1)-(14).

Butler Area Sewer Authority being a prime example. The OSBA does not trust PAWC to control its “environmental compliance costs.” Moreover, the OSBA argues that the entire point of rejecting single-issue ratemaking is that a traditional rate case allows all parties, including the Commission, the opportunity to balance the expenses of a proposal, such as an ECIC, with possible savings created by a Company’s environmental compliance projects.¹⁰⁴⁷ Accordingly, the OSBA requests that the Commission reject PAWC’s proposed ECIC. OSBA MB at 23-24.

5. CAUSE-PA’s Position

PAWC proposes a process for plan submission that would include the filing of answers and comments, but no ability to conduct discovery or otherwise assess the prudence of PAWC’s compliance plan, the reasonableness and justness of the expenditures necessitated by the plan, or the reasonableness and justness of the resulting charge on consumers.¹⁰⁴⁸ PAWC proposes to apply the ECIC “equally” to all customer classes.¹⁰⁴⁹ For low-income residential customers enrolled in PAWC’s Bill Discount Program (BDP), PAWC intends to apply the ECIC after the BDP rate discount has been applied to the bill.¹⁰⁵⁰ In other words, the BDP rate discount would be applied to base charges (i.e. service charges and consumption charges) before the ECIC is calculated.¹⁰⁵¹ CAUSE-PA MB at 34.

Upon consideration of the factors in 52 Pa. Code § 69.3302, CAUSE-PA asserts that the proposed ECIC is unreasonable and contrary to the public interest. As a threshold matter, the impacts of the proposed ECIC on PAWC’s customers and its assistance programs¹⁰⁵²

¹⁰⁴⁷ OSBA St. 1, p. 46.

¹⁰⁴⁸ PAWC St. 8, pp. 25-26.

¹⁰⁴⁹ PAWC St. 8, p. 29.

¹⁰⁵⁰ CAUSE-PA St. 1, p. 19: 1-8.

¹⁰⁵¹ *Id.*

¹⁰⁵² 52 Pa. Code § 69.3302(a)(7).

is largely unclear because of the scant details included in PAWC’s proposal.¹⁰⁵³ It is impossible to determine the reasonableness of the ECIC and, in turn, whether the ECIC will operate equitably and in the public interest based on the information provided to date.¹⁰⁵⁴ CAUSE-PA MB at 34-35.

Moreover, CAUSE-PA asserts that the proposed ECIC wholly fails to include appropriate consumer protections for financially-vulnerable low-income customers pursuant to Section 69.3302(a)(12).¹⁰⁵⁵ CAUSE-PA asserts that the design of rate recovery for environmental mitigation should account for the broad disparities that low-income consumers, their families, and their communities have experienced from exposure to PFAS and other environmental contaminants.¹⁰⁵⁶ In 2019, the Center for Science Democracy observed that low-income households and people of color had high prevalence of living within a five mile radius of contaminated sites.¹⁰⁵⁷ In turn, households will face higher PFAS concentrations the closer they are located to the primary source.¹⁰⁵⁸ CAUSE-PA maintains that these economically vulnerable households should not also be required to bear the unaffordable financial burden for remediating these conditions through their monthly PAWC bills.¹⁰⁵⁹ CAUSE-PA MB at 35-36.

Lastly, CAUSE-PA maintains that the proposed ECIC would improperly increase customer rates outside of base rates approved through PAWC’s rate proceedings.¹⁰⁶⁰ As noted by Mr. Geller: “[e]nvironmental remediation costs are part of PAWC’s cost of doing business

¹⁰⁵³ CAUSE-PA St. 1, p. 19: 1-8.

¹⁰⁵⁴ CAUSE-PA St. 1, p. 19: 1-19.

¹⁰⁵⁵ 52 Pa. Code § 69.3302(a)(12).

¹⁰⁵⁶ CAUSE-PA St. 1, pp. 19-20.

¹⁰⁵⁷ CAUSE-PA St. 1, pp. 20: 10-16.

¹⁰⁵⁸ *Id.*

¹⁰⁵⁹ *Id.*

¹⁰⁶⁰ CAUSE-PA St. 1, p. 19: 1-19.

and should be included for consideration and analysis within base rate proceedings.”¹⁰⁶¹ In sum, CAUSE-PA concludes that it is inequitable, unjust, and unreasonable to shift the financial burden of PFA mitigation and compliance to residential customers. CAUSE-PA MB at 37.

6. PAWLUG’s Position

PAWLUG avers that similar to PAWC's RDM, the proposed ECIC is an unsupported additional surcharge mechanism that would unreasonably burden customers without any showing of necessity. PAWC proposes the ECIC to recover costs between rate cases arising from government-mandated environmental standards.¹⁰⁶² While PAWC claims that mechanisms like the ECIC are common, this claim inappropriately conflates the ECIC with a DSIC.¹⁰⁶³ PAWC has not made any showing that ECICs are common in the industry.¹⁰⁶⁴ PAWC has further failed to identify any pending environmental costs that would apply to the ECIC. The proposed ECIC is speculative single-issue ratemaking and should not be approved. PAWLUG requests that, if the Commission finds merit in the proposal, it should be modified to incorporate some measure of customer protections, such as a 3% cap on total annual revenue recovered through the ECIC.¹⁰⁶⁵ PAWLUG MB at 30-31.

7. Victory Brewing’s Position

Victory Brewing referenced testimony offered by several of the other party witnesses in support of its position opposing PAWC’s ECIC. Victory Brewing referenced OCA witness Hoover’s testimony that compliance with environmental laws is an integral part of the Company’s obligation to provide adequate, safe and reasonable service and facilities under

¹⁰⁶¹ *Id.*

¹⁰⁶² PAWC St. 8, p. 24.

¹⁰⁶³ PAWLUG St. 1, p. 16.

¹⁰⁶⁴ *Id.*

¹⁰⁶⁵ PAWLUG St. 1, p. 17.

Section 1501 of the Public Utility Code, and PAWC has been more than able to meet the Section 1501 requirements without an ECIC in place.¹⁰⁶⁶ Victory Brewing MB at 11.

Additionally, Victory Brewing referenced I&E witness Okum's explanation that because the proposed ECIC would be filed outside the parameters of a base rate case, the PUC would not have the ability to review the data in the context of total impact to ratepayers and with respect to other expenses that may be increasing or decreasing between rate cases. Ms. Okum also pointed out that the Company may be able to achieve compliance without increasing costs by implementing other savings measures. Finally, witness Okum noted that "it is difficult to adequately evaluate the impact of such a charge the Company has not provided any measurable data associated with the charge."¹⁰⁶⁷ Victory Brewing MB at 11.

PAWLUG witness LaConte, who indicated that although PAWC claimed that the proposed ECIC has become commonplace in utility regulation, noted that none of the water utilities in its proxy group have such a mechanism. Witness LaConte further explained that PAWC has not incurred or included any pending environmental costs that would apply to the ECIC, meaning that the cost projections are based on speculative estimates.¹⁰⁶⁸ Victory Brewing MB at 11.

Accordingly, Victory Brewing asserts that the Commission should reject the ECIC. Victory Brewing MB at 11.

8. ALJs' Recommendation

We agree with I&E, OCA, OSBA, CAUSE-PA, PAWLUG, and Victory Brewing that approval of PAWC's proposed ECIC is not in the public interest.

¹⁰⁶⁶ OCA St. 1, pp. 48-51.

¹⁰⁶⁷ I&E St. 1, pp. 34-35.

¹⁰⁶⁸ PAWLUG St. 1, p. 16.

The Company advised that its proposed ECIC will provide a mechanism for adjusting PAWC's rate between base rate cases to support rate recognition of costs to comply with new and updated environmental regulatory mandates as they emerge. First, we agree with I&E, OCA, and CAUSE-PA that since PAWC would file the proposed environmental compliance plan between rate cases, the Commission will not be able to assess the impact that the ECIC, along with other expenses, will have on PAWC's ratepayers. Although the Company avers that the environmental plan review process will afford interested parties a full opportunity to determine if the proposed plan is reasonable, the only way to have a full opportunity to review the plan is within the confines of a rate case. What PAWC is proposing is single issue ratemaking. The Commonwealth Court has held that single issue ratemaking is prohibited if it addresses a matter normally considered in a base rate case.¹⁰⁶⁹ For this reason alone, the proposed ECIC should be rejected.

Additionally, and as noted by I&E, CAUSE-PA, and Victory Brewing, it is impossible to ascertain the impact of this proposed charge due to the limited data associated with the charge. That necessarily implies that it is impossible determine the impact of this charge on low-income customers as suggested by the Commission's policy statement on distribution rate considerations.¹⁰⁷⁰

We also agree with I&E that PAWC's proposed ECIC is premature. As noted by I&E, implementing a rider recovery mechanism for just one company before any universal Commission action can occur, and before any potential government funding has been established to address this problem, is premature.

Accordingly, we recommend that the Commission reject the Company's proposed ECIC.

¹⁰⁶⁹ *Pa. Indus.l Energy Coal. v. Pa. Pub. Util. Comm'n*, 653 A.2d 1336 (Pa. Cmwlth. 1995).

¹⁰⁷⁰ 52 Pa. Code § 69.3302(a)(7).

XIII. LOW-INCOME CUSTOMER ASSISTANCE

A. Affordability Analysis

1. PAWC's Position

PAWC conducted a detailed analysis of the affordability of its water and wastewater services.¹⁰⁷¹ PAWC witness Rea prepared (for both water and wastewater services), an Enterprise-Level analysis of affordability, which considered the affordability of service at a high-level over a multi-year period, and a Community-Level analysis, which presents a focused analysis of affordability of service at the individual customer level under current and proposed rates and current economic conditions.¹⁰⁷² Mr. Rea concludes that:

- The affordability of the Company's water and wastewater service from 2012 through the forecast test period indicates that the way the Company has invested in and managed its water and wastewater systems has indeed been for the long-term benefit of our customers.
- PAWC's water and wastewater service has been, is, and is expected to continue to be affordable for the majority of its residential customers, including under proposed rates.
- There are, however, groups of customers for whom affordability of water and wastewater service may be challenging.^[1073]

He also notes that PAWC's proposed rates are affordable, not only because the bill-to-income ("BTI") ratio at median household income ("MHI") falls below the 2% level, but because the Company's proposed rate design (including the BDP) gives almost every residential customer the opportunity to obtain "Basic Water Service" and wastewater service at affordable

¹⁰⁷¹ See Exs. CBR-1 and CBR-2.

¹⁰⁷² PAWC St. 10, p. 5; PAWC St. 10-R, pp. 3-4.

¹⁰⁷³ PAWC St. 10, p. 22. See also PAWC St. 10, pp. 7 (results of Water Enterprise-Level Analysis), 8-9 (results of Wastewater Enterprise-Level Analysis), 15-17 (results of Water and Wastewater Community-Level Analyses).

levels (e.g., less than 2% of household income for one form of service and 4% of household income for both).¹⁰⁷⁴ PAWC MB at 76-77.

a. Enterprise-Level Analysis

PAWC notes that both OCA and CAUSE-PA argued that Mr. Rea’s use of MHI in his Enterprise-Level Analysis was inappropriate.¹⁰⁷⁵ However, PAWC maintains that Mr. Rea provided ample support for use of the MHI and the Company’s use of the 2% benchmark for assessing affordability.¹⁰⁷⁶ MHI is widely recognized, well-understood, and a readily available measure of household income, and easily compatible with the Enterprise-Level Analysis, and the use of MHI from homeowners (“MHI-HO”) is appropriate since most PAWC customers are homeowners and MHI-HO is reflective of the Company’s residential population.¹⁰⁷⁷ Furthermore, Mr. Rea acknowledges that 2% is not a “perfect” benchmark, but it is a commonly referenced standard for affordability of water and wastewater service.¹⁰⁷⁸ PAWC MB at 77-78.

PAWC avers that the multi-year focus of Mr. Rea’s Enterprise Level Analysis is appropriate to focus on customer bills over time, not just rates. Bills are the proper focus because they account for rates and usage. There has been a decline in customer consumption over time, which contributes to higher rates to achieve the same revenue requirement. Thus, an appropriate analysis will examine customer bills, that take into account rates and usage, rather than rates alone.¹⁰⁷⁹ PAWC asserts that OCA witness Colton’s “improved” Enterprise-Level Analysis that assumes constant usage is flawed for this very reason. Mr. Rea explains that “this is precisely the wrong way to do a multiyear evaluation of affordability because rates and usage

¹⁰⁷⁴ PAWC St. 10-R, p. 9.

¹⁰⁷⁵ See OCA St. 5, pp. 9, 12-14; CAUSE-PA St. 1, p. 37.

¹⁰⁷⁶ PAWC St. 10-R, pp. 7-8.

¹⁰⁷⁷ *Id* at 10-12.

¹⁰⁷⁸ PAWC St. 10, p. 18, PAWC St. 10-R, p. 8.

¹⁰⁷⁹ PAWC St. 10-R, pp. 13-14.

levels are connected.”¹⁰⁸⁰ Mr. Rea also maintains that Mr. Colton’s allegations of technical errors are unfounded.¹⁰⁸¹ PAWC MB at 78-79.

In response to CAUSE-PA witness Gellar’s claim that PAWC’s Affordability Index¹⁰⁸² “does not assess both the depth and breadth of unaffordability,” PAWC notes that the Affordability Index is meant to provide a simple and easy way to understand a metric that shows the percentage of customers for whom Basic Water Service is less than 2% of household income. However, Exhibit CBR-1 and CBR-2 provide “enormous levels of detail on the affordability of water and wastewater service across all income groups and also provide data on BTI ratio for customers at different levels of household income by increments of [the federal poverty level],” which contains exactly the depth and breadth of information that Mr. Geller claims is absent from PAWC’s analysis.¹⁰⁸³ PAWC MB at 79.

b. Community-Level Analysis

Regarding PAWC’s Community-Level Analysis, PAWC explains that the analysis looks at data at the customer level (rather than high-level system data, which is used in the Enterprise-Level Analysis), while noting that the Company cannot assess the affordability of each individual customer.¹⁰⁸⁴ PAWC MB at 80.

Moreover, PAWC defends its estimate of 40 gallons of water per household member as representative of PAWC customer actual water usage,¹⁰⁸⁵ and notes that it would be impractical, if not impossible, to address every permutation in a customer household. PAWC

¹⁰⁸⁰ *Id* at 15-16.

¹⁰⁸¹ *Id* at 14.

¹⁰⁸² “Affordability Index” measures the percentage of customers for whom Basic Water Service is expected to be less than a percentage of household income. While there is no standard for affordability as a percentage of MHI, the Company utilizes 2% as a benchmark. PAWC St. 10, pp. 10, 17.

¹⁰⁸³ PAWC St. 10, p. 23.

¹⁰⁸⁴ *Id* at 18-19.

¹⁰⁸⁵ PAWC St. 10-R, pp. 19-20; 24.

acknowledges that there will always be some customers for whom affordability of water and wastewater service may be challenging, but for the large majority of residential customers, water and wastewater service is affordable and will continue to be affordable under the Company's proposed rates.¹⁰⁸⁶ To address affordability for lower income customers, the Company has addressed the issue in a reasonable manner by proposing rates and changes to the BDP and continuing the same level of shareholder funding for grants that ensure that PAWC's water and wastewater services remain affordable for the vast majority of its customers.¹⁰⁸⁷ Accordingly, PAWC avers that its affordability analysis is reasonable. PAWC MB at 80-81.

2. I&E's Position

I&E witness Kubas recommends that the Commission not rely on the Company's affordability analysis to justify limiting PAWC's wastewater rates for three reasons. First, I&E does not believe that making the average bills of water and wastewater customers comparable should be the primary goal as there is a substantial difference in operating costs between water and wastewater systems. Cost causation should be the primary factor in setting rates. There is no rate making criteria that would imply that water customers and wastewater customers should have comparable rates. Second, the analysis ignores the fact that water customer who do not receive wastewater service from PAWC will incur their own wastewater costs that may or may not be comparable to their PAWC water rates while they subsidize PAWC wastewater customers to provide them with comparable rates. Third, the analysis ignores the benefits the Company claims that could or have accrued to customers in acquired systems. As an example, the analysis ignores the potential local tax reductions PAWC claimed a customer may receive after the wastewater system was acquired by PAWC. Therefore, I&E asserts that PAWC's affordability analysis is flawed and should not be used to establish wastewater rates.¹⁰⁸⁸ I&E MB at 101-102; I&E RB at 43.

¹⁰⁸⁶ See PAWC St. 10, pp. 4-22.

¹⁰⁸⁷ See PAWC St. 10-R, p. 9.

¹⁰⁸⁸ I&E St. 3, pp. 13-14.

3. OCA's Position

To determine if rates are affordable for PAWC's customers, PAWC and the OCA generally agree that a consumer's water/wastewater burden, or the proportion of income dedicated to paying the consumer's bill for water and wastewater service, or the bills-to-income (BTI) ratio (BTI Ratio), should not exceed 2%.¹⁰⁸⁹ Where PAWC and the OCA disagree, however, is on the affordability analysis that is used to determine those customers who have a water burden exceeding the affordable 2% BTI Ratio. The OCA believes that this disagreement is significant because the affordability analysis that is used to determine how many and which customers have water burdens that exceed the 2% BTI Ratio ultimately supports the development and design of low-income customer assistance programs, including, but not limited to, the Company's H2O BDP. The OCA avers that PAWC has not met its burden of proof in demonstrating with substantial evidence that its affordability analysis will lead to affordable and just and reasonable rates, and that it has presented fully substantiated adjustments to PAWC's affordability analysis that would lead to affordable and just and reasonable rates for low-income customers.¹⁰⁹⁰ OCA MB at 95-96.

Specifically, the OCA argues that the affordability analysis presented by PAWC witness Rea at the enterprise level and community level is inadequate and unreasonable and, therefore, Mr. Rea's conclusion that PAWC bills are generally affordable when viewed from both the community level and the household level is unreasonable and unsupported. OCA witness Colton corrects the flaws in the Company's analyses and presents a fully substantiated and accurate analysis that it believes should be adopted by the Commission.¹⁰⁹¹ Mr. Colton's recommended affordability analysis, at a high level, is as follows:

- Enterprise level: First, reject Mr. Rea's recommendations to measure affordability using Median Household Income (MHI) and the Median Household Income of Homeowners (MHI-HO). Second, examine BTI Ratios at the average

¹⁰⁸⁹ PAWC St. 10, pp. 4-23; OCA St. 5, pp. 7-39.

¹⁰⁹⁰ OCA St. 5, pp. 7-39.

¹⁰⁹¹ OCA St. 5, pp. 7-39.

income in the First Quintile and Second Quintile given a constant usage over the years. Third, determine what income would be needed in order to achieve a BTI Ratio of 2.0% each year and examine the number of zip codes within the PAWC service territory that have those incomes at the average Q1 and average Q2 income levels.^[1092]

- Community level: First, reject the limitation of any “affordability analysis” to use of a minimal “Basic Water Service.” Second, do not examine affordability only for the PAWC population as whole. Third, measure affordability at different income levels. Finally, do not consider only the breadth of affordability (*i.e.*, the number of customers with BTI Ratios exceeding 2% of income), but also consider the depth of affordability (*i.e.*, recognizing that a substantial number of the customers with unaffordable bills, do not merely have a BTI Ratio “over 2%,” but have a BTI Ratio of over 20%).^[1093]

The OCA maintains that Mr. Rea did not credibly respond to the affordability analysis that Mr. Colton recommended be adopted. Moreover, the OCA submits that Mr. Colton’s affordability analysis credibly demonstrates the need for PAWC to make significant changes to its low-income program offerings. OCA MB at 96; OCA RB at 60.

4. CAUSE-PA’s Position

CAUSE-PA witness Geller’s analyses of the affordability of PAWC’s rates found that low-income customers face excessive and unaffordable water and wastewater burdens – often exceeding 20% of household income, depending on household size and usage.¹⁰⁹⁴ Pursuant to the calculations in CAUSE-PA Exhibit 1, attached to Mr. Geller’s direct testimony, low-

¹⁰⁹² OCA St. 5, pp. 7-22.

¹⁰⁹³ OCA St. 5, pp. 22-39

¹⁰⁹⁴ CAUSE-PA St. 1, pp. 27-28. CAUSE-PA St. 1, Ex. 1. A combined water/wastewater burden for a family of 4 at 50% FPL using 5,000 gallons is approximately 20% at present rates.

income customers devote large portions of their incomes each month to afford basic water/wastewater services.¹⁰⁹⁵ CAUSE-PA MB at 40.

CAUSE-PA avers that PAWC’s low-income customers are already struggling, even at present rates, to afford and stay connected to water/wastewater services. PAWC’s proposed rate increases would exacerbate existing levels of unaffordability for PAWC’s low-income customers. The excessive water and wastewater burdens that PAWC proposes to impose will have profound and negative impacts on its low-income customers. These proposed increases will likely cause increased terminations of economically vulnerable consumers or, alternatively, “will cause economically vulnerable households to go without other critical life necessities such as housing, energy, food, medicine, childcare, and other essential services to afford water and wastewater services to their home.”¹⁰⁹⁶ CAUSE-PA MB at 43-44.

CAUSE-PA further avers that the depth and breadth of unaffordability for PAWC’s low-income customers are excessive at both existing and proposed rates, particularly when varied usage levels are taken into account.¹⁰⁹⁷ Contrary to PAWC’s flawed affordability analyses which seek to minimize and obscure rate impacts, the data and evidence in this case plainly reveal that a substantial number of PAWC’s low-income customers do not have access to affordable water/wastewater services.¹⁰⁹⁸ Mr. Geller expressed concerns that PAWC’s analyses masked critical affordability challenges experienced by PAWC’s low-income customers.¹⁰⁹⁹ Mr. Geller concluded that “[i]t is neither just, reasonable, nor in the public interest to obscure the underlying affordability for PAWC’s low-income customers – as PAWC’s affordability analyses appear to do.”¹¹⁰⁰ CAUSE-PA MB at 46-47.

¹⁰⁹⁵ CAUSE-PA St. 1, pp. 27-28.

¹⁰⁹⁶ CAUSE-PA St. 1, pp. 31: 19 – 32: 2.

¹⁰⁹⁷ CAUSE-PA St. 1, pp. 38: 6-14.

¹⁰⁹⁸ *Id.*

¹⁰⁹⁹ *Id.*

¹¹⁰⁰ *Id.*

Significant numbers of PAWC's residential customers already have categorically unaffordable rates of basic water/wastewater services. It is inappropriate and contrary to the public interest to shunt the significant numbers of low-income customers aside by concluding that unaffordability for these customers is unavoidable and therefore acceptable. Instead, the weight of the evidence in this proceeding demonstrates that PAWC has failed to meet its burden of showing that its rates – both as existing and as proposed – are just, reasonable, and in the public interest. Accordingly, CAUSE-PA believes it is imperative that the Commission reject PAWC's present rate increase request and require PAWC to implement revisions to its programs, policies, and procedures to ensure that PAWC's low-income customers can afford to connect to and maintain PAWC's services in their homes. CAUSE-PA RB at 16-17.

5. ALJs' Recommendation

In the present case, I&E, OCA and CAUSE-PA all request that the Commission reject PAWC's affordability analysis. However, we find the Company's Enterprise-Level analysis and Community-Level Analysis to be generally reasonable approaches to determining customer affordability.

Regarding PAWC's Enterprise-Level Analysis, we agree with the Company that the multi-year focus on customer bills over time is appropriate, as the Company avers, because they account for rates and usage, and rates and usage are connected. Moreover, and as noted by PAWC, the Company did consider a significant level of income information as well as BTI ratios for customers at different levels of household income by increment of the Federal Poverty Level (FPL). We find this to be a reasonable way to estimate customer affordability.

Regarding PAWC's Community-Level Analysis, we agree with the Company that they cannot assess the affordability of each individual customer in their service territory. Accordingly, we find that the use of a 40-gallon-per-household member metric to be reasonable under the circumstances.

We do recognize that the customer testimony provided during the public input hearings in this proceeding concerned, in large part, unaffordability of service. However, we also recognize that regardless of any affordability analysis, there will always be households who will constantly struggle with their bills, regardless of any adopted affordability analysis. These customers will have to avail themselves of PAWC’s low-income assistance programs, such as PAWC’s Bill Discount Program.

B. H2O Bill Discount Program Design

1. PAWC’s Position

PAWC’s existing Bill Discount Program (“BDP”) provides substantial bill discounts to customers whose annual household incomes fall between 0% and 150% of the FPL. As shown below, there are three tiers of discounts within the program and customers with the lowest incomes receive the highest percentage discounts:¹¹⁰¹

<i>BDP Discount Levels</i>	Water Service Charge Discount	Water Service Volumetric Discount	Wastewater Total Bill Discount
<i>0% - 50% FPL</i>	80%	80%	80%
<i>51% - 100% FPL</i>	65%	50%	55%
<i>101% - 150% FPL</i>	40%	25%	30%

PAWC MB at 81.

PAWC is proposing to keep the existing three tiers without any changes and add a fourth tier of eligibility to expand the program offerings to customers whose household incomes are between 151% and 200% of FPL. For water customers in this fourth tier of eligibility, PAWC proposes to offer discounts of 30% on the 5/8” meter charge and 15% on the volumetric rate for water service. For wastewater customers in this fourth tier of eligibility, PAWC proposes to offer a discount of 20% on the total wastewater bill. The expansion is intended to address affordability issues for the significant number of customers in the 151% and 200% of

¹¹⁰¹ PAWC Sts. 10, p. 23 & 10-R, p. 28.

FPL range (estimated to be over 50,000 residential water customers and over 10,000 residential wastewater customers). The Company's affordability analysis demonstrated that a majority of customers in that income range would have bills for water and/or wastewater service at greater than 2% of household income.¹¹⁰² PAWC MB at 81-82.

The Company opposes CAUSE-PA witness Geller's recommendation to modify the BDP from a tiered to a percentage of income payment ("PIP") structure. As explained by PAWC witness Dean, a PIP structure is not feasible because: (1) the Company's billing system is not configured to accommodate a PIP structure; and (2) the Company does not currently have verified income data for most BDP participants. Further, the Company believes that a PIP structure is not necessary because the existing tiered discount structure is reasonable and sufficiently tailored to a customer's income level.¹¹⁰³ PAWC MB at 82.

PAWC continues to support its BDP expansion proposal but does not oppose the specific tier-level discount changes recommended by OCA witness Colton or Mr. Geller. Mr. Colton supports expansion of the BDP to include a fourth tier, but recommends a higher discount percentage for that fourth tier and increases to certain discounts for the existing tiers.¹¹⁰⁴ Mr. Geller was supportive of the proposed expansion and recommended increasing the discount percentages in the existing tiers first.¹¹⁰⁵ PAWC believes that such changes would provide greater levels of affordability for customers at the lowest end of the income scale. The Company defers to the Commission as to the level of discounts it deems appropriate in this proceeding.¹¹⁰⁶ PAWC MB at 82.

¹¹⁰² PAWC Sts. 10, pp. 23-26 & 10-R, pp. 28-29.

¹¹⁰³ Tr. 2019-20; PAWC St. 14-R, pp. 5-6.

¹¹⁰⁴ OCA St. 5, pp. 45, 49-50.

¹¹⁰⁵ CAUSE-PA St. 1, pp. 44-54.

¹¹⁰⁶ PAWC St. 10-R, p. 31..

2. OCA's Position

The OCA supports PAWC's proposal to add a fourth tier of eligibility for customers whose household incomes are between 151% and 200% of Federal Poverty Level (FPL).¹¹⁰⁷ The evidence also shows the need for increased percentage discounts for each tier, as proposed by the OCA and CAUSE-PA witness Geller:¹¹⁰⁸

	Water Service Charge Discount	Water Service Volumetric Discount	Wastewater Total Bill Discount
Tier 1 (0-50% FPL)	90%	80%	85%
Tier 2 (51-100% FPL)	75%	65%	73%
Tier 3 (101-150% FPL)	60%	40%	55%
Tier 4 (151-200% FPL)	30%	20%	37%

Notwithstanding disagreements over the affordability analysis, PAWC “does not oppose the modifications recommended by Mr. Colton or Mr. Geller. The proposed discounts to the BDP offered by Mr. Colton and Mr. Geller would provide greater levels of affordability for customers at the lowest end of the income scale.”¹¹⁰⁹ These modified discounts will generate reasonably affordable BTI Ratios for all four FPL tiers and help to make rates more affordable than PAWC's existing discount levels.¹¹¹⁰ OCA MB at 97-98; OCA RB at 61-62.

¹¹⁰⁷ PAWC St. 10, pp. 24, 27-28; OCA St. 5, pp. 49-50.

¹¹⁰⁸ PAWC St. 10R, p. 29; OCA St. 5, p. 45; CAUSE-PA St. 1, p. 45.

¹¹⁰⁹ PAWC St. 10R, p. 31.

¹¹¹⁰ PAWC St. 10R, p. 29; OCA St. 5, pp. 46-48; CAUSE-PA St. 1, pp. 45-46.

3. CAUSE-PA's Position

To ensure that the BDP is correctly structured to provide consistent affordability for all income tiers, CAUSE-PA recommends the following improvements to the structure and discount levels of the BDP:¹¹¹¹

Recommended BDP Discount Levels				
	Water		Wastewater	
	Fixed Charge	Volumetric Charge	Fixed Charge	Volumetric Charge
Tier 1 (0-50% FPL)	90%	80%	85%	85%
Tier 2 (51-100% FPL)	75%	65%	73%	73%
Tier 3 (101-150% FPL)	60%	40%	55%	55%

CAUSE-PA MB at 49.

Pursuant to this proposal, BDP participants would see marked improvements to affordability and reductions in water/wastewater burdens, ensuring a greater number of participants will receive a consistently affordable rate. We recommend that the Commission require PAWC to implement these recommended improvements to its BDP structure and discounts upon entry of a final order in this proceeding – regardless of whether any rate increase is approved. CAUSE-PA MB at 49.

OCA witness Colton recommended the same discount levels for BDP participants between 0-150% FPL, but additionally recommended enhanced discounts for PAWC's proposed income tier between 151-200% FPL.¹¹¹² In response to the recommended discount level set forth by both Mr. Geller and Mr. Colton, PAWC witness Rea indicated that, while ultimate approval rests with the Commission, PAWC does not oppose Mr. Geller and Mr. Colton's BDP discount level proposals.¹¹¹³ CAUSE-PA MB at 50.

¹¹¹¹ CAUSE-PA St. 1, p. 45, Table 12.

¹¹¹² CAUSE-PA St. 1, pp. 45-46.

¹¹¹³ PAWC St. 10- R, p. 30: 1-5.

Additionally, CAUSE-PA urges the Commission to require PAWC to transition its BDP to a PIP structure. Specifically, CAUSE-PA recommends that PAWC be required to file a Petition within six months of a final order in this proceeding to pursue implementation of a PIP structure for its BDP, designed to achieve a combined water/wastewater burden that does not exceed 4% of a participants' household income.¹¹¹⁴ A PIP structure is the optimal way to achieve consistent, equitable, and targeted levels of affordability for low-income customers, as it calculates a participants' rates based on their precise income level.¹¹¹⁵ CAUSE-PA MB at 50.

Mr. Geller explained that transitioning the BDP to a PIP structure would ensure that customers with the lowest incomes and/or with larger family sizes do not pay disproportionate levels of their incomes for critical water/wastewater services. This is particularly important as rates of basic water/wastewater services are likely to continue to rise precipitously in coming years.¹¹¹⁶ A properly structured PIP-design would deliver accessible, consistent, and equitable levels of affordability for low-income participants.¹¹¹⁷ CAUSE-PA MB at 51.

4. ALJs' Recommendation

Regarding PAWC's proposal to add a fourth tier of eligibility for the BDP for customers whose household income is between 151% and 200% of the FPL, we are in favor of additional measures to assist PAWC's customers afford their bills. As no party opposes this proposal, we find that it is reasonable and recommended that the Commission approve PAWC's proposal.

Additionally, regarding OCA's and CAUSE-PA's proposals to increase the percentage discounts for each tier of the BDP, we find these proposals to be reasonable.

¹¹¹⁴ CAUSE-PA St. 1, p. 27: 2-12.

¹¹¹⁵ CAUSE-PA St. 1, pp. 44-45.

¹¹¹⁶ *Id.*

¹¹¹⁷ *Id.*

Accordingly, since PAWC does not oppose the increased percentage discounts for each tier of the BDP, we recommend that the Commission approve these proposed increases, to take effect no later than the effective date of rates resulting from PAWC's next general rate increase filed with the Commission. This will allow the Commission to evaluate the financial impacts of additional customer assistance program (CAP) changes, including other changes discussed herein, more comprehensively.

PAWC does oppose CAUSE-PA's recommendation that PAWC be required to transition its BDP to a PIP structure. We agree with the Company that this recommendation is not feasible because, as noted by the Company, its billing system is not configured to accommodate a PIP structure and also because the Company does not currently have verified income data for most BDP participants. Moreover, with the addition of the fourth tier and the increased percentage discounts, we do not feel that CAUSE-PA has established that any further change to the BDP is necessary. Accordingly, we recommend that the Commission reject CAUSE-PA's recommendation that PAWC be required to transition its BDP to a PIP structure.

C. Hardship Fund

1. PAWC's Position

The H2O Program provides Hardship Grants for qualifying customers with annual household incomes at or below 200% of FPL and that have made a payment of at least \$50 over the last 90 days. A customer may receive a Hardship Grant equal to the customer's total account balance at the time of grant issuance, up to the maximum annual grant amount of \$500 for water service and \$500 for wastewater service. H2O Hardship Grants are funded through an annual shareholder donation (currently \$625,000 for water and \$125,000 for wastewater) as well as customer and employee donations.¹¹¹⁸ Upon closing the PUC-approved BASA acquisition, PAWC will expand eligibility to customers with household income at or below 250% of FPL and

¹¹¹⁸ PAWC St. 9, pp. 13-14; PAWC 14-R, pp. 15-16 (minimum payment requirement).

contribute \$3.5 million to the Hardship Fund (\$700,000 annually for five years) in addition to PAWC's annual \$750,000 contribution.¹¹¹⁹ PAWC MB at 83.

Several parties made recommendations regarding Hardship Fund operation and funding levels. On the operational side: (1) CEO witness Warabak recommends distributing Hardship Funds based on the percentage of low-income customers in each service area or county;¹¹²⁰ (2) OCA witness Colton recommends raising the income threshold for the Hardship from 200% of FPL to 250% of FPL;¹¹²¹ and (3) CAUSE-PA witness Geller recommends (i) elimination of the good-faith payment requirement, (ii) permitting customers to apply for more than one grant per program year, up to applicable maximum annual grant amounts, and (iii) increasing the annual grant amount to \$600 for water and wastewater, respectively.¹¹²² Regarding overall funding: (1) Mr. Geller recommends increasing annual funding by \$1 million; and (2) Ms. Warabak recommends increasing the annual shareholder contribution by \$330,000.¹¹²³ PAWC MB at 83-84.

Apart from the recommendation concerning multiple customer grants per year, which PAWC is already working to implement,¹¹²⁴ PAWC avers that the proposed operational changes should be rejected. First, regarding the distribution of Hardship Funds, the Company's existing statewide funds for water and wastewater are appropriately designed to ensure that the Hardship Fund dollars reach as many low-income customers across PAWC's service territory as possible. Previously, PAWC maintained regional caps for the water Hardship Fund and found that the regional design could prevent income-eligible customers in a region from accessing the Hardship Fund once the cap was hit. CEO's recommendation could result in similar negative impacts to income-eligible customers. Second, the Company continues to believe a good-faith

¹¹¹⁹ PAWC St. 9, pp. 17-18.

¹¹²⁰ CEO St. 1, pp. 6-7.

¹¹²¹ OCA St. 5, pp. 64-66.

¹¹²² CAUSE-PA St. 1, pp. 51-53.

¹¹²³ *Id.*; *see also* CEO St. 1, pp. 6-7.

¹¹²⁴ The Hardship Fund administrator, DEF, is developing a software enhancement that is expected to deploy at the start of the 2024-2025 program year. Once the enhancement is effective, customers will be able to apply for multiple Hardship Grants during a program year. *See* PAWC St. 14-R, p. 16.

payment requirement is appropriate because it ensures that customers eligible for the Hardship Fund are making a sincere effort to pay their utility bills. Third, in light of the Company's AMP implementation and proposed expansion of the BDP, PAWC believes it is premature to increase the annual Hardship Funds grant amount to \$600 for water and wastewater. Finally, although the Company does not support expanding the Hardship Fund to customers above 200% of FPL in this case, when the BASA acquisition closes, PAWC has already agreed as part of the global BASA proceeding settlement to raise the Hardship Fund eligibility threshold to 250% of FPL.¹¹²⁵ PAWC MB at 84.

Regarding overall funding, PAWC notes that utility payments to the Hardship Fund are voluntary shareholder contributions, and the Commission cannot order a utility to increase its contributions to the fund.¹¹²⁶ While the Company has not proposed to increase shareholder funding levels in this proceeding, PAWC has committed to maintain current funding levels and has made a substantial proposal to expand the BDP to customers with incomes up to 200% of the FPL in this proceeding which will open up additional bill assistance to a large, new segment of customers (151%-200% of FPL).¹¹²⁷ Finally, as noted earlier, PAWC committed to significantly increase funding for the Hardship Fund when the BASA acquisition closes. PAWC MB at 85.

2. I&E's Position

CAUSE-PA witness Geller recommended that PAWC increase its hardship fund by \$1 million over its existing funding levels and that any unspent amount be rolled over to the budget for the following year.¹¹²⁸ While witness Geller made other recommendations related to

¹¹²⁵ PAWC St. 14-R, pp. 15-16; *see also* Tr. 2024.

¹¹²⁶ *See, e.g., Columbia Gas of Pa. Inc. Universal Serv. & Energy Conservation Plan for 2015-2018 Submitted in Compliance with 52 Pa. Code § 62.4*, Docket No. M-2014-2424462, 2015 WL 4309172, at *23 (Final Order entered July 8, 2015); *Nat'l Fuel Gas Distrib. Corps. Universal Serv. & Energy Conservation Plan for 2014-2016 Submitted in Compliance with 52 Pa. Code § 62.4*, Docket No. M-2013-2366232, 2014 WL 2426998, at *4 (Final Order entered May 22, 2014).

¹¹²⁷ PAWC St. 14-R, p. 4.

¹¹²⁸ CAUSE-PA St. 1, p. 52.

the hardship fund, the only issue addressed by I&E witness Okum related to the funding source of the \$1 million increase. In Direct testimony, PAWC witness Everette explains that the hardship program is funded by PAWC shareholders and donations from customers.¹¹²⁹ I&E MB at 102.

I&E witness Okum noted that Mr. Geller did not specify a funding source for the increase of \$1 million, so while she did not oppose the increase, she recommended that the Commission specify that the funding source continue to be PAWC shareholders.¹¹³⁰ In surrebuttal testimony, CAUSE-PA witness Geller indicated his agreement with this recommendation.¹¹³¹ I&E MB at 102-103; I&E RB at 44.

3. OCA's Position

The purpose of a well-designed hardship fund program is to turn unaffordable bills into affordable bills for low-income customers. The Commission has broad discretion to authorize and modify hardship fund programs in setting just and reasonable rates.¹¹³² The OCA recommends two adjustments to the Hardship Grant program to improve affordability of rates. First, the maximum income eligibility for PAWC's hardship grants should be increased to 250% of the FPL.¹¹³³ Second, amend the rules of the program to allow for multiple distributions (rather than a single distribution) to a customer in a year up to the existing maximum of \$500 per year.¹¹³⁴ While consumers with income between 200% and 250% of the FPL may not need a bill discount, these consumers are still likely to have a fragile income.¹¹³⁵ Consumers between 200%

¹¹²⁹ PAWC St. 1, p. 12.

¹¹³⁰ I&E St. 1-R, p. 3.

¹¹³¹ CAUSE-PA St. 1-SR, p. 4.

¹¹³² 66 Pa.C.S. § 1301; *Popowsky 1996* at 961.

¹¹³³ OCA St. 5, pp. 64-66.

¹¹³⁴ OCA St. 5, pp. 64-66.

¹¹³⁵ OCA St. 5, p. 65.

and 250% of the FPL generally fall below the Self-Sufficiency Standard.¹¹³⁶ The Self-Sufficiency Standard varies by county, household size, and household composition but for Pennsylvania it varies from 200% to 300% of the FPL.¹¹³⁷ Mr. Colton examined 27 different scenarios of various counties and household compositions and determined that 18 of the 27 scenarios had Self-Sufficiency Standard incomes between 200% and 250% of the FPL.¹¹³⁸ OCA MB at 98.

As a part of the 2022 base rate case settlement at R-2022-3031672 & R-2022-03031673, PAWC agreed to “work with its CAAG members to develop a solution to allow an eligible customer to receive multiple Hardship Fund grant awards each year, up to the maximum grant amount of \$500 for water and \$500 for wastewater.”¹¹³⁹ Despite this condition to the settlement, a solution has not been achieved. Allowing multiple Hardship Grants to a single customer (up to the \$500 maximum) would greatly assist consumers with fragile income that may be subject to numerous financial constraints throughout the year. Therefore, to assist these consumers, and to be consistent with the 2022 settlement, PAWC should be required to develop a method for allowing multiple Hardship Grants up to the maximum allowed amount.¹¹⁴⁰ OCA MB at 98-99.

4. CAUSE-PA’s Position

CAUSE-PA has several concerns with PAWC’s existing Hardship Fund. CAUSE-PA avers that PAWC’s Hardship Fund is extremely undersubscribed compared to need amongst low-income customers. Compared to relative need, very few customers have been awarded Hardship Fund grants in recent years.¹¹⁴¹ CAUSE-PA is also concerned that the

¹¹³⁶ OCA St. 5, p. 65.

¹¹³⁷ OCA St. 5, p. 65.

¹¹³⁸ OCA St. 5, p. 66.

¹¹³⁹ OCA St. 5, p. 64.

¹¹⁴⁰ OCA St. 5, p. 64.

¹¹⁴¹ CAUSE-PA St. 1, pp. 49: 15 – 50: 5.

average arrearage level of recipients of Hardship Funding regularly exceeds the maximum Hardship Fund grant limit of \$500.¹¹⁴² CAUSE-PA is further concerned that PAWC's Hardship Fund continues to require an upfront payment of \$50.¹¹⁴³ Upfront payment requirements often post insurmountable barriers to receiving Hardship Fund assistance for customers with the most acute financial distress.¹¹⁴⁴ Customers who are unable to make payments for several months due to financial hardships will be disqualified from receiving grant assistance, when such assistance is most needed.¹¹⁴⁵ Moreover, upfront payment requirements do not test a customer's good faith, but instead pose unreasonable and significant obstacles to obtaining needed grant funding. CAUSE-PA MB at 52-54.

To address the need for additional Hardship Funding at both present and proposed rates, CAUSE-PA recommends several improvements to PAWC's Hardship Fund. First, CAUSE-PA recommends that PAWC increase its annual hardship funding by an additional \$1 million over existing funding levels.¹¹⁴⁶ Any unspent funds should be rolled over and added to the budget for the following year.¹¹⁴⁷ This increase will help to offset the increased unaffordability driven by its proposed rate increase. If rates are increased, CAUSE-PA argues that the Commission must ensure that a greater level of funds are available to customers experiencing a financial hardship to prevent involuntary termination of water and wastewater services and the far-ranging consequences that result – whether through shareholder donations, rates, fundraising, or other means. CAUSE-PA MB at 54-55; CAUSE-PA RB at 8.

¹¹⁴² CAUSE-PA St. 1, pp. 50: 12 – 51: 6.

¹¹⁴³ CAUSE-PA St. 1, pp. 51: 17 – 52: 10.

¹¹⁴⁴ *Id.*

¹¹⁴⁵ CAUSE-PA St. 1, pp. 51: 17 – 52: 10.

¹¹⁴⁶ CAUSE-PA St. 1, p. 52: 16-23.

¹¹⁴⁷ *Id.*

Second, PAWC should eliminate its upfront or “good faith” payment requirements for its Hardship Fund.¹¹⁴⁸ Thus, if a customer meets all required eligibility requirements of PAWC’s Hardship Fund, they should qualify for Hardship Funding, even if they cannot provide an upfront payment. CAUSE-PA MB at 55

Lastly, CAUSE-PA recommends that that PAWC increase the maximum amount of its Hardship Fund grant from \$500 to \$600 for water and wastewater, respectively.¹¹⁴⁹ This increase will help to address increasing average debt levels and, in turn, reduce already high levels of involuntary termination. Moreover, CAUSE-PA recommends that water and wastewater customers have the opportunity to receive multiple grants during a program year, up to the maximum grant amount for each service type.¹¹⁵⁰ CAUSE-PA MB at 55

5. ALJs’ Recommendation

PAWC indicated that it is already working to implement multiple customer grants per year, as recommended by both OCA and CAUSE-PA, and PAWC did not oppose this recommendation. So, we recommend that the Commission adopt this proposal to take effect no later than the effective date of rates resulting from PAWC’s next general rate increase filed with the Commission. However, we recommend that the multiple grants be up to the existing \$500 maximum, not to the proposed \$600 maximum as proposed by CAUSE-PA. We agree with the Company that, in light of the Company’s AMP implementation and the expansion of the BDP, it is not necessary to increase annual Hardship Fund grant amounts to \$600 at this time.

While we note PAWC’s opposition to the OCA proposal to expand the Hardship Fund to 250% of the FPL, we find that increased eligibility for a grant may help those who OCA identifies as having a fragile income. While such a customer may not, on average, need a bill discount because of their slightly higher income level, eligibility for such a grant may be a

¹¹⁴⁸ CAUSE-PA St. 1, p. 53: 1-5.

¹¹⁴⁹ *Id.*

¹¹⁵⁰ CAUSE-PA St. 1, p. 53: 6-17.

welcome lifeline to a consumer facing an unforeseen circumstance that is depleting their income. Accordingly, we recommend that the Commission adopt the OCA's proposal to expand the Hardship Fund to 250% of the FPL.

Regarding CAUSE-PA's recommendation that PAWC increase its Hardship Fund by \$1 million over its existing funding levels, the Company noted that all contributions to the fund are voluntary from the shareholders. As the Hardship Fund is funded through these voluntary contributions from shareholders, the Commission cannot order PAWC to increase its contributions to the Hardship Fund. Accordingly, we recommend that the Commission reject CAUSE-PA's recommendation.

Regarding CAUSE-PA's recommendation that PAWC eliminate its \$50 upfront good faith payment requirement to receive a Hardship Fund grant, we agree with CAUSE-PA that requiring this upfront payment may impose a significant obstacle to obtaining the grant. It is possible that a customer may otherwise qualify for PAWC's Hardship Grant but not have sufficient funds to make the \$50 payment. That would be contrary to the purpose of the fund, which is to help a financially distressed customer. Accordingly, we recommend that CAUSE-PA's recommendation that PAWC be required to eliminate its \$50 good faith payment requirement from the Hardship Fund no later than the effective date of rates resulting from PAWC's next general rate increase filed with the Commission.

D. Conservation Assistance

1. PAWC's Position

CAUSE-PA witness Geller recommends that PAWC develop and implement a comprehensive conservation and line repair/replacement program for all customers below 200% of the FPL. He further recommends the targeting of high-usage customers, annual reporting and coordination with other utility programs.¹¹⁵¹ PAWC MB at 85.

¹¹⁵¹ CAUSE-PA St. 1, pp. 63-64.

PAWC avers that Mr. Geller is attempting to impose a low-income usage reduction program (“LIURP”) construct on PAWC that was established for electric distribution companies (“EDCs”) and natural gas distribution companies (“NGDCs”). There are detailed LIURP regulations addressing many of the items recommended by Mr. Geller, including prioritizing high users, reporting, and utility coordination.¹¹⁵² As explained by PAWC witness Dean, LIURPs are required under Pennsylvania law for EDCs and NGDCs only and are part of their broad universal service plans.¹¹⁵³ To implement a LIURP-type program, PAWC would have to hire additional staff and manage costs associated with repairing and replacing the leaking lines and infrastructure of low-income customers. PAWC argues that the PUC should not mandate the implementation of such a substantial new program in the absence of a change in law addressing low-income conservation obligations for water and wastewater utilities and providing for appropriate cost recovery.¹¹⁵⁴ Moreover, PAWC opposes I&E’s recommendation that the costs of a conservation assistance program be borne by shareholders, as the PUC does not have the authority to order a utility to contribute shareholder funds for such a program.¹¹⁵⁵ PAWC MB at 85-86; PAWC RB at 70.

2. I&E’s Position

CAUSE-PA witness Geller recommends the Company implement a comprehensive conservation and line repair and replacement program for all customer at or below 200% of the federal poverty level (FPL).¹¹⁵⁶ I&E MB at 103.

¹¹⁵² 52 Pa. Code §§ 58.1-58.18.

¹¹⁵³ PAWC St. 14-R, p. 13.

¹¹⁵⁴ *Id.* at 13-14.

¹¹⁵⁵ *Cf. Nat’l Fuel Gas Distrib. Corps. Universal Serv. & Energy Conservation Plan for 2014-2016 Submitted in Compliance with 52 Pa. Code § 62.4*, Docket No. M-2013-2366232, 2014 WL 2426998, at *4 (Final Order entered May 22, 2014)(“the Commission does not have authority to specify the amount of shareholder funds utilities must contribute to hardship fund programs”).

¹¹⁵⁶ CAUSE-PA St. 1, p. 63.

I&E witness Okum described two issues with this program. First, Mr. Geller does not specify a funding source, and second, Mr. Geller presents no budget or cap for this program.¹¹⁵⁷ Therefore, Ms. Okum recommended that if approved, the program should be funded by shareholders and not by ratepayers.¹¹⁵⁸ As Ms. Okum explained, these efforts will focus on water conservation inside individual customer homes and assistance with repairing and replacing service lines on individual customer property.¹¹⁵⁹ Therefore, it would be inappropriate to ask all ratepayers to fund this program. CAUSE-PA witness Geller disagrees that these programs benefit individual customers stating that these programs have tangible benefits for all ratepayers because the program will help to control usage and high bills for homes in need of repairs, and assisting these customers to better control high usage will help to reduce universal service program costs.¹¹⁶⁰ I&E MB at 103.

While there are some areas of disagreement, CAUSE-PA witness Geller never specifically disagrees with I&E witness Okum's recommendation that the program be funded by shareholders. I&E does not disagree that there may be some minor benefits that flow to all ratepayers as a result of this program, the fact remains that this program is largely focused specifically on individual customers' homes. Therefore, I&E continues to recommend that if the program is ultimately approved, it should be funded by shareholders rather than ratepayers. I&E MB at 103-104.

3. OCA's Position

PAWC's failure to adequately address the water conservation needs of its low-income customers forces its low-income consumers to either go deeper in arrears or front the expenses of water conservation investments themselves, even though these customers are facing water bill burdens or BTI Ratios of 6% to nearly 80% and are unlikely to be able to afford these

¹¹⁵⁷ I&E St. 1-R, p. 4.

¹¹⁵⁸ I&E St. 1-R, p. 4.

¹¹⁵⁹ I&E St. 1-R, p. 4.

¹¹⁶⁰ CAUSE-PA St. 1-SR, pp. 5-6.

measures.¹¹⁶¹ In order to make rates more affordable, and therefore just and reasonable, the OCA recommends the adoption of OCA witness Mierzwa’s customer charge recommendations¹¹⁶² and OCA witness Colton’s recommendation that PAWC develop a plan to utilize U.S. Department of Energy’s Weatherization Assistance Program and the natural gas and/or electric Low-Income Usage Reduction Program agencies as partners to develop and deliver water conservation investments to low-income customers.¹¹⁶³ OCA MB at 99.

4. CAUSE-PA’s Position

PAWC’s H2O program offers limited water conservation assistance to H2O participants.¹¹⁶⁴ Currently, the water conservation component of the H2O program includes water conservation kits containing basic, self-installed water-saving devices (low-flow showerhead, sink aerator, and toilet fill cycle diverter), leak detection kit, conservation tips and materials, and a water use calculator for qualifying customers.¹¹⁶⁵ It appears that participation in this program is limited. Between 2020 and 2023, just 5,942 customers received a water conservation kit through this.¹¹⁶⁶ Apart from its separate lead service line replacement program,¹¹⁶⁷ the Company does not provide service line or leak repair assistance to any customers.¹¹⁶⁸ The limitations of PAWC’s conservation assistance hampers low-income customers’ ability to reduce unnecessarily high usage and address leaks and other needed repairs, in turn driving unnecessarily high universal service program costs. CAUSE-PA MB at 58.

¹¹⁶¹ OCA St. 5, pp. 71-76.

¹¹⁶² OCA St. 5, p. 78.

¹¹⁶³ OCA St. 5, pp. 73-75, 78.

¹¹⁶⁴ CAUSE-PA St. 1, p. 60: 1-8, *citing* PAWC St. 1, p. 12.

¹¹⁶⁵ PAWC St. 1, p. 13. FR IX.6 “Quality of Service”, initial filing, p. 135.

¹¹⁶⁶ CAUSE-PA St. 1, p. 60: 1-14.

¹¹⁶⁷ *Id.*

¹¹⁶⁸ CAUSE-PA St. 1, p. 60: 1-14.

CAUSE-PA recommends that the Commission require PAWC to develop and implement a comprehensive low-income water conservation and leak repair program. Specifically, PAWC should be required to work with its CAAG to develop this comprehensive assistance program no later than six months after the final order in this proceeding.¹¹⁶⁹ The program should include comprehensive conservation measures that go beyond basic measures included in PAWC's current conservation kits to more comprehensive conservation measures - including basic plumbing and service line repair and replacement.¹¹⁷⁰ As low-income households often lack the discretionary income to participate in rebate-style programs, the program should deliver services with no out-of-pocket or up-front costs for the measures or installation.¹¹⁷¹ CAUSE-PA further recommends the proposed programs should also include annual reporting parameters of water savings and reductions to costs of low-income assistance programs resulting from this program.¹¹⁷² Additionally, CAUSE-PA recommends that this program set a maximum eligibility at 200% of the FPL, but target high usage low-income customers enrolled in the BDP.¹¹⁷³ This will help to coordinate across PAWC's low-income assistance programs, and reduce costs of PAWC's BDP.¹¹⁷⁴ CAUSE-PA MB at 60-61.

CAUSE-PA further recommends that that PAWC coordinate the delivery of services with energy reduction programs provided by electric and gas utilities in PAWC's service territory, including Low Income Usage Reduction Programs (LIURP), Act 129 programs, and other utility efficiency programs.¹¹⁷⁵ Many utility conservation programs already provide a number of measures that increase water efficiency in customer's households, such as low flow

¹¹⁶⁹ CAUSE-PA St. 1, p. 63: 3-11.

¹¹⁷⁰ *Id.*

¹¹⁷¹ CAUSE-PA St. 1, p. 63: 12-22.

¹¹⁷² CAUSE-PA St. 1, pp. 63-64.

¹¹⁷³ *Id.*

¹¹⁷⁴ *Id.*

¹¹⁷⁵ CAUSE-PA St. 1, p. 64: 4-11.

faucets and shower heads.¹¹⁷⁶ Partnering with other efficiency programs will help to coordinate conservation and repair efforts, and better ensure that participant customers can receive comprehensive measures to reduce their utility burdens.¹¹⁷⁷ CAUSE-PA MB at 61.

CAUSE-PA avers that the lack of an explicit statutory requirement to operate a conservation program does not preclude the Commission from ordering PAWC to implement this important program. As discussed, a comprehensive usage reduction and line repair/replacement program would provide critical assistance to low-income customers with usage beyond their control, would help to control universal service program costs, and would reduce uncollectible costs as a result of terminations which affect all ratepayers. Indeed, as the Commission has long recognized, targeted conservation is an essential component of an effective universal service program portfolio. In order for universal service programs to achieve program goals, including improved bill payment behavior and reduced uncollectible expenses, these programs must deliver holistic services designed to address past, current, and future unaffordability through a combination of bill assistance, debt management, and conservation.¹¹⁷⁸ These three components are critical to provide rate stability for low-income customers over the long term. CAUSE-PA MB at 62-63.

CAUSE-PA is not opposed to I&E's proposal to recover costs from shareholders, but also submits that costs for a public purpose program such as this are also appropriately recovered through rates. CAUSE-PA notes that pursuant to its proposal, it is not necessary for the Commission to determine the appropriate method of cost-recovery in the context of this proceeding. Rather, PAWC would develop a plan for cost recovery in its Petition. Regardless of the method of recovery, it is imperative that the Commission require PAWC to develop this critical program to help curtail unnecessarily high usage and associated universal service costs through the delivery of comprehensive and targeted conversation and line assistance. CAUSE-PA MB at 63.

¹¹⁷⁶ See 52 Pa. Code § 58.14.

¹¹⁷⁷ CAUSE-PA St. 1, p. 64: 4-11.

¹¹⁷⁸ CAUSE-PA St. 1, p. 43: 1-6.

5. ALJs' Recommendation

CAUSE-PA recommends that the Commission require the Company, within six months of a final order in this proceeding, to implement a comprehensive conservation and line repair and replacement program for all customers at or below 200% of the FPL. CAUSE-PA even suggests that the Company coordinate the delivery of services with energy reduction programs provided by electric and gas utilities in PAWC's service territory, including LIURP programs. While such a program would certainly be beneficial to PAWC's ratepayers, we agree with the Company that LIURPs are only currently required under Pennsylvania Law for electric distribution companies ("EDCs") and natural gas distribution companies ("NGDCs"):

This chapter requires covered utilities to establish fair, effective and efficient energy usage reduction programs for their low income customers. The programs are intended to assist low income customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs. The programs are also intended to reduce the residential demand for electricity and gas and the peak demand for electricity so as to reduce costs related to the purchase of fuel or of power and concomitantly reduce demand which could lead to the need to construct new generating capacity. The programs should also result in improved health, safety and comfort levels for program recipients.^[1179]

In the absence of regulations mandating LIURPs for water companies, we do not believe it would be appropriate to impose such a requirement on PAWC alone. We agree with PAWC that it would be inappropriate to mandate the implementation of a LIURP program in the absence of a change in the law requiring such a program for water and wastewater utilities, and which also establishes guidelines for cost recovery.

¹¹⁷⁹ 52 Pa. Code §§ 58.1.

Accordingly, we recommend that the Commission reject CAUSE-PA’s proposal that PAWC be required to implement a comprehensive conservation and line repair and replacement program for all customers at or below 200% of the FPL.

E. Low-Income Customer Outreach, Screening, and Intake

1. PAWC’s Position

PAWC avers that it employs a robust, multi-prong approach to inform customers about the benefits provided by the H2O Program, including: direct customer communication (e.g., bill inserts, social media, websites), participation in PUC consumer education events and local community events (e.g., customer assistance program fairs and senior fairs), and Dollar Energy Fund (“DEF”) outreach (e.g., public service announcements and community speaking).¹¹⁸⁰ To target particular communities in need, such as areas with a high percentage of customers at or below 50% of the FPL, PAWC has successfully deployed an internal analytic process.¹¹⁸¹ In addition, if customers access the “myWater” customer portal, they will see information about bill assistance self-service options, as well as a link to information on PAWC’s H2O Programs and instructions for how to apply.¹¹⁸² PAWC efforts have supported a significant increase in BDP enrollment. Notably, between December 2020 and November 2023, PAWC has increased participation in its BDP by over 30%.¹¹⁸³ PAWC MB at 86.

OCA witness Colton and CAUSE-PA witness Geller both recommend new processes and requirements related to outreach. First, Mr. Colton would require PAWC to make personal contact with any confirmed low-income customer facing imminent disconnection of service for nonpayment, inform them of their right to enroll in the BDP, enroll them in the Company’s AMP as an alternative to disconnection, and only offer a payment arrangement if a

¹¹⁸⁰ PAWC St. 9, pp. 14-16; PAWC St. 14-R, p. 7.

¹¹⁸¹ PAWC St. 14-R, pp. 8-9.

¹¹⁸² PAWC St. 9-R, p. 11.

¹¹⁸³ PAWC St. 14-R, p. 8.

customer is informed of the BDP and AMP and rejects enrollment.¹¹⁸⁴ As part of that proposal, Mr. Colton recommends that “[d]isconnections to these customers should be paused until PAWC has received a response to the offer of BDP/AMP participation.”¹¹⁸⁵ Second, Mr. Geller recommends changes to PAWC’s call handling procedures so that eligible payment-troubled customers are enrolled in the Company’s H2O Programs before they are put on a payment arrangement.¹¹⁸⁶ He also argues that PAWC customers should be screened at the time of move-in and during non-emergency calls for their income eligibility for the H2O Program.¹¹⁸⁷ PAWC MB at 87.

PAWC agrees that low-income customers should be enrolled in PAWC’s H2O Programs as early as possible, which is why when a customer calls in seeking payment assistance, customer care agents (“CCAs”) are trained to direct customers to call DEF to enroll.¹¹⁸⁸ The Company already adheres to the extensive Chapter 14 and Chapter 56 requirements regarding payment arrangements and service terminations and additionally places a 30-day collections and termination lock on the account of any customer who mentions they are working with an agency/partner for payment assistance.¹¹⁸⁹ However, PAWC should not decide on behalf of the customer whether to apply for the H2O Programs or enter into a separate PAWC payment arrangement, as Mr. Geller and Mr. Colton propose. Further, customers should not be offered an indefinite stay on termination of service while they respond to an offer of BDP/AMP enrollment, as Mr. Colton proposes, as it would conflict with PAWC’s statutory obligation to reasonably manage customer arrears.¹¹⁹⁰ Finally, CCAs should not solicit income information from customers that they may consider private and/or confidential when contacting PAWC about

¹¹⁸⁴ OCA St. 5, pp. 59, 61.

¹¹⁸⁵ *Id.*

¹¹⁸⁶ CAUSE-PA Sts. 1, pp. 57-59 & 1-SR, pp. 10-12

¹¹⁸⁷ CAUSE-PA St. 1, pp. 56-58.

¹¹⁸⁸ PAWC St. 9-R, p. 11.

¹¹⁸⁹ PAWC St. 14-R, p. 11.

¹¹⁹⁰ *Id.*; *see also* PAWC St. 9-R, p. 11.

issues unrelated to billing, such as move-ins and non-emergency service issues.¹¹⁹¹ PAWC MB at 87-88.

2. OCA's Position

The OCA asserts that PAWCs low-income customer outreach and intake for its BDP and AMP programs are currently inadequate.¹¹⁹² While the OCA recognizes that the AMP was just recently approved, and that it may be too early to assess the effectiveness of the enrollment in the AMP, the same cannot be said for the BDP. From November 2021 to October 2023, of the 60,660 confirmed low-income customers, PAWC has enrolled fewer than 13,700 or 17.7% of those customers into its BDP.¹¹⁹³ This number is in stark contrast to PAWC's disconnection count of confirmed low-income customers from January 2021 to October 2023, which was 35,488, and the disconnection notice count of 412,518 sent to confirmed low-income customers.¹¹⁹⁴ These confirmed low-income customers disconnections represent a total arrearage of \$14,550,181 at the time of disconnection.¹¹⁹⁵ In no month from January 2023-October 2023 did PAWC enroll more confirmed low-income customers than it disconnected.¹¹⁹⁶ OCA MB at 99-100 .

OCA witness Colton provides the following recommendations for the Commission to require PAWC to adopt and undertake in order to provide adequate service:¹¹⁹⁷

1. The company should be required to make personal contact with any confirmed low-income customer facing termination of service for nonpayment and these customers should be informed of and given the right to enroll in the BDP and the AMP as an

¹¹⁹¹ PAWC St. 9-R, pp. 11-12.

¹¹⁹² OCA St. 5, pp. 54-63.

¹¹⁹³ OCA St. 5, p. 57.

¹¹⁹⁴ OCA St. 5, p. 57.

¹¹⁹⁵ OCA St. 5, p. 57.

¹¹⁹⁶ OCA St. 5, p. 69.

¹¹⁹⁷ OCA St. 5, pp. 54-63.

alternative to disconnection. Termination of these customers should be frozen until this contact takes place.

2. Moving forward, customers enrolled in the BDP should also be informed of the AMP and enrolled in it as well if they choose.

3. Customers should be informed of AMP and BDP and directed to enroll, where doing so would be more favorable to a customer and only offer a payment arrangement if the customer rejects the BDP and AMP after being informed of the programs' benefits.

4. The company should be required to make regular reports to Low Income Advocacy Groups (LIAG) regarding its steps towards utilizing speech patterns and linguistic analysis to review call center calls.

The Commission should require that these recommendations be implemented by PAWC as a part of any authorized rate increase to ensure that consumers are receiving adequate service.¹¹⁹⁸ OCA MB at 100.

3. CAUSE-PA's Position

CAUSE-PA avers that, as currently structured, PAWC's universal service programs, including reduced rates available through PAWC's BDP, are not reasonably accessible to PAWC's low-income customers. PAWC's programs reach a fraction of PAWC's low-income customers.¹¹⁹⁹ As of November 2023, only 25% of PAWC's estimated low-income customers and just 40% of PAWC's confirmed low-income customers (those known to be income eligible for the BDP) were actually enrolled in the BDP.¹²⁰⁰ Further, while 9,658 confirmed low-income customers were terminated for nonpayment in 2023, only 3,443 Hardship

¹¹⁹⁸ 66 Pa. C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45 *PGW 2000* at *41-44.

¹¹⁹⁹ CAUSE-PA St. 1, p. 54: 1-12.

¹²⁰⁰ *Id.*

Fund grants were issued during that period.¹²⁰¹ As Mr. Geller explained in testimony, these figures undercount true need.¹²⁰² CAUSE-PA MB at 63-64.

CAUSE-PA recommends that the Commission require PAWC to implement the several systematic solutions so that low-income customers can more easily enroll in available universal service programs before unmanageable debts are accrued.¹²⁰³ CAUSE-PA recommends that PAWC begin screening all new and moving customers for income level and eligibility for assistance at the time their service is established and on a periodic basis thereafter during non-emergency calls.¹²⁰⁴ Currently, PAWC obtains low-income status information from customers through its Ability to Pay (ATP) process, which is not triggered until a customer is already behind on their bills.¹²⁰⁵ Routinized income screening will help ensure that low-income customers are enrolled in available assistance programming before accruing unmanageable levels of debt. We similarly recommend that PAWC develop call scripting and checklists for its Customer Service Representatives (CSRs) to assist in screening customers for eligibility in its low-income assistance programs. Call scripting and checklists which require CSRs to routinely screen for eligibility for low-income assistance programming will help to systematize PAWC's enrollment in its low-income programs.¹²⁰⁶ Customers identified as low-income through this process should be provided a warm referral to PAWC's low-income assistance programs, and should not be required to provide duplicative information in order to enroll in these programs.¹²⁰⁷ CAUSE-PA MB at 65-66.

Additionally, CAUSE-PA recommends that PAWC should be required, in turn, to refer low-income customers to available assistance programs – including PAWC's BDP and

¹²⁰¹ *Id.*

¹²⁰² *Id.*

¹²⁰³ CAUSE-PA St. 1, p. 56: 1-15.

¹²⁰⁴ CAUSE-PA St. 1, pp. 57: 10-21, 58: 1-13.

¹²⁰⁵ CAUSE-PA St. 1, p. 57: 10-21.

¹²⁰⁶ CAUSE-PA St. 1, p. 58: 14-21.

¹²⁰⁷ *Id.*

Hardship Fund programs – prior to being placed on a payment arrangement. CAUSE-PA avers that this is not only sound public policy to prevent the accrual of unmanageably high debts but it is also mandated in Chapter 14.¹²⁰⁸ While payment arrangements can be an important tool to manage accrued arrears, they can also serve to exacerbate unaffordability – adding additional payment obligations to already unaffordable rates.¹²⁰⁹ It is essential that low-income customers are directed first to low-income assistance programs, which are specifically designed as an alternative path to collections for low-income households in recognition of the limitations of payment arrangements.¹²¹⁰ CAUSE-PA MB at 66.

CAUSE-PA maintains that the Commission should require PAWC to revise its policies, procedures, and training materials to reflect that customers who are payment troubled or otherwise indicate that they cannot afford service should be screened for, referred to, and enrolled in PAWC’s universal service programs – including both the Hardship Fund and BDP – prior to being placed in a payment arrangement.¹²¹¹ Similarly, PAWC should be prohibited from requiring customers to enter a payment arrangement as a condition to applying for or enrolling in assistance programs.¹²¹² PAWC should review DEF’s policies and procedures to ensure that its administration of PAWC’s assistance programs reflect these policies and procedures.¹²¹³ CAUSE-PA MB at 67.

4. ALJs’ Recommendation

Regarding Public Utility Duties, the Public Utility Code provides in pertinent part, the following:

¹²⁰⁸ 66 Pa.C.S. § 1410.1 (Duties of Public Utilities).

¹²⁰⁹ CAUSE-PA St. 1, pp. 58: 22 – 59: 7.

¹²¹⁰ CAUSE-PA St. 1-SR, pp. 5-6.

¹²¹¹ CAUSE-PA St. 1, p. 59: 8-19.

¹²¹² *Id.*

¹²¹³ *Id.*

When a customer or applicant contacts a public utility to make a payment agreement as required by section 1410 (relating to complaints filed with commission), the public utility shall:

- (1) Provide information about the public utility's universal service programs, including a customer assistance program.
- (2) Refer the customer or applicant to the universal service program administrator of the public utility to determine eligibility for enrollment in a program.¹²¹⁴

Pursuant to the Public Utility Code, PAWC has an affirmative duty to make customers and applicants aware of the availability of its universal service programs when they call to ask about a payment agreement.

It is clear that PAWC is following these guidelines when customers call seeking payment assistance, since PAWC CCAs are trained to direct customers to call DEF to enroll. Moreover, they are placing a 30-day collection and termination hold on a customer account if the customer mentions they are working with an agency or partner for payment assistance. Clearly, the Company is meeting its obligations by educating callers about the availability of assistance. It is then up to the customer caller to take the next step to apply for these available programs.

Accordingly, we recommend that the proposals offered by the OCA and CAUSE-PA regarding low-income customer outreach be rejected.

F. Data Collection, Reporting, and Monitoring of Low-Income Programs

1. PAWC's Position

Mr. Geller recommends that PAWC be required to establish quantitative outreach goals, update its low-income customer count annually, and set BDP enrollment benchmarks at 20% per year of estimated low-income customer counts until 75% enrollment is achieved. He

¹²¹⁴ 66 Pa.C.S. § 1410.1.

further suggests that PAWC track and report relevant data concerning the Company’s “progress” to its Customer Assistance Advisory Group (“CAAG”) to help refine outreach efforts.¹²¹⁵

PAWC MB at 88.

PAWC argues that the Commission should reject Mr. Geller’s data collection and reporting recommendations for several reasons. First, the Company is making significant strides in reaching out to customers without formalizing outreach/enrollment benchmarks or quantitative goals. As noted earlier, PAWC’s robust outreach strategy facilitated a 30% increase in BDP participation between December 2020 and November 2023. Second, the Company’s H2O Programs are entering a period of transition. Currently, verbal income information is sufficient to enroll in the BDP, and the vast majority of BDP participants have not provided income documentation to the Company. In the near future, however, PAWC will be requiring customers to verify their income eligibility by submitting income documentation as part of the AMP and the BDP. The income verification requirement may result in some customers leaving the BDP while other customers may newly enroll as a result of new benefits under the AMP. It would not be reasonable to establish benchmarks when the enrollment levels are expected to fluctuate over the next few years.¹²¹⁶ Finally, PAWC already has processes in place to regularly share relevant data with the CAAG. The Company holds quarterly meetings with the CAAG in an effort to enhance its low-income assistance programs and related outreach. Relevant to Mr. Geller’s concerns, as part of the settlement of the AMP proceeding, PAWC committed to develop and share a draft communication and outreach plan for the AMP with the CAAG to obtain members’ feedback.¹²¹⁷ For these reasons, PAWC believes that it is unnecessary to impose additional benchmarks or reporting requirements to motivate PAWC to continue to advance its H2O Programs. PAWC MB at 88-89.

Regarding the OCA’s recommendation for customer satisfaction surveys, PAWC avers that this is unnecessary since PAWC and the Customer Service Organization (“CSO”)

¹²¹⁵ CAUSE-PA St. 1, pp. 47-48.

¹²¹⁶ PAWC St. 14-R, pp. 9-10.

¹²¹⁷ *Id.* at 9.

already identify trends from customer feedback provided via transaction surveys, including from customers seeking bill assistance, requesting payment arrangements, raising inability-to-pay issues, or responding to disconnection notices.¹²¹⁸ PAWC RB at 71-72.

2. OCA's Position

In order to assist in the performance of its low-income customer assistance programs, PAWC should be required to introduce customer satisfaction surveys targeting (1) customers seeking to enroll in the BDP and/or AMP; (2) customers seeking to enroll in a deferred payment arrangement; (3) customers expressing a difficulty paying, or an inability-to-pay their bills in a full and timely manner; and (4) customers responding to the pending (or already completed) disconnection of service for nonpayment.¹²¹⁹ The results of these targeted surveys should be compiled, provided to the PAWC LIAG at each quarterly meeting, and subject to discussion at LIAG should a member of the group have questions or identify issues flowing from the targeted surveys.¹²²⁰ By compiling information that can be used to assess how PAWC might improve its customer satisfaction or improve its collections outcomes from customers, PAWC will improve its management control of costs and revenues, improve the stability of its earnings, and thus control the need for future rate relief.¹²²¹ OCA MB at 101.

3. CAUSE-PA's Position

As CAUSE-PA previously noted, PAWC's low-income assistance programs are undersubscribed. Roughly 75% of PAWC's estimated low-income customers, and roughly 60% of households *known* to be eligible for PAWC's BDP are not enrolled.¹²²² Tens of thousands of PAWC's low-income customers remain unenrolled in available assistance programs based on

¹²¹⁸ PAWC St. 9-R, p. 10.

¹²¹⁹ OCA St. 5, p. 123.

¹²²⁰ OCA St. 5, p. 123.

¹²²¹ OCA St. 5, pp. 123-24.

¹²²² CAUSE-PA St. 1, p. 47: 1-8.

these figures. CAUSE-PA urges the Commission to order improvements to PAWC’s data collection and reporting requirements to better ensure that low-income customers can enroll in the BDP and other available universal service programs. CAUSE-PA MB at 69.

First, CAUSE-PA asserts that PAWC should be required to update its estimated low-income customer count on an annual basis, and to work with the Commission’s Bureau of Consumer Services to identify an appropriate method for estimating its low-income customer count based on current US Census Bureau data.¹²²³ CAUSE-PA avers that it is unclear whether PAWC has updated its estimated low-income customer count since its 2022 rate proceeding utilizing appropriate data from the U.S. Census Bureau.¹²²⁴ As Mr. Geller explains “[a]n accurate count of estimated low-income customers is essential to determining existing need in PAWC’s service territory.”¹²²⁵ CAUSE-PA MB at 69.

Second, CAUSE-PA asserts that the Commission should require PAWC to set target enrollment benchmarks for its BDP.¹²²⁶ CAUSE-PA recommends enrollment targets set at 20% per year of PAWC’s estimated low-income customer counts, until the Company reaches at least 75% enrollment of this estimated group.¹²²⁷ CAUSE-PA MB at 69.

Third, CAUSE-PA recommends that the Commission require PAWC to establish quantitative and qualitative goals related to affirmative customer outreach for the purpose of enrolling low-income customers in the BDP and AMP, which is scheduled to launch later this year.¹²²⁸ This affirmative outreach should include telephone contacts, mailings, and electronic communications such as text or email (with customer consent).¹²²⁹ In addition, PAWC should be required to track and report on its progress in reaching these goals to its CAAG to help refine

¹²²³ CAUSE-PA St. 1, pp. 47-48.

¹²²⁴ *Id.*

¹²²⁵ CAUSE-PA St. 1, p. 47: 11-18.

¹²²⁶ CAUSE-PA St. 1, p. 48.

¹²²⁷ CAUSE-PA St. 1, p. 48: 1-3.

¹²²⁸ CAUSE-PA St. 1, p. 48: 4-11.

¹²²⁹ *Id.*

outreach efforts based on CAAG feedback.¹²³⁰ In line with Mr. Geller’s recommendations, PAWC should expand its CAAG membership to include “a broader array of community voices from all corners of PAWC’s expansive service territory.”¹²³¹ Moreover, regular tracking, assessment, and reporting of metrics and goals to the CAAG will allow it to better assess the status of low-income assistance programs and provide improved feedback related to these programs. Without regular collection and assessment of these key metrics, CAUSE-PA is concerned the CAAG’s ability to provide robust and meaningful feedback will be merely performative. CAUSE-PA MB at 70; CAUSE-PA RB at 13-14.

CAUSE-PA believes that these recommendations are essential to ensure that the Commission, parties, and stakeholders are able to accurately and precisely evaluate PAWC’s low-income assistance programs, and their ability to assist PAWC’s low-income customers afford and stay connected to water/wastewater services. CAUSE-PA RB at 14.

4. ALJs’ Recommendation

Regarding the OCA’s recommendations for customer satisfaction surveys, we agree with the Company that such a requirement would be unnecessary. The Company and the CSO are already identifying trends from customer feedback from transaction surveys. Additional customer satisfaction surveys are not necessary. Accordingly, we recommend that the Commission reject OCA’s recommendation that the Company be required to introduce customer satisfaction surveys.

CAUSE-PA made several recommendations regarding data collection and reporting recommendations for PAWC. PAWC opposes these recommendations, noting that it is making significant strides with its customer outreach efforts, program enrollment levels may fluctuate, and because the Company already has processes in place to regularly share relevant data with CAAG. However, as noted by CAUSE-PA, PAWC’s low-income assistance programs

¹²³⁰ *Id.*

¹²³¹ *Id.*

are undersubscribed, and the purpose of their recommendations is to better ensure that low-income customers can enroll in the BDP and other available universal service programs. Considering the testimony provided at the public input hearings from customers struggling to pay their bills, ensuring that low-income customers can enroll in these programs is of great importance. Accordingly, we recommend that the Commission approve CAUSE-PA's recommendations regarding data collection and reporting.

G. Comprehensive Written Universal Service Plan

1. PAWC's Position

OCA witness Colton recommends that PAWC develop a written universal service plan and file that plan with the Commission's Bureau of Consumer Services ("BCS").¹²³² Mr. Geller also recommends requiring PAWC to file a universal service plan ("USP") and accompanying petition within one year of the final order in this case, and every five years thereafter.¹²³³ PAWC MB at 89.

PAWC contends that, similar to Mr. Geller's low-income conservation proposal addressed previously, these USP recommendations are attempting to impose elements of the broad universal service framework on PAWC in the absence of any actual universal service requirements or mechanism for cost recovery applicable to water or wastewater utilities. Pennsylvania law requires EDCs and NGDCs to have USPs and also provides for the full recovery of their USP costs.¹²³⁴ As explained by PAWC witness Dean, the time, resources, and cost of maintaining and revising a USP are significant, often requiring the establishment of new departments at utilities that are entirely focused on the implementation of these plans. At this time, PAWC's assistance programs are administered by DEF and supported by 1.5 full-time employees. Establishment of a full-scale USP would require a dramatic increase in resources

¹²³² OCA St. 5, pp. 67-68.

¹²³³ CAUSE-PA St. 1, p. 56.

¹²³⁴ See, e.g., 52 Pa. Code § 54.74; 52 Pa. Code § 62.41; 66 Pa.C.S. § 2804(8) ("The commission shall establish for each electric utility an appropriate cost-recovery mechanism which is designed to fully recover the electric utility's universal service and energy conservation costs over the life of these programs.").

devoted by PAWC commensurate with those of EDCs and NGDCs. The PUC should not mandate the development and implementation of a universal service plan in the absence of any universal service requirement (and corresponding full and timely cost recovery) for water and wastewater utilities under Pennsylvania law.¹²³⁵ PAWC MB at 89-90.

2. I&E's Position

Both OCA witness Roger Colton and CAUSE-PA witness Geller recommend that PAWC should be required to develop a written comprehensive universal service plan, which OCA recommends be filed with the Bureau of Consumer Services for review by interested parties.¹²³⁶ I&E MB at 104.

Currently, only electric and natural gas utilities are required to develop universal service plans.¹²³⁷ As a result, I&E witness Okum recommends that rather than a singular requirement for PAWC to file a universal service plan, if the Commission wishes to implement the requirement for a universal service plan for water and wastewater utilities, that it be done on a statewide basis.¹²³⁸ PAWC witness Dean similarly notes that currently only electric and natural gas companies are required to create a universal service plan. Ms. Dean further states that “PAWC should not be required to adopt a universal service plan unless Pennsylvania law is modified to expand this requirement ... to water and wastewater utilities.”¹²³⁹ I&E MB at 104.

In addition, I&E witness Okum explains, that even if the Commission were to approve a universal service plan for PAWC on a standalone basis, low-income benefits flow through base rates. Therefore, even if periodic reports were filed with BCS and reviewed by

¹²³⁵ PAWC 14-R, pp. 12-13.

¹²³⁶ CAUSE-PA St. 1, p. 56 and OCA St. 5, p. 67.

¹²³⁷ 52 Pa. C.S. § 69.261.

¹²³⁸ I&E St. 1-R, pp. 5-6.

¹²³⁹ PAWC St. 14-R, p. 12.

interested parties, in that particular forum there would be no avenue to make any necessary changes to base rates.¹²⁴⁰ I&E MB at 104-105.

Therefore, I&E recommends that, rather than singling out PAWC to provide a written universal service plan, if the Commission believes that universal services plans are appropriate for water and wastewater utilities, it provide statewide guidance for all water and wastewater utilities as it has done in the gas and electric industries. I&E MB at 105; I&E RB at 45.

3. OCA's Position

The OCA maintains that PAWC should be required to develop a comprehensive written plan to be filed with the Commission's BCS as an element of fundamental prudent and adequate program planning and management of its low-income customer assistance programs.¹²⁴¹ While the OCA recognizes that PAWC is not required by regulation to prepare and file a written plan, the need to prepare and file a written plan is based on the need for efficient and adequate service to low-income customers and planning of expenditures for related programs.¹²⁴² OCA MB at 101; OCA RB at 63.

4. CAUSE-PA's Position

CAUSE-PA notes that there is currently no single, unified document for the Commission, customers, or other stakeholders to review the benefits and requirements of PAWC's universal service programming. Accordingly, CAUSE-PA strongly recommends that the Commission order PAWC to develop and submit a comprehensive Universal Service Plan for periodic Commission review and approval. Currently, as a jurisdictional water/wastewater

¹²⁴⁰ I&E St. 1-R, pp. 5-6.

¹²⁴¹ OCA St. 5, pp. 67-72; OCA St. 5SR, pp. 30-31.

¹²⁴² OCA St. 5, p. 68.

utility, PAWC is not required to submit periodic plans related to their low-income assistance programming for Commission review and approval.¹²⁴³ CAUSE-PA MB at 72.

Failure to maintain a cohesive plan leaves a substantial gap for consumers and utility advocates, and makes it difficult for the Commission to properly oversee PAWC's administration of Commission-approved universal service programming. The Commission, consumers, and stakeholders must rely on PAWC's tariffs, prior Settlement agreements, former Commission Orders, and other piecemeal information from websites and other outreach materials to determine important program rules, policies, and procedures for the Company's programs.¹²⁴⁴ This is a substantial customer service issue – hampering consumers' ability to learn about an enroll in assistance programs.¹²⁴⁵ Consequently, CAUSE-PA recommends that the Commission require the Company to file a Universal Service Plan and an accompanying Petition for Commission review and approval within one year of the final Order in this case, and every five years thereafter, in line with the requirements of regulated EDCs and NGDCs in the Commonwealth.¹²⁴⁶ CAUSE-PA MB at 72.

CAUSE-PA further recommends that the Commission require PAWC to include a detailed consumer education and outreach plan (CEOP) within its universal service plan filing. The continued undersubscription of PAWC's low-income assistance programs evidences a need for coordinated, systematic approaches to consumer outreach and education related to PAWC's low-income assistance programs.¹²⁴⁷ This CEOP should be developed with input from parties and stakeholders through PAWC's CAAG, and should include how PAWC plans to specifically promote and coordinate around each of its low-income assistance program components.¹²⁴⁸ The CEOP should be tailored to the varying demographics of the Company's broad service territory,

¹²⁴³ CAUSE-PA St. 1, p. 56: 1-15.

¹²⁴⁴ *Id.*

¹²⁴⁵ *Id.*

¹²⁴⁶ *Id.*

¹²⁴⁷ CAUSE-PA St. 1, pp. 56-57.

¹²⁴⁸ *Id.*

should include how PAWC will perform targeted outreach to specific vulnerable consumer groups and communities, and should identify efforts to educate and enroll customers at or below 50% of the FPL in assistance programming.¹²⁴⁹ So that PAWC, stakeholders, and the Commission can gauge the success and progress of efforts under the CEOP, CAUSE-PA recommends that the CEOP also include measurable goals and associated metrics to assess those goals.¹²⁵⁰ CAUSE-PA MB at 72-73.

5. ALJs' Recommendation

Both the OCA and CAUSE-PA each separately recommend that PAWC be required to file a comprehensive Universal Service Plan with the Commission. Additionally, both parties, as well as I&E, recognize that currently, only electric and natural gas utilities are required to develop universal service plans.

Previously, we recommended that the Commission reject CAUSE-PA's proposed comprehensive conservation and line repair and replacement program because there are no regulations mandating LIURPs for water companies, and it would not be appropriate to impose such a requirement on PAWC alone. The result should be the same here. Accordingly, we recommend that the Commission reject OCA's and CAUSE-PA's recommendation that PAWC be required to file a comprehensive Universal Service Plan with the Commission.

In the alternative, should the Commission determine that OCA's and CAUSE-PA's proposal has merit, we recommend that the Commission adopt I&E's suggestion that if the Commission wishes to implement the requirement for a universal service plan for water and wastewater utilities, that it be done on a statewide basis.

¹²⁴⁹ *Id.*

¹²⁵⁰ *Id.*

H. Administration of PAWC's Low-Income Assistance Programs

1. PAWC's Position

CAUSE-PA witness Geller argues that PAWC does not exercise appropriate levels of oversight over the Company's low-income program administrator, DEF. He further recommends that PAWC be required to establish clear metrics for auditing DEF-handled accounts, including monthly review of metric data and auditing reports, and also conduct and submit periodic third-party evaluations on its low-income assistance program in-line with the six-year evaluation conducted for EDC and NGDC universal service programs.¹²⁵¹ PAWC MB at 90.

Mr. Geller's recommendations are unnecessary in light of existing PAWC processes and would result in significant new administrative costs. As explained by PAWC witness Dean, PAWC regularly meets with DEF regarding program administration and addresses any issues as they arise. PAWC has full access to information regarding DEF fund balances, application processing, application status and standard reports through DEF's Grant Management System. DEF provides PAWC with standard periodic reports on application and grant activities, and the Company can ask DEF for additional reports as needed. PAWC avers that new auditing metrics and costly third-party audits are not necessary in order for PAWC to have appropriate oversight over DEF's activities.¹²⁵² Additionally, PAWC notes that the third-party auditing Mr. Geller recommends is required for EDCs and NGDCs, not water and wastewater utilities, as part of their broad universal service obligations under Pennsylvania law.¹²⁵³ For all these reasons, PAWC maintains that the Commission should reject Mr. Geller's proposals concerning metrics and auditing of DEF activities. PAWC MB at 90-91.

¹²⁵¹ CAUSE-PA St. 1, pp. 64-67.

¹²⁵² PAWC St. 14-R, p. 14.

¹²⁵³ 52 Pa. Code §§ 54.76 and 62.6.

2. OCA's Position

The OCA notes that it is generally supportive of the testimony filed by CAUSE-PA's Witness Geller regarding his recommendations for the administration of PAWC's Low-Income Assistance Programs. OCA MB at 101.

3. CAUSE-PA's Position

PAWC's low-income assistance programs are currently administered by Dollar Energy Fund (DEF). CAUSE-PA witness Geller raised concerns through testimony that PAWC is not exercising appropriate oversight over DEF as its program administrator.¹²⁵⁴ PAWC appears to have the following processes for oversight of DEF's administration of its low-income assistance programs: access to DEF's grant management system to review information regarding fund balances, application processing, application status, and standard reports;¹²⁵⁵ access to standard reports containing information related to applications and grant activities; and the authority to request additional reports,¹²⁵⁶ certain data related to DEF's call centers, including data related to hold times and hours/days of call center operations.¹²⁵⁷ CAUSE-PA MB at 75.

CAUSE-PA is concerned that PAWC does not appear to have systems in place to regularly monitor DEF's administration of its programs to ensure that standards are being met so that eligible customers can easily enroll in available assistance programs.¹²⁵⁸ Similarly, PAWC does not have formal policies, assessments, or audits of DEF's administration of its low-income assistance programs.¹²⁵⁹ CAUSE-PA MB at 75.

¹²⁵⁴ CAUSE-PA St. 1, p. 64: 12-20.

¹²⁵⁵ *Id.*

¹²⁵⁶ *Id.*

¹²⁵⁷ *Id.*

¹²⁵⁸ CAUSE-PA St. 1, p. 65: 1-12.

¹²⁵⁹ *Id.*

To address CAUSE-PA's concerns, CAUSE-PA recommends that PAWC should be required to implement systematic and regular processes for monitoring, screening, and oversight related to its low-income assistance programs. PAWC should establish and implement clear metrics for auditing DEF's administration of its programs. These performance metrics should be implemented within six months of the final order in this proceeding and should be developed in consultation with PAWC's CAAG. PAWC should review metric data and reports from DEF on a monthly basis to ensure that DEF is meeting established standards and benchmarks.¹²⁶⁰ Targeted trainings or other remedial action should be taken if issues are discovered through these processes.¹²⁶¹ CAUSE-PA MB at 77-78.

CAUSE-PA further recommends that the Commission require PAWC to conduct and submit periodic third-party evaluations to the Commission on its low-income assistance programs, in line with the six-year program evaluation period required of EDCs and NGDCs, with the first evaluation due a year from the date of the final order in this proceeding.¹²⁶² PAWC should work with the Commission's BCS to identify an appropriate and qualified third-party universal service program evaluator to conduct this evaluation.¹²⁶³ This evaluation should include, at minimum, analysis of data from the specific metrics implemented by PAWC for monitoring of DEF's program administration, relevant enrollment, collections and bill payment data, and all other relevant program metrics maintained by PAWC and DEF, together with participant surveys and other proven evaluative tools.¹²⁶⁴ These periodic evaluations should be discussed with PAWC's CAAG and provided to parties to this proceeding.¹²⁶⁵ CAUSE-PA MB at 78.

¹²⁶⁰ CAUSE-PA St. 1, pp. 66-67.

¹²⁶¹ *Id.*

¹²⁶² 52 Pa. Code § 54.76 (Electric); 52 Pa. Code § 62.6 (Natural Gas).

¹²⁶³ CAUSE-PA St. 1, p. 67: 6-17.

¹²⁶⁴ *Id.*

¹²⁶⁵ *Id.*

CAUSE-PA disagrees that any increase costs which may result from this enhanced oversight would require a rider recovery mechanism.¹²⁶⁶ DEF's administration of PAWC's universal service programs are already recovered through rates.¹²⁶⁷ Any costs associated with appropriate oversight of DEF's administration should be recovered in the same manner as other program costs and does not require a separate rider recovery mechanism. CAUSE-PA MB at 79-80.

4. ALJs' Recommendation

We agree with PAWC that CAUSE-PA's recommendations are unnecessary. PAWC notes that it regularly meets with DEF regarding program administration and addresses issues as they arise. Moreover, PAWC has access to all necessary information, and DEF provides PAWC with standard periodic reports, and the Company can ask DEF for additional reports as needed. Moreover, as the Company notes, such third-party auditing is required for EDCs and NGDCs as part of their universal service obligations under Pennsylvania law, not water and wastewater utilities.

Accordingly, we recommend that the Commission reject CAUSE-PA's proposal that PAWC be required to implement systematic and regular processes for monitoring, screening, and oversight related to its low-income assistance programs.

¹²⁶⁶ CAUSE-PA St. 1-SR, pp. 21: 12 – 22: 15.

¹²⁶⁷ *Id.*

XIV. SERVICE QUALITY AND CUSTOMER SERVICE ISSUES

A. Customer Service Performance

1. PAWC's Position

PAWC explains that the Customer Service Organization (“CSO”) supports the customer service needs of PAWC and the other American Water utility subsidiaries, including customer call handling and billing.¹²⁶⁸ The CSO is focused on providing customers with convenient access to information and responsive, personal service to drive high satisfaction ratings.¹²⁶⁹ PAWC and the CSO leverage multiple sources of customer feedback to monitor customer satisfaction, including targeted surveys taken immediately after phone, field and customer portal interactions and a customer satisfaction survey of all PAWC customers conducted quarterly.¹²⁷⁰ This approach allows PAWC and the CSO to stay abreast of changing customer expectations and align performance goals to meet those customer needs.¹²⁷¹ PAWC MB at 92.

The CSO consistently seeks ways to improve the customer experience and maintain high levels of customer satisfaction.¹²⁷² As PAWC witness Degillio testified, the CSO’s hiring and recruitment efforts over the past several years have reduced wait times and the call abandonment rate for customers that do not utilize the courtesy call back (“CCB”) feature.¹²⁷³ In addition, the CSO continually refines the “myWater” portal to help PAWC

¹²⁶⁸ PAWC St. 9, pp. 2-5.

¹²⁶⁹ *Id.* at 7-8.

¹²⁷⁰ *Id.*

¹²⁷¹ *Id.*

¹²⁷² PAWC St. 9, pp. 9-13.

¹²⁷³ PAWC Sts. 9, pp. 9-13 & 9-R, pp. 3-4.

customers efficiently manage their account online and endeavors to expand adoption of paperless billing to increase customer engagement and, ultimately satisfaction.¹²⁷⁴ PAWC MB at 92-93.

a. Call Handling

PAWC maintains that OCA witness Alexander narrowly and erroneously focuses her evaluation of CSO performance on wait times and call abandonment rather than the overall customer experience. PAWC witness Degillio explained that the highest driver of customer service that impacts overall satisfaction is first contact resolution.¹²⁷⁵ Other important customer satisfaction indicators that are not related to call handling performance that Ms. Alexander fails to consider include quality and value of service, proactive communications, ease of paying bills, and conservation.¹²⁷⁶ Accordingly, PAWC concludes that Ms. Alexander’s opinion that overall customer service is poor based exclusively on call answering metrics is flawed. PAWC MB at 93.

Additionally, PAWC asserts that Ms. Alexander compares the CSO’s performance with data reported to BCS by electric and gas utilities who use different definitions and metrics for call center performance than PAWC. PAWC notes that the “service level” presented in the BCS Customer Service Performance Reports that Ms. Alexander relied on for her proposed performance standards is the “percentage of calls answered within 30 seconds by an [interactive voice response (“IVR”) system] or a [customer service representative] ready to render assistance.”¹²⁷⁷ PAWC contends that this is significantly different than the calculation of CSO service levels which includes only calls by an agent who is ready to render assistance.¹²⁷⁸ Calls answered by the IVR and customers who elected a courtesy call back (“CCB”) were excluded from the call center performance data presented in PAWC’s prior base rate cases and

¹²⁷⁴ PAWC St. 9, pp. 10-11.

¹²⁷⁵ PAWC St. 9, pp. 7-8.

¹²⁷⁶ *Id.*

¹²⁷⁷ *Aqua Pa, Inc, Peoples Natural Gas Co. LLC, and Peoples Gas Co. LLC Management and Operations Audit*, Docket Nos. D-2020-3018771, D-2020-3018773, and D-2020-3018774 (Apr. 2021), p. 130.

¹²⁷⁸ PAWC St. 9-R, pp. 4-5.

the Company's most recent management audit.¹²⁷⁹ PAWC believes that if calls answered by the IVR and/or customers using the CCB feature were reflected in the CSO's performance data, service levels would move toward the metrics recommended by Ms. Alexander. PAWC MB at 94.

Moreover, PAWC maintains that performance levels of the CSO and third-party call handling agencies are already monitored on a daily basis.¹²⁸⁰ PAWC leadership routinely reviews CSO performance trends with CSO leadership to develop strategies for improvement.¹²⁸¹ The Service Company determines staffing levels of third-party call handling agencies based on the performance of individual agents against known performance indicators set forth in the service agreements with those contractors.¹²⁸² PAWC MB at 94.

Lastly, PAWC argues that any concerns about CSO compliance with Pennsylvania consumer protection requirements¹²⁸³ are unfounded. The CSO conducts extensive training of its agents in Pennsylvania rules and regulations before they are permitted to handle calls from PAWC customers.¹²⁸⁴ This training includes an 80-page training module and a knowledge test, and the CSO has a robust quality assurance process focused on customer care agents' ("CCA") adherence to Chapter 14 of the Code and Chapter 56 of the PUC's regulations.¹²⁸⁵ Ms. Alexander has not provided any evidence that CCAs who completed the training she believes is deficient are not following Pennsylvania regulations when handling PAWC calls. PAWC MB at 95.

¹²⁷⁹ *Id.*

¹²⁸⁰ *Id.* at 6-8.

¹²⁸¹ *Id.*

¹²⁸² *Id.*

¹²⁸³ OCA St. 6, pp. 23-24.

¹²⁸⁴ PAWC Sts. 9, pp. 6-7 & 9-R, pp. 8-9.

¹²⁸⁵ PAWC St. 9-R, pp. 8-9.

b. Responses to Customer Complaints

PAWC received Formal Complaints in this proceeding addressing, among other things, water quality and field service–related issues. PAWC witness Runzer described the typical causes of, and PAWC responses to, water quality complaints (e.g., hard water, colored water, odor, taste) and also explained how field-service concerns are handled.¹²⁸⁶ OCA witness Terry L. Fought highlighted individual customer public input hearing testimony about water quality and service issues and recommended that PAWC respond to the issues raised.¹²⁸⁷ Mr. Runzer described the individual Company outreach to the customers identified in Mr. Fought’s supplemental direct testimony,¹²⁸⁸ and Mr. Fought had “no issue about PAWC’s response” and appreciated the Company’s follow up with those customers.¹²⁸⁹ PAWC MB at 95.

Finally, regarding OCA witness Alexander’s recommendation requiring a professionally conducted root-cause analysis of complaint trends and a report on findings including identification of trends, evaluation, steps to reform or avoid repeated trends, and internal steps to take to enforce action where needed within three months and quarterly updates to shareholders,¹²⁹⁰ PAWC witness Dean explained that Ms. Alexander’s concerns were unfounded in light of the Company’s robust complaint analysis process. Ms. Dean confirmed that PAWC: (1) analyzes every customer Complaint it receives (other than informal mediation complaints that do not involve any allegation of wrongdoing by the Company), to determine the contributing factor, if any; (2) makes a root-cause determination for every such customer Complaint; (3) logs a root cause for each such complaint, where a contributing factor is identified; (4) generates reports reflecting customer Complaint root causes; (5) analyzes root-

¹²⁸⁶ PAWC St. 2-R, pp. 13-16.

¹²⁸⁷ OCA St. 7 Supp., pp. 2-7.

¹²⁸⁸ PAWC St. 2-R, pp. 18-53.

¹²⁸⁹ OCA St. 7-SR, p. 7.

¹²⁹⁰ OCA St. 5, pp. 11-18, 44.

cause trends; and (6) regularly discusses root-cause trends with the CSO and the other appropriate business units.¹²⁹¹ PAWC MB at 96.

c. Billing

A few PAWC customers expressed concern at the public input hearings over either not receiving paper bills for the month of December 2023 or receiving mailed bills late.¹²⁹² PAWC confirmed with the CSO's print vendor that all 2023 bills were timely printed and mailed to customers that have not enrolled in paperless billing.¹²⁹³ As a result of its investigation, the Company concluded that this issue was caused by postal service delays.¹²⁹⁴ Notably, PAWC agreed to, as a courtesy, automatically credit a late fee charge assessed in January to any Scranton area customer who did not have any late fees in the last quarter of 2023.¹²⁹⁵ Any Scranton area customers who do not meet these requirements for an automatic credit, and who may have been assessed a late fee in January due to postal service delays, may still call and request that the late fee be credited.¹²⁹⁶ PAWC MB at 96-97.

OCA witness Alexander recommends that PAWC document the frequency of inconsistent billing periods, and what steps can be taken to avoid them, as well as how customers can avoid payment and budgeting difficulties with inconsistent billing periods.¹²⁹⁷ PAWC counters that Ms. Dean explained that PAWC complies with Commission's regulations regarding billing frequency¹²⁹⁸ and PAWC's billing periods are between 26 and 35 days, consistent with the regulation at 52 Pa. Code § 56.2. PAWC also offers budget billing as a tool for customers to

¹²⁹¹ PAWC St. 14-R, pp. 21-24.

¹²⁹² See C.O.S. St. 1, p. 6; State Rep. Kyle T. Donahue St. 1, p. 6.

¹²⁹³ PAWC St. 9-R, p. 18.

¹²⁹⁴ *Id.*

¹²⁹⁵ Tr. 1976.

¹²⁹⁶ *Id.* 1976-77

¹²⁹⁷ OCA St. 6 Supp, p. 2; OCA St. 6-SR, p. 26.

¹²⁹⁸ 52 Pa. Code § 56.11

manage their monthly bill amount.¹²⁹⁹ PAWC maintains that there is no basis for the Commission to require additional reporting and documentation when PAWC's billing periods are consistent with PUC regulations. PAWC MB at 97.

2. OCA's Position

The OCA argues that PAWC's call center performance is inadequate and has been inadequate for some time based on: (1) high call-answer times (percentage of calls answered within 60 seconds and within 30 seconds are inadequate); (2) high call abandonment rate; and (3) high complaint rates.¹³⁰⁰ PAWC's inadequate call center performance provides support for the OCA's recommendations to disallow certain call center expenses and reject the Company's managerial performance adder to the ROE. In addition, the Commission should require that the OCA's recommendations to improve call center and complaint handling performance be implemented by PAWC as a part of any authorized rate increase to ensure that consumers are receiving adequate service.¹³⁰¹ OCA MB at 102.

The OCA notes that PAWC outsources its call center and customer service functions to its affiliate, the Service Company, and asserts that it does not provide appropriate managerial oversight thereof.¹³⁰² PAWC has failed to conduct a proper root-cause analysis or any analysis to determine trends and failed to take corrective actions related to proven inadequate call center performance.¹³⁰³ This failure in management leads to continued poor call center performance with no noticeable steps towards solving the problems.¹³⁰⁴ OCA MB at 102.

¹²⁹⁹ PAWC St. 14-R, pp. 24-25.

¹³⁰⁰ OCA St. 6 at 11-12, 19-24.

¹³⁰¹ 66 Pa. C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44.

¹³⁰² OCA St. 6 at 7-10.

¹³⁰³ OCA St. 6, pp. 13-17; OCA St. 6SR, pp. 11-12.

¹³⁰⁴ OCA St. 6, pp. 11-12, 19-24; OCA St. 6SR, pp. 11-12.

In response to poor call center performance as well as a 2023 Management Audit that documented PAWC's poor call center performance for 2019-2022,¹³⁰⁵ OCA witness Alexander recommends the Commission require the following measures be adopted by PAWC to ensure adequate call center performance:

- PAWC be required to adopt specific performance standards requiring PAWC to comply with an annual average answering of 80% of PAWC calls within 30 seconds and a 4% call abandonment rate.
- PAWC be required to have a professionally conducted root cause analysis of all customer complaint data and track complaints and analysis for specific call centers, whether operated by the service company or a third-party contractor and report on findings, including identification of trends, evaluation, steps to reform or avoid repeated trends, and internal steps taken to take proper internal enforcement action where needed within 3 months and quarterly updates to stakeholders.
- PAWC should be required to provide managerial oversight to the Service Company's CSO's call center performance, including but not limited to conducting audits of the Service Company's CSO's performance based on defined metrics and conducting a proper root cause analysis of its internal disputes and BCS related findings and update its findings and conclusions on a quarterly basis.
- PAWC should be required to reform its Pennsylvania-specific "test" and training for customer representatives to address the full scope of Chapter 56 and Chapter 14 rights and remedies. PAWC should be required to routinely audit and evaluate the performance of third-party contractors to ensure that this training is being followed.¹³⁰⁶

The OCA further notes that, in its Opinion and Order releasing the 2023 Management Audit Report to the public, the Commission directed PAWC to file a new or amended affiliated interest agreement ("AIA") that accurately reflects the current company structure and the intercompany

¹³⁰⁵ *Pa. PUC, Pennsylvania American Water Co. Management and Operations Audit*, D-2022-3035217 (Issued Oct. 2023), Section XI, Customer Service. The report presented call center performance from 2019-2022.

¹³⁰⁶ OCA St. 6, pp. 18-19, 43-45.

transactions occurring between PAWC and the Service Company.¹³⁰⁷ Accordingly, Ms. Alexander further recommends that:

- Any new or amended affiliate interest agreements should contain arms-length contractual provisions that grant PAWC contractual protection to perform audits of the Service CSO performance based on defined metrics, and use specific center complaint data to determine, in part, penalties and payments under the contract.
- Any new or amended affiliate interest agreements should contain arms-length contractual provision that (1) requires the Service Company in its contracts with third-party contractors to reduce its fees owed to the third-party contractor so that the Service Company is not responsible for payment of fees related to services that fail to meet Metrics, and (2) the Service Company will not allocate costs to PAWC for services that fail to meet call center metrics. A plan to promptly achieve this objective should be required as a condition of any rate increase at no additional expense to PAWC customers due to the long-standing failure to reach reasonable performance requirements.¹³⁰⁸

The OCA avers that the Commission should require that these recommendations to PAWC's affiliated interest agreement with its Service Company be implemented by PAWC as a part of any authorized rate increase to ensure that consumers are receiving adequate service.¹³⁰⁹ OCA MB 104-105.

Additionally, in response to PAWC's arguments about the usage of IVR to answer calls within 30 seconds, Ms. Alexander explained that the Commission's customer Service Performance Report states that the measurement reported is the wait time after a caller enters the queue, not the time before the IVR system picks up.¹³¹⁰ Accordingly, the OCA believes

¹³⁰⁷ OCA St. 6, p. 17.

¹³⁰⁸ OCA St. 6, p. 18.

¹³⁰⁹ 66 Pa.C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44.

¹³¹⁰ OCA St. 6SR, p. 8.

that it is reasonable to hold the Company to the same standard of 80% of calls answered within 30 seconds as electric and gas utilities.¹³¹¹ OCA RB at 64-65.

Regarding PAWC's position that that CSO's are already monitored on daily basis, and that the Service Company can set staffing levels of third-party call handling agencies based on performance,¹³¹² [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED] [END CONFIDENTIAL] OCA RB at 65.

Regarding PAWC's claims of a "robust complaint analysis process," the OCA maintains that PAWC has failed to conduct an adequate root cause analysis.¹³¹⁴ The complaint logs that the Company alleges constitute a root cause analysis merely indicate that complaints are being tracked, but not analyzed or result reviewed to determine necessary changes. Moreover, the OCA asserts that "every attempt to obtain that type of actual use of the raw data in these tracking logs did not result in any further internal documents."¹³¹⁵ OCA RB at 65-66.

3. ALJs' Recommendation

Over the course of twelve public input hearings, we heard testimony from 217 witnesses who will be affected by PAWC's proposed rate increase. Of those 217 witnesses, only a handful of witnesses raised customer service issues. The majority of testimony provided focused on affordability of service, and the water quality.

¹³¹¹ OCA St. 6SR, p. 9.

¹³¹² PAWC MB at 94.

¹³¹³ OCA St. 6, p. 20 (Confidential), 6SR, p. 10.

¹³¹⁴ OCA St. 6, pp. 14-17; OCA St. 6SR, pp. 11-15.

¹³¹⁵ OCA St. 6SR, p. 15.

PAWC is required by law to provide its customers with adequate and reasonable service. Section 1501¹³¹⁶ of the Public Utility Code provides, in relevant part:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission.

While Section 1501 requires PAWC to provide its customers with adequate and reasonable service, it does not require PAWC to provide perfect service.

Although there were several customers who offered testimony during the public input hearings regarding issues they experienced contacting PAWC to report various issues, we don't believe that is a sufficient showing to warrant directing PAWC to implement changes to its call-handling procedures. Similarly, upon review of the record, we find that PAWC has adequate procedures in place to track and respond to customer complaints. Moreover, we find that PAWC's daily monitoring of the CSO and third-party call handling agencies constitutes sufficient oversight. Accordingly, we recommend that the measures proposed by the OCA be rejected.

As it pertains to customer billing and those customers who did not receive paper bills for December 2023 and were subsequently assessed late fees, we believe that PAWC's response to credit these late fee charges to the customers' accounts to be a reasonable and appropriate response. Moreover, it is important to note that this problem arose due to a postal service delay rather than because of any action or in-action on PAWC's part.

¹³¹⁶

66 Pa.C.S. § 1501.

B. Tenant Issues and Protections

1. PAWC's Position

CAUSE-PA witness Geller contends that PAWC should be required to track and report on granular metrics to ensure compliance with the Discontinuance of Services to Leased Premises Act (“DSLPA”), including: (1) what notices are provided to each tenant occupied account before termination for nonpayment by landlord/owner; (2) when and how notices are provided; (3) whether and how many tenants asserted their rights to continued service; (4) the number of accounts improperly coded as non-tenant accounts; (5) notices of termination/disconnection sent to accounts improperly coded as non-tenant and if the account was terminated/disconnected for non-payment while coded as a non-tenant account; and (6) partial payments made by tenants seeking to continue their service (including partial payments, amounts paid, and whether payments were sufficient to continue service).¹³¹⁷ PAWC MB at 97-98.

As explained by PAWC witness Dean, PAWC already fully complies with the DSLPA and the Company’s processes are not inconsistent with the Utility Services Tenants Rights Act (“USTRA”), which, as Mr. Geller notes,¹³¹⁸ applies to municipal corporations and municipal authorities rather than regulated utilities.¹³¹⁹ Importantly, the DSLPA places the obligation on the landlord ratepayer to notify the utility whether the premises being served are for rental purposes. It does not place the obligation on the utility to investigate each property in its service territory to determine if a landlord ratepayer property is occupied by a tenant.¹³²⁰ PAWC MB at 98.

¹³¹⁷ CAUSE-PA St. 1, pp. 72-73.

¹³¹⁸ *Id.* at 75.

¹³¹⁹ PAWC St. 14-R, p. 18.

¹³²⁰ 66 Pa.C.S. § 1529.1(a); *see also* PAWC St. 14-R, p. 18.

2. CAUSE-PA's Position

CAUSE-PA notes that the DSLPA sets forth the rights of tenants who receive services by a regulated utility for which service is listed in a landlord's name.¹³²¹ DSLPA protects a tenant's right to continued utility service where: (1) the utility terminates service to a leased premises due to nonpayment by the landlord ratepayer;¹³²² or, (2) the landlord ratepayer seeks to voluntarily disconnect service to a leased premises and tenants are still residing at the property.¹³²³ Tenants have the right to enforce DSLPA rights through the Commission's informal and formal complaint process.¹³²⁴ DSLPA ensures that tenants are notified of a pending termination and allows them to maintain service without assuming the debts of their landlord. As such, DSLPA is designed to protect tenants from the loss of service as a result of the actions or inaction of their landlord.¹³²⁵ CAUSE-PA MB at 80-81.

CAUSE-PA has raised concerns that PAWC does not have adequate policies and processes in place to monitor its compliance with DSLPA.¹³²⁶ First, CAUSE-PA avers that it is unclear whether PAWC is complying with notice requirements pursuant to the DSLPA.¹³²⁷ PAWC indicates that it does not track and cannot report on the number of tenant-occupied accounts that received notice of an involuntary termination or voluntary disconnection pursuant to DSLPA.¹³²⁸ CAUSE-PA MB at 83.

CAUSE-PA further indicates that it is similarly unclear whether PAWC is properly coding tenant-occupied accounts, as the Company does not track issues related to

¹³²¹ 66 Pa.C.S. Ch. 15 Subch. B.

¹³²² 66 Pa.C.S. § 1527.

¹³²³ 66 Pa.C.S. § 1523(b).

¹³²⁴ 66 Pa.C.S. § 1523(a)(3).

¹³²⁵ CAUSE-PA St. 1, p. 68: 1-6.

¹³²⁶ CAUSE-PA St. 1, p. 70: 9-18.

¹³²⁷ *Id.*

¹³²⁸ CAUSE-PA St. 1, pp. 70-71.

identification and coding of tenant accounts.¹³²⁹ PAWC indicates that it has a process to update account status to a tenant account.¹³³⁰ However, CAUSE-PA avers that PAWC does not track details related to the coding of tenant accounts, including accounts that were miscoded as non-tenant despite PAWC having received information that the account and/or property was tenant occupied.¹³³¹ PAWC has a significant number of tenant-occupant accounts who had their service involuntarily terminated or disconnected as a result of a landlord/property owner request over the last several years. With these numbers, CAUSE-PA finds it concerning that PAWC does not have a process in place to determine the extent to which tenant accounts are accurately coded, and to remediate issues related to the same.¹³³² Again, CAUSE-PA asserts that it is impossible to determine whether PAWC is consistently and accurately coding tenant accounts, and in turn providing appropriate notice to landlord ratepayers and tenants, without more accurate tracking.¹³³³ CAUSE-PA MB at 84.

CAUSE-PA further avers that it is unclear whether PAWC is properly managing partial payments, as required by DSLPA. PAWC indicates that they are unaware of partial payments by tenants seeking to exert their rights pursuant to the DSLPA.¹³³⁴ It is unclear whether no partial payments were in fact made amongst the approximately 14,000 tenants terminated or voluntarily disconnected at the request of a landlord/property owner between 2020 and 2023, or whether PAWC does not regularly track these partial payments.¹³³⁵ Without this data, CAUSE-PA believes it is impossible to determine whether the partial payment are being returned to customers, pursuant to DSLPA requirements. CAUSE-PA MB at 84-85.

¹³²⁹ CAUSE-PA St. 1, pp. 71: 6-19.

¹³³⁰ *Id.*

¹³³¹ *Id.*

¹³³² *Id.*

¹³³³ *Id.*

¹³³⁴ *Id.*

¹³³⁵ CAUSE-PA St. 1, p. 72: 1-10.

Based on these concerns, CAUSE-PA recommends that PAWC make several reforms to its policies and procedures related to the DSLPA. Specifically, CAUSE-PA avers that PAWC should be required to implement regular tracking, and be able to report on, the following:

- What notices are provided to each tenant-occupied account prior to termination for nonpayment by a landlord/property owner, or voluntary disconnection at the request of a landlord/property owner.
- When these notices are provided, and how the notices are provided.
- Whether – and how many – tenants exerted their rights to continued services pursuant to DSLPA.
- The number of accounts improperly coded as non-tenant accounts, despite PAWC receiving information that the property is reasonably likely to be tenant occupied.
- Notices of termination/disconnection provided to any accounts improperly coded as non-tenant, and if the account was terminated for nonpayment or voluntarily disconnected while coded as a non-tenant account. PAWC should also be required to track what remediation is taken on affected accounts.
- Partial payments made by tenants seeking to continue services pursuant to the DSLPA. Specifically, PAWC should be required to track (1) the number of partial payments made by tenants seeking to continue services pursuant to the DSLPA; (2) the amounts of these partial payments; (3) whether these partial payments were sufficient so that tenants could maintain services pursuant to the DSLPA; and (4) if insufficient to maintain services, whether and to what extent these payments were returned to tenants.

CAUSE-PA asserts that this data should be reported to PAWC’s Customer Assistance Advisory Group on a quarterly basis and included in PAWC’s next rate filing.¹³³⁶ CAUSE-PA MB at 85.

¹³³⁶

CAUSE-PA St. 1, pp. 72-73.

CAUSE-PA further notes that PAWC stipulated in its 2020 rate case that, “PAWC will ask all applicants for service whether the property is or will be occupied by a tenant.”¹³³⁷ Therefore, at a minimum, PAWC is under an obligation to abide by the terms of its previously agreed to stipulation. Moreover, CAUSE-PA avers that it is impossible to determine whether, or to what extent, compliance issues are occurring without sufficient data tracking and reporting. CAUSE-PA believes that this lack of data tracking likely masks compliance issues requiring remediation. CAUSE-PA MB at 86-87.

3. ALJs’ Recommendation

CAUSE-PA has raised concerns that PAWC doesn’t have adequate policies and procedures in place to monitor its compliance with DSLPA. We disagree.

As noted by the Company, PAWC relies on information from landlords, tenants and field service representatives to determine if a property is reasonably likely to be tenant occupied and coded as such. Through this process, PAWC currently has over 20,000 residential accounts coded as tenant occupied. If delinquent, these accounts go through the 37-day notice process prior to any service termination as required by the DSLPA and USTRA. PAWC utilizes the same processes prior to terminating water services to landlord ratepayer properties at the request of municipal sewer providers as PAWC utilizes for terminations of service that are initiated by PAWC. The notices that the affected tenants receive provide directions on how to contact PAWC in order to continue water service, and tenants do not need to rely on the municipal authority to contact PAWC to assert their rights.¹³³⁸

We find that the steps taken by PAWC to determine whether a service address should be coded as landlord-ratepayer/tenant occupied to be sufficient. Accordingly, we find that CAUSE-PA’s proposals are unnecessary and should be rejected.

¹³³⁷ *Pa. Pub. Util. Comm’n v. PAWC, Joint Stipulation of PAWC and CAUSE-PA*, Docket No. R-2020-3019369, ¶ 4 (filed Nov. 13, 2020).

¹³³⁸ PAWC St. 14-R, pp. 18-19; OCA MB at 98-99.

C. Water Services Act and Section 12.1(H) of Water Tariff

1. PAWC's Position

Both CAUSE-PA witness Geller and OCA witness Alexander recommend changes to PAWC's policies and procedures regarding termination at the request of a non-Company wastewater provider to better ensure compliance with the Water Services Act ("WSA"). PAWC avers that its current procedures for implementing the WSA's requirements comply with the law and address several of the concerns identified by Mr. Geller and Ms. Alexander. PAWC MB at 99.

Prior to terminating service under the WSA, a 10-day termination notice must be mailed or posted at the property. If during that 10-day period, the person liable for the unpaid charges delivers a written statement under oath to the municipal wastewater provider averring a just defense to all or part of the claim, the water service is not to be shut off until the claim has been judicially investigated. As explained by PAWC witness Dean, PAWC's PUC-approved contracts with sewer providers require the sewer provider to issue the appropriate termination notice to customers. PAWC has a process in place to verify that the municipal sewer provider has complied with all of its obligations under the WSA, which includes requiring a responsible municipal official to certify both that the notice was provided and the lack of any just defense filing.¹³³⁹ In addition, while not a requirement of the WSA, PAWC recently modified the template that municipal entities submit in order to request water service shut-offs to include a confirmation that the municipality has not received a medical certification for the relevant premise.¹³⁴⁰ Other process-related recommendations are either inconsistent with the WSA (Ms. Alexander's recommendation the PAWC post its own notice) or unnecessary in light of PAWC's verification process (Mr. Geller's recommendation that PAWC require actual proof of mailing and posting of the termination notice).¹³⁴¹ PAWC MB at 99-100.

¹³³⁹ PAWC St. 14-R, p. 19.

¹³⁴⁰ *Id* at 20.

¹³⁴¹ *Id* at 19-20.

Additionally, the OCA proposes to limit Tariff Section 12.8 to municipal entities covered by the WSA and other non-Company wastewater providers with a “Commission-approved agreement.”¹³⁴² As Ms. Dean explained, however, PAWC’s Joint Services Agreement with Aqua was not approved by the Commission. After the Agreement was submitted, rather than approving (or disapproving) it, the Commission instead directed the parties to seek approval of tariff changes related to provisions affecting customers – which is exactly what PAWC has done in this case.¹³⁴³ The OCA is therefore incorrect that its recommendations are compatible with the Joint Services Agreement. Accordingly, the Commission should reject the OCA’s proposed changes to Tariff Section 12.8. PAWC RB at 77-78.

2. OCA’s Position

OCA maintains that the Commission should adopt the proposed tariff language put forth by OCA Witness Alexander in her surrebuttal testimony.¹³⁴⁴ In the Company’s direct, it requested to add a new tariff subsection dealing with termination of service to PAWC customers on behalf of “non-company” wastewater providers pursuant to the Water Services Act. As originally filed, the proposed tariff language posed the risk of harming consumers and creating additional confusion regarding the process based on the proposed language of the tariff and placement of the subsection within the tariff.¹³⁴⁵ In surrebuttal, Ms. Alexander put forth further revisions to the Company’s proposed Section 12.8 that will protect consumers, while still allowing the Company to uphold its Joint Service Agreement with Aqua PA.¹³⁴⁶ Strikeouts in the following represent OCA’s recommended deletions and underlined text represents recommended language:

¹³⁴² OCA St. 6-SR, pp. 17-18.

¹³⁴³ Tr. 2020-21.

¹³⁴⁴ OCA St. 6SR, pp. 17-19.

¹³⁴⁵ OCA St. 6, pp. 26-31.

¹³⁴⁶ OCA St. 6SR, pp. 18-19.

12.8 Termination by Company for Non-Payment of Wastewater Service to a Non-Company Wastewater Provider

~~The Company may also terminate service in accordance with the terms of any agreement between the Company and a non-Company wastewater provider for non-payment of wastewater service when due upon prior notice by the non-Company wastewater provider.~~ The Company may terminate a customer's water service due to the customer's non-payment of charges owed to a non-Company wastewater provider, provided that: (1) the Company has an effective agreement with the non-Company wastewater provider pursuant to the Water Services Act or Act of April 14, 2006, codified at 53 P.S. §§ 3102.501 – 3102.507, or a Commission-approved agreement with the non-Company wastewater provider; and (2) the customer received prior notice from the non-Company wastewater provider of the past due amounts owed to the non-Company wastewater provider.

Following the issuance of termination notice by the non-Company wastewater provider, the Company will not ~~move forward with termination of~~ terminate the customer's water service upon notification to the Company by the non-Company wastewater provider that the customer does either of the following: (1) disputes the termination for non-payment; or (2) if the customer produces a medical certification.

Upon termination, the Company will post the termination notice at the customer's premises. The Company's termination notice shall provide the following information in conspicuous format and plain language: (1) a statement that PAWC terminated the customer's water service due to the customer's non-payment of non-Company wastewater charges; (2) a statement that the termination of service is not the result of customer's non-payment of water charges owed to PAWC; (3) the name and contact number of the non-Company wastewater provider; (4) the contact information for the Company; and (5) a citation to Section 12.8 of PAWC's Water Tariff and the weblink for accessing the Company's tariff webpage.^[1347]

OCA maintains that the Commission should require that these recommendations be implemented as a part of any authorized rate increase to ensure that consumers are receiving reasonable service.¹³⁴⁸ OCA MB at 105-106; OCA RB at 68-69.

3. CAUSE-PA's Position

PAWC provides water service to certain households that receive wastewater from separate wastewater utilities, such as a local municipal authority.¹³⁴⁹ For these customers, CAUSE-PA witness Geller expressed concern that PAWC's current processes for terminating water service at the request of a sewer utility do not adequately protect tenants.¹³⁵⁰ To address these concerns, CAUSE-PA recommends that PAWC be required to reform its policies and procedures to better monitor compliance with the Water Services Act prior to termination of services at the request of a sewer utility. CAUSE-PA MB at 87, 89.

CAUSE-PA asserts that PAWC should be required to obtain actual proof of notice before terminating service at the request of a third-party sewer utility, including proof of mailing and proof of posting.¹³⁵¹ Additionally, according to CAUSE-PA, PAWC should revise its policies and procedures to ensure compliance with the Water Services Act, and consult with its CAAG related to recommended revisions to incorporate members' feedback in good faith. PAWC should also update its training materials and agreements to reflect these revisions. Lastly, PAWC should undertake review of its policies and procedures for termination of service at the request of a sewer utility, to ensure that tenants are not required to rely on the sewer utility to act on their behalf to maintain service.¹³⁵² If a tenant informs PAWC that their residence is tenant occupied and termination of PAWC water service is pending at the request of a sewer utility, PAWC should be required to immediately suspend termination and ensure that the

¹³⁴⁸ See 66 Pa.C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44.

¹³⁴⁹ CAUSE-PA St. 1, p. 73: 19-24.

¹³⁵⁰ *Id.*

¹³⁵¹ CAUSE-PA St. 1, p. 75: 1-5.

¹³⁵² CAUSE-PA St. 1, p. 76: 12-23.

requirements of the Water Services Act are being met. If the tenant's service is already off, PAWC should be required to immediately reconnect service until the provisions of USTRA have been followed pursuant to the Water Services Act. PAWC should also be required to amend its policies, procedures, training materials, and agreements to reflect these changes, and to consult with its CAAG related to these revisions so that member's feedback can be considered.¹³⁵³ CAUSE-PA MB at 89-90.

CAUSE-PA maintains that PAWC has an affirmative duty to confirm that the Act has been followed prior to terminating services based on a request of a sewer utility – rather than rely on sewer authorities to monitor their own compliance pursuant to Water Services Act requirements.¹³⁵⁴ The improvements to PAWC's policies and procedures related to the Water Services Act will help to ensure compliance with the Water Services Act, so that tenants can access these important protections prior to service termination at the request of a sewer utility. CAUSE-PA MB at 90-91.

4. ALJs' Recommendation

We agree with OCA that its proposed tariff language should be adopted. We find that the additional language will remove possible confusion from the originally as-filed language. Moreover, the additional notice requirements will provide further protections for consumers. As noted by the OCA, the additional language will not only protect customers, but it will also allow the company to uphold its Joint Services Agreement with Aqua PA. Accordingly, we recommend that the Commission adopt the OCA's proposed tariff language. However, the term "a Commission-approved agreement" should be replaced with "an effective agreement" to recognize that the Commission does not approve agreements under the Water Services Act or Section 12.1 of PAWC's Water Tariff.

¹³⁵³ *Id.*

¹³⁵⁴ CAUSE-PA St. 1, pp. 74-75.

Regarding CAUSE-PA's proposals to ensure that PAWC is following the Water Services Act prior to terminating services based on a request of a sewer utility, we do not believe that these additional steps are necessary. We find that PAWC's process described by the Company is sufficient to verify that the sewer provider has complied with all of its obligations under the WSA. We agree with PAWC that CAUSE-PA's recommendations are unnecessary in light of PAWC's verification process. Accordingly, we recommend that the Commission reject CAUSE-PA's proposals.

D. American Water Resources

1. PAWC's Position

For over two decades, American Water Resources ("AWR") has offered optional products and services, such as water line and sewer line protection plans, to PAWC customers. After enrolling with AWR, customers are charged a monthly fee so that if their water or sewer line breaks, AWR will deploy a contractor to fix the water or sewer line under the warranty program at minimal up-front cost to the customer.¹³⁵⁵ PAWC customers can choose the convenience of including these charges on their PAWC bill or be billed directly by AWR.¹³⁵⁶ AWR's warranty plans are viewed favorably by customers who want the convenience and certainty of minimizing the up-front cost expenditures associated with a future water or sewer line repair.¹³⁵⁷ PAWC MB at 101.

It is standard industry practice for utilities both within and outside of the Commonwealth to partner with providers of these types of warranty services.¹³⁵⁸ By way of example, AWR offers similar services to residential water and sewer utility customers in 42

¹³⁵⁵ PAWC St. 9-R, p. 12.

¹³⁵⁶ *Id* at 13.

¹³⁵⁷ *Id* at 12.

¹³⁵⁸ *Id* at 16.

other states and the District of Columbia.¹³⁵⁹ The Commission’s regulations recognize utilities long-standing practice to bill “charges for other than basic service,” which include, among other things, “line repair programs and appliance warranty programs.”¹³⁶⁰ Consistent with the Commission’s regulations, PAWC includes charges for these services as a separate line item on customers’ monthly bills.¹³⁶¹ In addition, these services are entirely optional to customers, i.e., customer payments are applied to PAWC’s charges first and a customer’s choice not to pay for AWR’s services does not result in any service termination efforts by PAWC.¹³⁶² PAWC MB at 102.

Although American Water sold its interest in AWR in December 2021, which ended the affiliate relationship between AWR and PAWC, the day-to-day relationship between PAWC and AWR remains the essentially the same by virtue of a Utility Agreement executed by PAWC and AWR at the time of the sale.¹³⁶³ PAWC continues to adhere to all Commission regulations related to the billing of AWR charges. **[BEGIN CONFIDENTIAL]** [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] **[END CONFIDENTIAL]** PAWC’s relationship with AWR as a partner who provides optional warranty products and services to its customers has remained unchanged over the last two decades. PAWC MB at 102.

Noting that OCA has raised several concerns related to PAWC’s relationship with AWR, apparently as a result of American Water’s sale of its ownership interest in AWR, PAWC maintains that its billing arrangement with AWR is not discriminatory. AWR’s warranty

¹³⁵⁹ *Id.*

¹³⁶⁰ 52 Pa. Code § 56.13.

¹³⁶¹ *Id.*

¹³⁶² 52 Pa. Code §§ 56.23, 56.83(3).

¹³⁶³ *See* CONFIDENTIAL OCA Ex. BA-8.

¹³⁶⁴ PAWC St. 9-R, pp. 12-14.

products and services are not utility services subject to PUC jurisdiction.¹³⁶⁵ PAWC's billing of AWR products and services is entirely consistent with the Commission's regulations for non-basic services. Moreover, the Utility Agreement states that PAWC is not precluded from offering similar on-bill services to another entity.¹³⁶⁶ PAWC's billing relationship with AWR is not discriminatory because no other entity is seeking access to PAWC's bills; therefore, PAWC is not providing any preference or advantage to AWR. PAWC has maintained the same billing relationship with AWR for over twenty years; the OCA's concerns about discrimination at this point are entirely without merit. PAWC MB at 103-104.

Regarding the OCA's suggestion that PAWC should have some monitoring responsibility over AWR's charges, PAWC avers that this should be rejected. The prices of non-basic products and services are beyond the scope of the Code and not subject to Commission jurisdiction. PAWC and the PUC have no authority to influence AWR's prices or other terms under its contracts with customers. PAWC passes through AWR's contract pricing on its customer bills as a separate line item and no customers' service is terminated for non-payment of such charges.¹³⁶⁷ If a customer no longer wants to pay for AWR's products and services, the customer can stop paying for them with no negative repercussions on their water or wastewater service.¹³⁶⁸ For these reasons, PAWC maintains that it is entirely reasonable that PAWC does not monitor or audit AWR's charges to customers. PAWC MB at 105.

PAWC further contends that the use of PAWC's name and logo is outside the scope of this proceeding. PAWC notes that this has been an ongoing practice for over twenty years. AWR has historically used PAWC's trademark and logo for marketing purposes, which is standard industry practice when a utility partners with another entity to offer warranty products and services. Similar arrangements exist between other major Pennsylvania utilities and a

¹³⁶⁵ See *PPL Elec. Utils. Corp. v. Pa. Pub. Util. Comm'n*, 912 A.2d 386 (Pa. Cmwlth. Ct. 2006) (holding that an unregulated energy consulting service offered by an unregulated affiliate of PPL is not a regulated public utility service and that competition among unregulated services is not an objective of the regulatory scheme of the Public Utility Code).

¹³⁶⁶ CONFIDENTIAL OCA Ex. BA-8, p. 2.

¹³⁶⁷ PAWC St. 9-R, p. 15; see also OCA Ex. BA-6.

¹³⁶⁸ PAWC St. 9-R, p. 15.

competitor of AWR, HomeServe, which also uses the utility name and logo to market warranty services and products to residential utility customers in the Commonwealth.¹³⁶⁹ Notably, the Commission recently rejected the OCA's request to prohibit FirstEnergy Pennsylvania Electric Company's on-bill arrangement with HomeServe for non-basic products and services where the exact same claims were raised by Ms. Alexander – that the use of the utility name and logo for marketing purposes is misleading.¹³⁷⁰ Disclosures are included on all marketing materials explaining that AWR is not affiliated with PAWC, its products and services are optional, and AWR's prices are not determined by PAWC.¹³⁷¹ Accordingly, AWR's long-standing use of the Company's name and logo for marketing purposes does not provide a basis to investigate, prohibit or otherwise prescribe PAWC's arrangement with AWR under the Utility Agreement. PAWC MB at 105-106.

The OCA further contends that [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹³⁶⁹ *Id.* at 14.

¹³⁷⁰ FE-PA Order, 2021 WL 3840884, at *10, *12, *19.

¹³⁷¹ PAWC St. 9-R, p. 15.

¹³⁷² OCA St. 6, pp. 33-35, 38, 41.

¹³⁷³ *See* PAWC St. 9-R, pp. 16-17; CONFIDENTIAL OCA Ex. BA-8, §§ 1.1(d)(i), (v).

¹³⁷⁴ *See* PAWC St. 9-R, p. 17; Agreement dated Jan. 1, 1989, between PAWC and Service Company; Docket No. G-880131.

MB at 106.

Lastly, PAWC notes that it included \$659,624 of miscellaneous revenue from AWR for the on-bill billing arrangement in the revenue requirement for the FPFTY in this case.¹³⁷⁵ Even though OCA witness Alexander recommends that PAWC suspend services under the Utility Agreement, the OCA did not remove the revenues associated with these services.¹³⁷⁶ The suggestion that PAWC not be permitted to provide a service, but the Commission should act as if PAWC will still receive revenues for that service, is unreasonable and inconsistent with proper ratemaking.¹³⁷⁷ PAWC MB at 107.

2. OCA's Position

The OCA avers that PAWC is engaging in deceptive and discriminatory billing and marketing practices for non-utility “protection services” of customer-owned service lines and in-home plumbing provided by PAWC’s ex-affiliate, AWR, to the detriment of consumer interests. This relationship is enabled by: (1) a written billing and marketing agreement between PAWC and AWR; and (2) a licensing agreement between American Water Works Company, Inc. (“AWK”) and its ex-subsidiary, AWR, both of which were entered into at or around the time AWK sold off AWR on or around December 9, 2021. The OCA believes that this is a serious customer protection issue, and the OCA alleges that it is inadequate and unreasonable utility service under Section 1501. The OCA recommends that the Commission promptly initiate an investigation of this program and direct PAWC to suspend/pause new customer enrollments until the Commission concludes its investigation.¹³⁷⁸ The Commission should adopt these

¹³⁷⁵ PAWC St. 1-R, p. 20.

¹³⁷⁶ OCA Sts. 2, pp. 79-80 & 6, p. 41.

¹³⁷⁷ PAWC St. 1-R, p. 21.

¹³⁷⁸ OCA St. 6, p. 41; OCA St. 6SR, pp. 23-24.

recommendations as a part of any authorized rate increase to ensure that consumers are receiving adequate and reasonable service.¹³⁷⁹ OCA MB at 106.

The OCA explains that AWR's exclusive marketing and billing arrangement with PAWC is discriminatory to any other provider of these services in PAWC's service territory. The potential effect of discriminatory practices is that consumers pay more for warranty services than might be available from other competitive providers of warranty services in PAWC's service territory. AWR is able to promote its services to PAWC customers and collect the fees for its services in a manner not available to any other provider for these non-basic services. OCA is concerned about a corporate policy that allows an unregulated entity to **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**, and the impact on customer expectations about the privacy of their customer information that PAWC as the utility has.¹³⁸⁰ OCA RB at 72.

The OCA avers that PAWC performs on-bill billing for AWR's services and products. Utility billing is subject to Section 1501 and Chapter 14 of the Code and Chapter 56 of the Commission's regulations. Additionally, the OCA believes that AWR stands to benefit from the false impression given to PAWC's customer as it gives it an unfair advantage over competitors offering similar warranty services to customers in the unregulated market for warranty services and induces consumers to buy from AWR under the false impression that they are buying from a trusted brand.¹³⁸¹ Moreover, **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**, providing a marketing advantage that is deceptive and misleading.¹³⁸² To that point, the OCA notes that some customers testified during public input

¹³⁷⁹ 66 Pa.C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44.

¹³⁸⁰ See OCA St. 6, p. 40.

¹³⁸¹ OCA St. 6, p. 39.

¹³⁸² OCA St. 6SR, pp. 22-23.

hearings to having originally assumed these entities were connected legally.¹³⁸³ OCA RB at 72-74.

PAWC notes that [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED] [END CONFIDENTIAL.] The OCA recommends that this assertion be included in its requested investigation of this arrangement, including whether the 1989 Agreement between PAWC and the Service Company actually contemplates such services and it is still reasonable. OCA RB at 74-75.

Lastly, the OCA notes that it has not challenged PAWC's \$659,624 miscellaneous revenue claim related to AWR because it is fully substantiated it benefits consumers by offsetting proposed revenue requirement.¹³⁸⁴ Accordingly, the OCA maintains that the \$659,624 miscellaneous revenue claim should remain included in the revenue requirement for the FPFTY.¹³⁸⁵ OCA RB at 75.

3. ALJs' Recommendation

We disagree with the OCA's contention that PAWC is engaging in deceptive and discriminatory billing and marketing practices regarding services provided by its affiliate, AWR. As noted by the Company, if a PAWC customer enrolls with AWR, they can choose to either have their charges appear on their bill or be billed separately. If the customer chooses to have these charges appear on their PAWC bill, the charges appear as a separate line-item on the bill. Moreover, as noted by the Company, disclosures appear on all marketing materials explaining that AWR is not affiliated with PAWC, that its products and services are optional, and PAWC does not determine AWR's pricing. Lastly, if the customer fails to pay the AWR charges, their PAWC services will not be terminated.

¹³⁸³ OCA St. 6 Supp, pp. 2-5.

¹³⁸⁴ OCA St. 2SR, pp. 49-50.

¹³⁸⁵ OCA St. 2SR, p. 50.

It is also important to consider that PAWC's relationship with AWR has remained unchanged for over 20 years. Moreover, the Utility Agreement between PAWC and AWR provides that the business relationship between PAWC and AWR is not exclusive, and PAWC is not prohibited from offering similar on-bill services to a competitor of AWR's. It would be discriminatory if PAWC denied offering such services to a competitor, but there hasn't been such a showing, and as averred by PAWC, no other entity is seeking access to PAWC's bills.

We also agree with PAWC that OCA's suggestion that PAWC should have some monitoring responsibility over AWR's charges should be rejected. As noted by PAWC, the prices of non-basic products and services are beyond the scope of the Commission's jurisdiction.

For the aforementioned reasons, we recommend that the Commission reject the OCA's request for the Commission to initiate an investigation of this program.

E. Main Extensions

1. PAWC's Position

OCA witness Fought recommends that PAWC consider a main extension project that would extend an existing water line along Bethel Ridge Road to the West Virginia state border with spurs to serve Shades of Death Road, Locust and Carter Lanes and Penobscot Road in Jefferson Township.¹³⁸⁶ PAWC estimates that the main extension proposed by Mr. Fought and the Jefferson Township Municipal Authority ("JTMA") would require the Company to invest \$5.2 million to install mains at 39 locations along the route presented in OCA Exhibit TLF-4.¹³⁸⁷ PAWC is continuing to evaluate whether the proposed main extension is eligible under Rule 27.1(F) of its tariff, which authorizes main extensions within its existing service territory to be installed without customer contributions subject to Commission approval in order

¹³⁸⁶ See OCA Sts. 7 Supp., pp. 8-10 & 7-SR, pp. 7-9; OCA Ex. TLF-4.

¹³⁸⁷ PAWC St. 3-R, pp. 3-4.

to address health and safety concerns. As Mr. Aiton explained, PAWC has been in continued discussions with the JTMA but has not yet determined whether Rule 27.1(F) is an appropriate mechanism to fund this extension or whether alternate grant funding should be pursued instead.¹³⁸⁸ PAWC MB at 107; PAWC RB at 79.

2. OCA's Position

Mr. Choff is part of the Jefferson Township Municipal Authority Formal Complaint requesting an extension of water service within PAWC's existing service territory in Avella, Washington County, to at least 39 residents who struggle with quantity and quality of water.¹³⁸⁹ PAWC estimates the extension will require 29,500 feet of main and cost \$5.2 million. Subject to further investigation, PAWC witness Aiton believes that based on the magnitude of water issues, the proposed project may meet the substantial public need requirements of Tariff Rule 27.1(F) such that no customer contribution will be required.¹³⁹⁰ The OCA recommends that, as part of the approval of any rate increase in this matter, that PAWC be directed to: 1.) Seek grant funding, lower-cost funding, or contributions from other sources to help offset the costs of the project, whether or not the extension is funded under Rule 27.1(F); and 2.) Meet regularly with the OCA and other interested parties to provide updates on the JTMA project and allow the OCA to ask questions in real time.¹³⁹¹ The OCA notes that this process has been successfully used before. Following PAWC's 2013 base rate case (R-2013-2355276), PAWC met regularly with OCA to provide updates on the progress of extensions under Rule 27.1(F).¹³⁹² OCA MB at 106-107; OCA RB at 76-77.

¹³⁸⁸ *Id.* at 5.

¹³⁸⁹ Tr. 1840-41; OCA St. 7-Supp., pp. 8-9, Ex. TLF-4.

¹³⁹⁰ PAWC St., pp. 3-4.

¹³⁹¹ OCA St. 7SR, pp. 8-9.

¹³⁹² OCA St. 7SR, pp. 8-9.

3. ALJs' Recommendation

As there does not appear to be any disagreement between the parties on this issue, we recommend that the Commission adopt the OCA's proposal that PAWC be directed to seek funding to offset the costs of the JTMA main extension request and to meet with the OCA and other interested parties on a regular basis to provide updates on the JTMA project.

F. Pressure Surveys and Pressure Reducing Valves

1. PAWC's Position

Rule 4.7 of the Company's Water Tariff outlines the requirement for customers to install and maintain a pressure reducing valve ("PRV") if the pressure at their service location exceeds 100 pounds per square inch ("psi"). As explained by PAWC witness Runzer, this tariff requirement impacts a small percentage of customers and PAWC has a process in place whereby field service representatives educate customers in the field regarding PRV requirements.¹³⁹³ PAWC MB at 108.

OCA witness Alexander made recommendations concerning general PRV education and Mr. Fought made recommendations concerning households with higher operating pressure and PAWC's response to pressure inquiries and complaints. Regarding PRV education, Ms. Alexander recommends a broad outreach and education program, to include website content and potentially bill inserts, covering the need for, operation and life cycle of a PRV.¹³⁹⁴ Mr. Fought further recommends that: (1) PAWC identify households where it provides normal operating pressures up until the curb that exceed 100 psi and inform those customers about PRVs (including replacement and end of life) and the PRV tariff rule; and (2) where there is a pressure-related customer inquiry, PAWC provide the pressure available at its water main to customers to allow them to make sure that their plumber is providing an acceptable PRV or expansion tank

¹³⁹³ PAWC St. 2-R, p. 11.

¹³⁹⁴ OCA St. 6, p. 43.

and, if there is a pressure complaint, record the pressure information in the Complaint Log.¹³⁹⁵ PAWC MB at 108.

Apart from the general education campaign, PAWC largely agrees with the recommendations. First, PAWC already records pressure information and reports it to the Commission for pressure complaints. In addition, when the Company takes a pressure reading, it will provide the pressure information to the customer upon request.¹³⁹⁶ Second, the Company has agreed to establish a notification process for customers where PAWC's system pressure regularly exceeds 100 psi. In this notification, the Company will educate the customer that they are responsible for installing a PRV at their service location under PAWC's tariff and encourage them to contact a licensed plumber for guidance, installation, and maintenance of PRVs. The Company will utilize its geographic information system GIS system to identify customers in higher pressure areas to receive this notification.¹³⁹⁷ In light of the small number of customers impacted by the PRV tariff requirement, the Company's existing education efforts by field service representatives, and the Company's agreement to deploy a new, targeted notification process, the Commission should reject the broad outreach and education program recommended by Ms. Alexander. (PAWC MB at 108-109).

2. OCA's Position

Based on the recommendations of OCA witness Fought,¹³⁹⁸ and OCA witness Alexander,¹³⁹⁹ PAWC witness Runzer stated the Company's agreement to establish a notification process for customers "where PAWC systems regularly exceed 100 pounds per square inch."¹⁴⁰⁰

¹³⁹⁵ OCA St. 7, pp. 8-10; OCA St. 7-SR, pp. 3-5.

¹³⁹⁶ PAWC St. 2-R pp. 12-13.

¹³⁹⁷ Tr. 1983-84; *see also* Tr. 2054-55 (explaining that the operational team is still considering the way that customers will be notified).

¹³⁹⁸ OCA St. 7, p. 10; OCA St. 7SR, p. 2.

¹³⁹⁹ OCA St. 6, pp. 42-43; OCA St. 6SR, pp. 24-25.

¹⁴⁰⁰ Tr. 1983.

PAWC will use its GIS system to identify these customers.¹⁴⁰¹ Notices will inform customers they may need a pressure reducing valve and encourage them to contact a licensed plumber regarding installation, guidance, and maintenance.¹⁴⁰² The OCA supports the plan, including annual notice and also targeted notices for move-ins,¹⁴⁰³ but recommends that PAWC also provide notice if, for operational reasons, it increases regular operating pressures above 100 psi.¹⁴⁰⁴ The Commission should direct the notification agreed to by PAWC – with the OCA’s addition – as a part of any authorized rate increase to ensure that consumers are receiving reasonable service.¹⁴⁰⁵ OCA MB at 107-108; OCA RB at 77-78.

3. ALJs’ Recommendation

During the public input hearings, we did hear testimony from customers who had concerns regarding negative experiences with excess pressure. In particular, Jodi Assay testified at length regarding the problems she has experienced as a result of excess pressure, including broken service lines and increased water bills.¹⁴⁰⁶ Accordingly, we are supportive of the agreement reached by PAWC and the OCA to provide notice to customers where systems regularly exceed 100 pounds per square inch. We are also supportive of the OCA’s proposal to provide annual notice and targeted notices for move-ins, and if the Company increases regular operating pressure above 100 psi. Accordingly, we recommend that the Commission adopt the OCA’s notice proposals.

¹⁴⁰¹ Tr. 1983-84.

¹⁴⁰² *Id.*

¹⁴⁰³ Tr. 2055.

¹⁴⁰⁴ OCA St. 7SR, p. 2.

¹⁴⁰⁵ 66 Pa.C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44.

¹⁴⁰⁶ Tr. 1472-1523.

XV. MISCELLANEOUS ISSUES

A. Customer Notices Related to Rate Changes

1. PAWC's Position

PAWC urges the PUC to reject the OCA's proposal for several reasons. First, PAWC maintains that it provided the notice that is required by the PUC's regulations and that any new notice requirements should be adopted by the PUC and applied to all water and wastewater utilities and not solely to PAWC. Second, PAWC's notice was consistent with each of the notices in its rate cases since the enactment of Act 11. Finally, PAWC already provides detailed notice of its rate changes once they are approved by PUC through a bill insert. PAWC argues that an additional mailing is not feasible given the short time period between when rates are approved and when those rates become effective and the process of sending a customized direct mail notice to its nearly 800,000 customers (similar to what is done at the time of filing) takes several weeks and considerable expense.¹⁴⁰⁷ PAWC MB at 109-110; PAWC RB at 80.

2. OCA's Position

As a matter of law, an increase in base rates involves a substantial property right, entitling ratepayers to notice and procedural due process.¹⁴⁰⁸ The OCA contends that PAWC's notices to customers regarding the contents of its proposed rate changes are deficient and constitute inadequate notice.¹⁴⁰⁹ The OCA explains that the notice is deficient in terms of the accuracy of: (1) the bill impact of PAWC's proposed revenue shift under Section 1311(c); (2) the residential customer usage level; and (3) the Commission's final disposition of PAWC's

¹⁴⁰⁷ PAWC St. 1-R, pp. 25-29.

¹⁴⁰⁸ *McCloskey 2020* at 1068 (Pa. Cmwlth. 2018) (citing *Barasch 1988* at 1305-06; U.S. Const. amend. XIV, § 1).

¹⁴⁰⁹ OCA St. 1, pp. 55-62.

proposed alternative ratemaking mechanisms under Section 1330.¹⁴¹⁰ To remedy this deficiency, the OCA recommends that customer notices provide relevant information about the impact on their bill if PAWC’s cost of service revenue deficiencies are used to set rates. The OCA recommends that a chart, using three usage levels, be included in the rate case notices for Water and Wastewater in PAWC’s next base rate filing.¹⁴¹¹

Gallons per month	Current Bill (example)	Proposed Bill (example)
3,201	\$70.65	\$88.24
5,000	\$100.29	\$126.60
10,000	\$182.69	\$233.19

The OCA further proposes that a notice should be sent at the end of the proceeding that shows customers how the Commission’s Final Order will impact their bills. The OCA opines that this notice can include the two other recommendations as well as the information regarding any Section 1311(c) shift, and any other proposals that are adopted in the Final Order.¹⁴¹² The OCA recommends a direct mailing of the notice at the end of the case, just as PAWC used direct mailing for the notices at the time of its filing. The notice should include a link to the alternative ratemaking information posted on PAWC’s website as required by regulation or Commission Order, and Section 1330(c)(1) and (2). Additionally, the website posting with the alternative ratemaking information could include information about the bill impact of the Commission’s order at three usage levels. The OCA’s main concern about the notice at the end of the case is that, currently, the information customers might see at the end of the case is limited to press releases or bill inserts that use typical usage level, and that such information is not meaningful for most customers. The OCA contends that when customers receive the first bills containing the new rates, they have not received any meaningful information regarding the Commission’s Final Order or about the bill impact of that order.¹⁴¹³ OCA MB at 108-109.

¹⁴¹⁰ OCA St. 1, pp. 55-62; 66 Pa. C.S. § 1330.

¹⁴¹¹ OCA St. 1, pp. 60, 63.

¹⁴¹² OCA St. 1, p. 63.

¹⁴¹³ OCA St. 1SR, pp. 22-23.

The OCA asserts that PAWC currently benefits from the obscurity that is provided by only showing what a typical customer's bill would be. PAWC could choose to show usage at multiple levels but has made the choice not to do so. The OCA further asserts that there is no need to change the notice regulation to have the customer notice show multiple usage levels since PAWC already made changes to the notice regarding small, explanatory charts, and it did not seek a change to the regulations to do so.¹⁴¹⁴ OCA MB at 109.

3. ALJs' Recommendation

We agree with PAWC that there is no need to revise customer notices related to rate changes. We agree with the Company that the notice it provided to customers in this and recent base rate cases complies with the Commission's regulations. We further agree with the Company that any new notice requirements should first be adopted by the Commission and then applied to all Pennsylvania water and wastewater utilities. Accordingly, we recommend that the notice changes proposed by the OCA be rejected.

XVI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. §§ 501-530; 66 Pa.C.S. § 1308(d).

2. Rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301 and 1304.

3. A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. 66 Pa.C.S. § 315(a); *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00038805, 236 PUR. 4th 218, 2004 Pa. PUC LEXIS 39 (Pa.P.U.C. Aug. 5, 2004).

¹⁴¹⁴ OCA St. 1SR, p. 21; OCA St. 1, pp. 61-62.

4. A public utility, in proving that its proposed rates are just and reasonable, does not have the burden to defend affirmatively claims made in its filing that no other party has questioned. *Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm'n*, 570 A.2d 149 (Pa. Cmwlth. 1990).

5. A party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. See, e.g., *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, Docket No. R-00891364, 1990 Pa. PUC LEXIS 155 (Opinion and Order entered May 16, 1990); *Pa. Pub. Util. Comm'n v. Breezewood Tel. Co.*, Docket No. R-00901666, 1991 Pa. PUC LEXIS 45 (Opinion and Order entered Jan. 31, 1991).

6. A litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

7. Any finding of fact necessary to support an adjudication of the Commission must be based on substantial evidence. *Met-Ed Indus. Users Group v. Pa. Pub. Util. Comm'n*, 960 A.2d 189 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704).

8. A Commission decision is adequate where, on each of the issues raised, the Commission was merely presented with a choice of actions, each fully developed in the record, and its choice on each issue amounted to an implicit acceptance of one party's thesis and rejection of the other party's contention. *Popowsky v. Pa. Pub. Util. Comm'n*, 706 A.2d 1197 (Pa. 1997).

9. A utility is entitled to recover its reasonably incurred expenses. *UGI Utils. Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923 (Pa. Cmwlth. 1980). Expenses include such items as the cost of operations and maintenance (labor, fuel and administrative costs, e.g.), depreciation and taxes. *Pa. Power Co. v. Pa. Pub. Util. Comm'n*, 561 A.2d 43 (Pa. Cmwlth. 1989).

10. The rate of 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 Waterworks & Improvement Co. v. Pub. Serv. Comm'n of W.V.*, 262 U.S. 679 (1923).

11. Establishment of a rate structure is an administrative function peculiarly within the expertise of the Commission. *Emporium Water Co. v. Pa. Pub. Util. Comm'n*, 955 A.2d 456 (Pa. Cmwlth. 2008); *City of Lancaster v. Pa. Pub. Util. Comm'n*, 769 A.2d 567 (Pa. Cmwlth. 2001).

12. The question of reasonableness of rates and the difference between rates in their respective classes is an administrative question for the Commission to decide. *Pa. Power & Light Co. v. Pa. Pub. Util. Comm'n*, 516 A.2d 426 (Pa. Cmwlth. 1986); *Park Towne v. Pa. Pub. Util. Comm'n*, 433 A.2d 610 (Pa. Cmwlth. 1981).

13. The basic factor in allocating revenue is to have the rates reflect the cost of service. *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010 (Pa. Cmwlth. 2006).

14. Section 1311(c) of the Public Utility Code, more commonly referred to as Act 11, permits utilities that provide both water and wastewater service to combine the revenue requirements by allocating a portion of the wastewater revenue requirement to the water customer base if doing so is in the “public interest.” 66 Pa. C.S. § 1311.

XVII. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That Pennsylvania-American Water Company not be permitted to place into effect the rates contained in proposed Supplement No. 45 to Tariff Water-PA. P.U.C. No. 5, which have been found to be unjust and unreasonable and, therefore, unlawful.
2. That Pennsylvania-American Water Company be permitted to file tariffs, tariff supplements or tariff revisions containing proposed rates, rules, and regulations to increase annual revenues in the total amount of not more than \$92,590,004.
3. That Pennsylvania-American Water Company – Wastewater Division not be permitted to place into effect the rates contained in proposed Supplement No. 47 to Tariff Wastewater PA P.U.C. No. 16, which have been found to be unjust and unreasonable and, therefore, unlawful.
4. That Pennsylvania-American Water Company – Wastewater Division be permitted to file tariffs, tariff supplements or tariff revisions containing proposed rates, rules, and regulations to increase annual revenues in the total amount of not more than \$11,492,198.
5. That Pennsylvania-American Water Company be required to allocate the authorized increase in operating revenues to each customer class and rate schedule within each class in the manner set forth in this Recommended Decision.

6. That Pennsylvania-American Water Company be required to comply with all directives, conclusions and recommendations in this Recommended Decision as if each one was the subject of individual ordering paragraphs.

7. That all of the complaint cases filed against the rate cases docketed at R-2023-3043189 and R-2023-3043190 and captioned above be dismissed and marked closed as if each case was dismissed and marked closed in its own individual ordering paragraph;

8. That upon acceptance and approval by the Commission of the tariff supplements filed by Pennsylvania-American Water Company, consistent with its Final Order, the investigations at Docket Nos. R-2023-3043189 and R-2023-3043190 be marked closed.

Date: May 7, 2024

_____/s/_____
Christopher P. Pell
Deputy Chief Administrative Law Judge

_____/s/_____
John M. Coogan
Administrative Law Judge

APPENDIX A

Pennsylvania-American Water Company (Water and Wastewater) 2023 Base Rate Case Docket Nos. R-2023-3043189, R-2023-3043190, et al.

List of Party Exhibits and Testimony

I. Pennsylvania-American Water Company

PAWC Statement No. 1
PAWC Exhibit 3-A
PAWC Exhibit 3-B
PAWC Exhibit 3-C
Schedule AEE-1
Schedule AEE-2
PAWC Statement No. 1-R
PAWC Exhibit 3-A Revised
PAWC Exhibit AEE-1R
PAWC Exhibit AEE-2R

PAWC Statement No. 2
PAWC Exhibit JR-1
PAWC Statement No. 2-R
PAWC Exhibit JR-1R
PAWC Exhibit JR-2R

PAWC Statement No. 3
PAWC Statement No. 3-R
PAWC Exhibit BWA-1R
PAWC Exhibit BWA-2R
PAWC Exhibit BWA-3R

PAWC Statement No. 4
Schedule SDG-1
PAWC Statement No. 4-R
PAWC Exhibit SDG-1R
PAWC Exhibit SDG-2R
PAWC Exhibit SDG-3R
PAWC Exhibit SDG-4R

PAWC Statement No. 5
PAWC Statement No. 5-R
PAWC Exhibit LNO-1R

PAWC Exhibit LNO-2R
PAWC Exhibit LNO-3R
PAWC Exhibit LNO-4R
PAWC Exhibit LNO-5R
PAWC Exhibit LNO-6R

PAWC Statement No. 6
PAWC Statement No. 6-R
PAWC Exhibit ECA-1R_CONFIDENTIAL
PAWC Exhibit ECA-2R
PAWC Exhibit ECA-3R

PAWC Statement No. 7

PAWC Statement No. 8
PAWC Exhibit JCS-1
PAWC Statement No. 8-R
PAWC Exhibit JCS-1R

PAWC Statement No. 9
PAWC Statement No. 9-R
PAWC Exhibit DD-1R_CONFIDENTIAL

PAWC Statement No. 10
PAWC Exhibit CBR-1
PAWC Exhibit CBR-2
PAWC Exhibit CBR-3
PAWC Exhibit CBR-4
PAWC Exhibit CBR-5
PAWC Exhibit CBR-6
PAWC Exhibit CBR-7
PAWC Exhibit CBR-8
PAWC Exhibit CBR-9
PAWC Exhibit CBR-10
PAWC Exhibit CBR-11
PAWC Exhibit 10-A
PAWC Exhibit 10-B
PAWC Exhibit 10-C
PAWC Exhibit 10-D
PAWC Exhibit 10-E

PAWC Statement No. 10-R
PAWC Exhibit CBR-10R
Exhibit 10-E WW BASA Operations Revised
PAWC Schedule Rea 1
PAWC Statement No. 10-SR

PAWC Statement No. 11
PAWC Exhibit 11-A
PAWC Exhibit 11-B
PAWC Exhibit 11-C
PAWC Exhibit 11-D
PAWC Exhibit 11-E
PAWC Exhibit 11-F
PAWC Exhibit 11-G
PAWC Exhibit 11-H
PAWC Exhibit 11-I
PAWC Exhibit 11-J
PAWC Exhibit 11-K
PAWC Exhibit 11-L
PAWC Exhibit 11-M
PAWC Statement No. 11-R
PAWC Exhibit JJS-1R

PAWC Statement No. 12
PAWC Exhibit 12-A
PAWC Exhibit 12-B
PAWC Exhibit 12-C
PAWC Exhibit 12-D
PAWC Exhibit 12-E

Joint Stipulation – PAWC and CAUSE-PA
Joint Stipulation – PAWC and Kyle Donahue

II. I&E

I&E Statement No. 1 in both proprietary and non-proprietary formats
I&E Exhibit No. 1 in both proprietary and non-proprietary formats
I&E Statement No. 1-R
I&E Statement No. 1-SR
I&E Exhibit No. 1-SR
I&E Statement No. 2 in both proprietary and non-proprietary format
I&E Exhibit No. 2
I&E Statement No. 2-R
I&E Statement No 2-SR

I&E Statement No. 3
I&E Exhibit No. 3.
I&E Exhibit 3, Sched. 1 corrected which was provided on February 12, 2024, and has the corrections highlighted therein.
I&E Statement No. 3-R

I&E Statement No. 3-SR

I&E Statement No. 4

I&E Exhibit No. 4

I&E Statement No. 4-SR

III. OCA

OCA Statement 1 Corrected, Direct Testimony of Christine Maloni Hoover

Appendix A

Exhibit CMH-1

Exhibit CMH-2

Exhibit CMH-3

Exhibit CMH-4

Exhibit CMH-5

OCA Statement 1 Supp., Supplemental Direct Testimony of Christine Maloni Hoover

OCA Statement 1R, Rebuttal Testimony of Christine Maloni Hoover

Exhibit CMH-6

OCA Statement 1SR, Surrebuttal Testimony of Christine Maloni Hoover

OCA Statement 2, Direct Testimony of Ralph C. Smith (Confidential and Public versions)

Exhibit RCS-1

Exhibit LA-1

Exhibit LA-2

Exhibit LA-3

Exhibit LA-4 (Confidential)

Exhibit LA-5

Exhibit LA-6

OCA Statement 2SR, Surrebuttal Testimony of Ralph C. Smith

Exhibit LA-7

OCA Statement 3, Direct Testimony of David J. Garrett

Appendix A

Appendix B

Exhibits DJG-1 through DJG-15

OCA Statement 3R, Rebuttal Testimony of David J. Garrett

OCA Statement 3SR, Surrebuttal Testimony of David J. Garrett

OCA Statement 4, Direct Testimony of Jerome D. Mierzwa

Schedules JDM-1 through JDM-7

OCA Statement 4R, Rebuttal Testimony of Jerome D. Mierzwa

OCA Statement 4SR, Surrebuttal Testimony of Jerome D. Mierzwa

Schedule JDM-2SR

Schedule JDM-4SR

Schedule JDM-6SR

OCA Statement 5, Direct Testimony of Roger D. Colton (Confidential and Public versions)
Exhibit RDC-1

OCA Statement 5R, Rebuttal Testimony of Roger D. Colton

OCA Statement 5SR, Surrebuttal Testimony of Roger D. Colton (Confidential and Public versions)

OCA Statement 6, Direct Testimony of Barbara R. Alexander (Confidential and Public versions)

Exhibit BA-1

Exhibit BA-3

Exhibit BA-5

Exhibit BA-6

Exhibit BA-2 (Confidential)

Exhibit BA-4 (Confidential)

Exhibits BA-7 through 9 (Confidential)

OCA Statement 6 Supp., Supplemental Direct Testimony of Barbara R. Alexander

OCA Statement 6SR, Surrebuttal Testimony of Barbara R. Alexander (Confidential and Public versions)

Exhibit BA-10

Exhibit BA- 11 (Confidential)

Exhibit BA-12 (Confidential)

OCA Statement 7, Direct Testimony of Terry L. Fought (Confidential and Public versions)

Exhibit TLF-1

Exhibit TLF-2 (Confidential)

Exhibit TLF-3 (Confidential)

OCA Statement 7 Supp., Supplemental Direct Testimony of Terry L. Fought

Exhibit TLF-4

OCA Statement 7SR, Surrebuttal Testimony of Terry L. Fought

OCA Hearing Exhibit 2

Verifications for Responses to Discovery Attached to OCA Testimony

IV. OSBA

OSBA Statement No. 1 with Schedules KCH-1 through KCH-10, Direct Testimony, Exhibits, and signed Verification of Kevin C. Higgins

OSBA Statement No. 1-R with Schedules KCH-11 through KCH-13, Rebuttal Testimony, Exhibits and signed Verification of Kevin C. Higgins

OSBA Statement No. 1-S, with Schedule KCH-14, Surrebuttal Testimony and signed Verification of Kevin C. Higgins

OSBA Executed Appendix A by Kevin C. Higgins to Protective Order dated January 5, 2024

V. CAUSE-PA

Direct Testimony of Harry S. Geller, Esq. on Behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA Statement 1) o 79 pages of written testimony

Exhibit 1: Water and Wastewater Burden Tables

Appendix A: Resume, Harry S. Geller, Esq.

Appendix B: Cited Discovery Responses

Rebuttal Testimony of Harry S. Geller, Esq. on Behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA Statement 1-R) o 8 pages of written testimony

Surrebuttal Testimony of Harry S. Geller, Esq. on Behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA Statement 1-SR) o 28 pages of written testimony

Verification, Harry S. Geller, Esq.

VI. PAWLUG

CONFIDENTIAL PAWLUG Statement No. 1 – Direct Testimony and Exhibits of Billie S. LaConte

PUBLIC PAWLUG Statement No. 1 – Direct Testimony and Exhibits of Billie S. LaConte

PAWLUG Statement No. 1R – Rebuttal Testimony and Exhibits of Billie S. LaConte

PAWLUG Statement No. 1S – Surrebuttal Testimony and Exhibit of Billie S. LaConte

VII. Cleveland-Cliffs Steel

Cleveland-Cliffs Statement No. 1 with Direct Testimony, Exhibits, and signed Verification of Richard A. Baudino

Cleveland-Cliffs Statement No. 1-R with Rebuttal Testimony, Exhibits and signed Verification of Richard A. Baudino

Cleveland-Cliffs Statement No. 1-S, with Surrebuttal Testimony and signed Verification of Richard A. Baudino

VIII. City of Scranton

City of Scranton Statement No. 1 Direct Testimony of Paige Cognetti

Exhibit 1

Exhibit 2

Exhibit 3

City of Scranton Statement No. 2 Direct Testimony of Teri Ooms

Exhibit 4

IX. CEO

CEO Statement No. 1 Direct Testimony of Jennifer Warabak

X. Exeter Township

Exeter Township Statement No. 1 Direct Testimony of John Piho

XI. Borough of St. Lawrence

Borough of St. Lawrence Statement No. 1 Direct Testimony of Robert J. May

Exhibit 1

Exhibit 2

XII. Kyle Donahue

Kyle Donahue Statement No. 1 Direct Testimony of Kyle Donahue

PAWC RATE CASE TABLES – R-2023-3043189 & R-2023-3043190

TABLE ACT 11					
PENNSYLVANIA-AMERICAN WATER COMPANY					
WATER AND WASTEWATER REVENUE REQUIREMENT SUMMARY					
R-2023-3043189, R-2023-3043190					
Line No.	Description	Total Company \$	Water Operations \$	Wastewater SSS Operations \$	Wastewater CSS Operations \$
1	Present Rate Revenue	994,178,484	820,869,547	94,672,721	78,636,216
2	Additional Revenue Requirement	104,082,203	68,758,696	24,678,219	10,645,287
3	Act 11 - Wastewater Allocation	0	23,831,308	(18,508,664)	(5,322,644)
4	Proposed Revenues	1,098,260,686	913,459,551	100,842,276	83,958,860
5	Rate Increase/(Decrease) \$	104,082,203	92,590,004	6,169,555	5,322,644
6	Rate Increase/(Decrease) %	10.47%	11.28%	6.52%	6.77%
7	Rate Increase/(Decrease) \$ - Total Wastewater Operations			11,492,198	
8	Rate Increase/(Decrease) % - Total Wastewater Operations			6.63%	
Notes:					
(1) Excludes revenue requirement associated with the BASA and Brentwood acquisitions.					

TABLE I WATER PENNSYLVANIA-AMERICAN WATER COMPANY INCOME SUMMARY R-2023-3043189, R-2023-3043190							
	Pro Forma Present Rates (1)	Company Adjustments (2)	Pro Forma Present Rates (Revised) (3)	ALJ Adjustments	ALJ Pro Forma Present Rates	ALJ Revenue Increase	Total Allowable Revenues
	\$	\$	\$	\$	\$	\$	\$
Operating Revenue	824,117,186	0	824,117,186	(3,247,639)	820,869,547	68,758,696	889,628,243
Expenses:							
O & M Expense	256,824,574	(720,938)	256,103,636	(10,032,095)	246,071,541	808,602	246,880,143
Depreciation	210,700,336	1,660,367	212,360,703	(1,156,876)	211,203,827	0	211,203,827
Taxes, Other	14,398,232	(62,322)	14,335,910	(48,401)	14,287,509	438,092	14,725,601
Income Taxes:							
State	13,347,020	67,799	13,414,819	657,016	14,071,835	5,394,209	19,466,044
Federal	33,635,358	163,955	33,799,313	1,588,848	35,388,161	13,044,737	48,432,898
Total Expenses	528,905,520	1,108,861	530,014,381	(8,991,508)	521,022,873	19,685,640	540,708,513
Net Inc. Available for Return	295,211,666	(1,108,861)	294,102,805	5,743,869	299,846,674	49,073,056	348,919,730
Rate Base	4,704,067,656	(3,127,277)	4,700,940,379	(11,159,057)	4,689,781,322		4,689,781,322
Rate of Return	6.28%		6.26%		6.39%		7.44000000%
Notes: (1) PAWC Ex. 3-A Initial. (2) Difference between PAWC Ex. 3-A Initial and Ex. 3-A Revised. (3) PAWC Ex. 3-A Revised.							
					Increase %	8.38%	
						49,073,056	
						0	

TABLE I(A) WATER									
PENNSYLVANIA-AMERICAN WATER COMPANY									
RATE OF RETURN									
R-2023-3043189, R-2023-3043190									
				After-Tax		Effective		Pre-Tax	
				Weighted		Tax Rate		Weighted	
	Structure	Cost		Cost		Complement		Cost Rate	
Total Cost of Debt				2.09000000%					
Long-term Debt (1)	44.01%	4.76%		2.09000000%				2.09%	
Short-term Debt	0.00%	0		0.00000000%					
Preferred Stock	0.00%	0		0.00000000%		0.726879		0.00%	
Common Equity (1)	55.99%	9.55%		5.35000000%		0.726879		7.36%	
	<u>100.00%</u>			<u>7.44000000%</u>				<u>9.45%</u>	
Pre-Tax Interest Coverage	4.52								
After-Tax Interest Coverage	3.56								
Notes:									
(1) PAWC Main Brief pp. 41									

TABLE I(B) WATER								
PENNSYLVANIA-AMERICAN WATER COMPANY								
REVENUE FACTOR								
R-2023-3043189, R-2023-3043190								
100%					1.00000000			
Less:								
Uncollectible Accounts Factor (1)					0.01176000			
PUC, OCA, OSBA, DPC Assessment Factors (1)					0.00637145			
Gross Receipts Tax					0.00000000			
Other Tax Factors					0.00000000			
					0.98186855			
State Income Tax Rate (1)					0.07990000			
Effective State Income Tax Rate					0.07845130			
Factor After Local and State Taxes					0.90341725			
Federal Income Tax Rate (1)					0.21000000			
Effective Federal Income Tax Rate					0.18971762			
Revenue Factor (100% - Effective Tax Rates)					0.71369963			
Notes:								
(1) PAWC Ex. 3-A Revised								

TABLE III WATER				
PENNSYLVANIA-AMERICAN WATER COMPANY				
INTEREST SYNCHRONIZATION				
R-2023-3043189, R-2023-3043190				
	Amount			
	\$			
Company Rate Base Claim	4,700,940,379			
ALJ Rate Base Adjustments	(11,159,057)			
ALJ Rate Base	4,689,781,322			
Weighted Cost of Debt	2.09000000%			
ALJ Interest Expense	98,016,430			
Company Claim (1)	98,249,654			
Total ALJ Adjustment	233,224			
Company Adjustment	0			
Net ALJ Interest Adjustment	233,224			
State Income Tax Rate	7.99%			
State Income Tax Adjustment	18,635			
Net ALJ Interest Adjustment	233,224			
State Income Tax Adjustment	18,635			
Net ALJ Adjustment for F.I.T.	214,589			
Federal Income Tax Rate	21.00%			
Federal Income Tax Adjustment	45,064			
Notes:				
(1) Company Main Brief				

TABLE IV WATER					
PENNSYLVANIA-AMERICAN WATER COMPANY					
CASH WORKING CAPITAL - INTEREST AND DIVIDENDS					
R-2023-3043189, R-2023-3043190					
Accrued Interest			Preferred Stock Dividends		
	Long-Term Debt	Short-Term Debt			
Company Rate Base Claim	\$4,700,940,379	4,700,940,379	Company Rate Base Claim	4,700,940,379	
ALJ Rate Base Adjustments	(\$11,159,057)	(11,159,057)	ALJ Rate Base Adjustments	(11,159,057)	
ALJ Rate Base	\$4,689,781,322	4,689,781,322	ALJ Rate Base	4,689,781,322	
Weighted Cost of Debt	2.09000000%	0	Weighted Cost Pref. Stock	0	
ALJ Annual Interest Exp.	\$98,016,430	0	ALJ Preferred Dividends	0	
Average Revenue Lag Days	50.6	50.6	Average Revenue Lag Days	50.6	
Average Expense Lag Days	81.6	15.0	Average Expense Lag Days	46.4	
Net Lag Days	-31.0	35.6	Net Lag Days	4.2	
Working Capital Adjustment					
ALJ Daily Interest Exp.	\$268,538	\$0	ALJ Daily Dividends	\$0	
Net Lag Days	-31.0	35.6	Net Lag Days	4.2	
ALJ Working Capital	(\$8,327,363)	\$0		\$0	
Company Claim (1)	(\$8,347,179)	\$0	Company Claim (1)	\$0	
ALJ Adjustment	\$19,816	\$0		\$0	
Total Interest & Dividend Adj.	\$19,816				
Notes:					
(1) Company Main Brief.					

TABLE V WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -TAXES
R-2023-3043189, R-2023-3043190

	Company Proforma Tax Expense Present	ALJ Adjustments	ALJ Pro forma Tax Expense Present	ALJ Allowance	ALJ Adjusted Taxes at Present Rates	Daily Expense	Net Lead/ Lag Days	Accrued Tax Adjustment
Description	Rates		Rates					
Assessments	\$5,164,137	(\$20,692)	\$5,143,445	\$438,092	\$5,581,537	\$15,291.88	190.20	\$2,908,516
Public Utility Realty	\$2,126,732	\$0	\$2,126,732		\$2,126,732	\$5,826.66	47.35	\$275,892
Local Property Tax	\$2,073,365	(\$27,709)	\$2,045,656		\$2,045,656	\$5,604.54	64.56	\$361,855
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
State Income Tax	\$13,414,819	\$657,016	\$14,071,835	\$5,394,209	\$19,466,044	\$53,331.63	13.60	\$725,310
Federal Income Tax	\$34,032,905	\$1,588,848	\$35,621,753	\$13,044,737	\$48,666,490	\$133,332.85	-18.40	(\$2,453,324)
	<u>\$56,811,958</u>	<u>\$2,197,463</u>	<u>\$59,009,421</u>	<u>\$18,877,038</u>	<u>\$77,886,459</u>	<u>\$213,388</u>	<u>8.52</u>	<u>\$1,818,249</u>
						ALJ Allowance		1,818,249
						Company Claim (1)		1,684,837
						ALJ Adjustment		<u>133,412</u>
Notes:								
(1) Company Main Brief								

TABLE VI WATER											
PENNSYLVANIA-AMERICAN WATER COMPANY											
CASH WORKING CAPITAL -- O & M EXPENSE											
R-2023-3043189, R-2023-3043190											
	Company		ALJ								
	Pro forma		Pro forma								
Description	Expense	ALJ	Expenses	Lag Days	Lag Dollars	Acquisition O&M Expenses Workpapers					
Service Company (1)	\$60,897,948	(\$302,738)	\$60,595,210	12.05	\$730,426,780			Audubon	Farmington	Total	
Chemicals (1)	\$23,528,121	(\$96,468)	\$23,431,653	47.20	\$1,106,012,803			Present	Present	Present	
Group Insurance (1)	\$11,220,476	(\$95,992)	\$11,124,484	11.00	\$122,369,324			Rates	Rates	Rates	
Insurance, Other (1)	\$14,893,805	(\$71,451)	\$14,822,354	-69.48	(\$1,029,789,524)			(1)	(2)	(3) = (1)+(2)	
Labor (1)	\$68,588,923	(\$504,647)	\$68,084,276	12.05	\$820,701,480						
								Production Costs			
								Fuel & Power	145000	5641	150641
Leased Equip./Rent	\$105,375	\$0	\$105,375	-13.36	(\$1,407,511)			Chemicals	92000	4468	96468
Leased Vehicles	\$5,043,012	\$0	\$5,043,012	54.08	\$272,747,715			Waste Disposal		2349	2349
Miscellaneous (1)	\$39,139,084	(\$485,598)	\$38,653,486	30.46	\$1,177,398,731			Labor & Labor Related			
Natural Gas	\$1,232,626	\$0	\$1,232,626	33.33	\$41,087,081			Labor	387283	47751	435034
Power (1)	\$15,812,740	(\$150,641)	\$15,662,099	31.00	\$485,590,492			Group Insurance	85518	10474	95992
Purchased Water	\$3,099,741	\$0	\$3,099,741	35.22	\$109,173,435			401k	12332	1587	13919
Telephone	\$4,996,974	\$0	\$4,996,974	3.88	\$19,398,219			DCP	18721	2434	21155
Waste Disposal (1)	\$3,337,122	(\$2,349)	\$3,334,773	41.96	\$139,928,434			VEBA		363	363
Post Retirement Benefits/VEBA (2)	(\$6,496,737)	(\$1,664,379)	(\$8,161,116)	0.00	\$0			Other O&M			
Pensions (2)	\$971,072	(\$4,771,807)	(\$3,800,735)	-6.41	\$24,381,605			Service Company	261549	41189	302738
								Contracted Services	160528		160528
	\$246,370,282	(\$8,146,070)	\$238,224,212	16.90	\$4,018,019,064			Insurance Other Than Group	63196	8255	71451
								Rents	5622		5622
								General Office	112431		112431
ALJ Average Revenue Lag	50.6							Miscellaneous	102210	5632	107842
Less: ALJ Avg. Expense Lag	16.9							Maintenance	80746	18432	99178
								Taxes Other Than Income			
Net Difference	33.7	Days						Payroll Tax	30729	3810	34539
ALJ Pro forma								Property Tax	27709		27709
O & M Expense per Day	\$652,669							Total	1585574	152385	1737959
ALJ CWC for O & M	\$21,994,945							Claim	1585572	152385	1737956
Less: Company Claim (1)	\$23,152,054							Difference	-2	0	-3
ALJ Adjustment	(\$1,157,109)										
Notes:											
(1) See Table II, Notes 2 & 3. In PAWC Ex. 3-B, pgs. 303-304, "Labor", "401K", "DCP", & "Payroll Taxes" are assigned to Labor above. "Contracted Services", "Rents", "General Office", "Miscellaneous", & "Maintenance" are assigned to Miscellaneous above. Other O&M Expenses are assigned to a description above that matches the expense.											
(2) See Table II, Note 6. The OPEB adjustment is assigned to Post Retirement Benefits/VEBA above, and the Pensions adjustment is assigned to Pensions above.											

TABLE I WASTEWATER SSS							
PENNSYLVANIA-AMERICAN WATER COMPANY							
INCOME SUMMARY							
R-2023-3043189, R-2023-3043190							
	Pro Forma	Company	Pro Forma	ALJ	ALJ	ALJ	Total
	Present Rates (1)	Adjustments (2)	Present Rates	Adjustments	Pro Forma	Revenue	Allowable
	\$	\$	(Revised) (3)	\$	Present Rates	Increase	Revenues
					\$	\$	\$
Operating Revenue	95,470,867	0	95,470,867	(798,146)	94,672,721	24,678,219	119,350,940
Expenses:							
O & M Expense	26,009,252	57,140	26,066,392	(670,027)	25,396,365	290,216	25,686,581
Depreciation	27,406,489	0	27,406,489	(110,119)	27,296,370	0	27,296,370
Taxes, Other	3,217,927	3,124	3,221,051	(8,632)	3,212,419	157,236	3,369,655
Income Taxes:							
State	2,906,503	(4,825)	2,901,678	7,668	2,909,346	1,936,038	4,845,384
Federal	7,064,720	(11,668)	7,053,052	18,542	7,071,594	4,681,893	11,753,487
Total Expenses	66,604,891	43,771	66,648,662	(762,569)	65,886,093	7,065,383	72,951,476
Net Inc. Available for Return	28,865,976	(43,771)	28,822,205	(35,578)	28,786,627	17,612,836	46,399,463
Rate Base	649,330,622	5,483	649,336,105	(4,899,118)	644,436,987		644,436,987
Rate of Return	4.45%		4.44%		4.47%		7.20000000%
Notes:							
(1) PAWC Ex. 3-A Initial.							
(2) Difference between PAWC Ex. 3-A Initial and Ex. 3-A Revised.							
(3) PAWC Ex. 3-A Revised.							

TABLE I(A) WASTEWATER SSS								
PENNSYLVANIA-AMERICAN WATER COMPANY								
RATE OF RETURN								
R-2023-3043189, R-2023-3043190								
				After-Tax		Effective		Pre-Tax
				Weighted		Tax Rate		Weighted
	Structure	Cost		Cost		Complement		Cost Rate
Total Cost of Debt				2.15000000%				
Long-term Debt (1)	42.73%	4.76%		2.03000000%				2.03%
Wastewater Specific Long-term Debt	4.40%	2.67%		0.12000000%				
Preferred Stock	0.00%	0		0.00000000%		0.726879		0.00%
Common Equity (1)	52.87%	9.55%		5.05000000%		0.726879		6.95%
	<u>100.00%</u>			<u>7.20000000%</u>				<u>8.98%</u>
Pre-Tax Interest Coverage	4.42							
After-Tax Interest Coverage	3.55							
Notes:								
(1) PAWC Main Brief pp. 41								

TABLE I(B) WASTEWATER SSS					
PENNSYLVANIA-AMERICAN WATER COMPANY					
REVENUE FACTOR					
R-2023-3043189, R-2023-3043190					
100%					1.00000000
Less:					
Uncollectible Accounts Factor (1)					0.01176000
PUC, OCA, OSBA, DPC Assessment Factors (1)					0.00637145
Gross Receipts Tax					0.00000000
Other Tax Factors					0.00000000
					0.98186855
State Income Tax Rate (1)					0.07990000
Effective State Income Tax Rate					0.07845130
Factor After Local and State Taxes					0.90341725
Federal Income Tax Rate (1)					0.21000000
Effective Federal Income Tax Rate					0.18971762
Revenue Factor (100% - Effective Tax Rates)					0.71369963
Notes:					
(1) PAWC Ex. 3-A Revised					

TABLE II WASTEWATER SSS							
PENNSYLVANIA-AMERICAN WATER COMPANY							
SUMMARY OF ADJUSTMENTS							
R-2023-3043189, R-2023-3043190							
Adjustments	Rate Base	Revenues	Expenses	Depreciation	Taxes-Other	State Income Tax	Federal Income Tax
	\$	\$	\$	\$	\$	\$	\$
RATE BASE:							
CWC:							
Int. & Div. (Table IV)	8,962						
Taxes (Table V)	20,457						
O & M (Table VI)	(31,379)						
Sadsbury Plant	(2,018,697)						
Farmington Plant	(2,878,461)						
REVENUES:							
Sadsbury Revenue (1) (4)		(471,228)	(5,542)		(3,002)	(36,968)	(89,400)
Farmington Revenue (1) (4)		(322,926)	(3,798)		(2,058)	(25,334)	(61,265)
Concomitant Revenue (1)		(3,992)	(47)		(25)	(313)	(757)
EXPENSES:							
Sadsbury O&M & Taxes-Other (2)			(245,741)		(3,547)	19,918	48,168
Farmington O&M (3)			(264,176)			21,108	51,044
AMP (4)			(150,724)			12,043	29,123
						0	0
Sadsbury Depreciation				(51,847)		4,143	10,018
Farmington Depreciation				(137,987)		11,025	26,662
Sadsbury Acq. Amort.				85,414		(6,825)	(16,504)
Farmington Acq. Amort.				(5,699)		455	1,101
TAXES:							
Interest Synchronization (Table III)						8,416	20,352
TOTALS	(4,899,118)	(798,146)	(670,027)	(110,119)	(8,632)	7,668	18,542
Notes:							
(1) Revenue adjustments require concomitant adjustments for bad debt & general assessment expenses (Table IB) & forfeited discounts / late payment fee revenues (PAWC Ex. 3-A Revised, Pg. 95R) that are determined as a percentage of revenues. Concomitant revenue is then subject to the same adjustment.							
(2) See PAWC Ex. 3-A Initial, Pg. 126 & PAWC Ex. 3-B, p. 306. Taxes-Other includes only property taxes.							
(3) See PAWC Ex. 3-A Initial, Pg. 126 & PAWC Ex. 3-B, p. 305.							
(4) No cash working capital adjustment is provided for non-cash adjustments, including for bad debt/AMP and depreciation. Tax adjustments are in Table V.							

TABLE III WASTEWATER SSS			
PENNSYLVANIA-AMERICAN WATER COMPANY			
INTEREST SYNCHRONIZATION			
R-2023-3043189, R-2023-3043190			
	Amount		
	\$		
Company Rate Base Claim	649,336,105		
ALJ Rate Base Adjustments	(4,899,118)		
ALJ Rate Base	644,436,987		
Weighted Cost of Debt	2.15000000%		
ALJ Interest Expense	13,855,395		
Company Claim (1)	13,960,726		
Total ALJ Adjustment	105,331		
Company Adjustment	0		
Net ALJ Interest Adjustment	105,331		
State Income Tax Rate	7.99%		
State Income Tax Adjustment	8,416		
Net ALJ Interest Adjustment	105,331		
State Income Tax Adjustment	8,416		
Net ALJ Adjustment for F.I.T.	96,915		
Federal Income Tax Rate	21.00%		
Federal Income Tax Adjustment	20,352		
Notes:			
(1) Company Main Brief			

TABLE IV WASTEWATER SSS					
PENNSYLVANIA-AMERICAN WATER COMPANY					
CASH WORKING CAPITAL - INTEREST AND DIVIDENDS					
R-2023-3043189, R-2023-3043190					
Accrued Interest			Preferred Stock Dividends		
	Long-Term Debt	Wastewater Specific Long- Term Debt			
Company Rate Base Claim	\$649,336,105	649,336,105	Company Rate Base Claim	649,336,105	
ALJ Rate Base Adjustments	(\$4,899,118)	(4,899,118)	ALJ Rate Base Adjustments	(4,899,118)	
ALJ Rate Base	\$644,436,987	644,436,987	ALJ Rate Base	644,436,987	
Weighted Cost of Debt	2.03000000%	0.12000000%	Weighted Cost Pref. Stock	0	
ALJ Annual Interest Exp.	\$13,082,071	773,324	ALJ Preferred Dividends	0	
Average Revenue Lag Days	50.6	50.6	Average Revenue Lag Days	50.6	
Average Expense Lag Days	81.6	81.6	Average Expense Lag Days	46.4	
Net Lag Days	-31.0	-31.0	Net Lag Days	4.2	
Working Capital Adjustment					
ALJ Daily Interest Exp.	\$35,841	\$2,119	ALJ Daily Dividends	\$0	
Net Lag Days	-31.0	-31.0	Net Lag Days	4.2	
ALJ Working Capital	(\$1,111,429)	(\$65,710)		\$0	
Company Claim (1)	(\$1,119,895)	(\$66,206)	Company Claim (1)	\$0	
ALJ Adjustment	\$8,466	\$496		\$0	
Total Interest & Dividend Adj.	\$8,962				
Notes:					
(1) Company Main Brief.					

TABLE V WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -TAXES
R-2023-3043189, R-2023-3043190

	Company Proforma Tax Expense Present	ALJ Adjustments	ALJ Pro forma Tax Expense Present	ALJ Allowance	ALJ Adjusted Taxes at Present	Daily Expense	Net Lead/ Lag Days	Accrued Tax Adjustment
Description	Rates		Rates		Rates			
Assessments	\$598,699	(\$5,085)	\$593,614	\$157,236	\$750,850	\$2,057.12	190.20	\$391,264
Public Utility Realty	\$0	\$0	\$0		\$0	\$0.00	47.35	\$0
Local Property Tax	\$2,227,703	(\$3,547)	\$2,224,156		\$2,224,156	\$6,093.58	64.56	\$393,430
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
State Income Tax	\$2,901,678	\$7,668	\$2,909,346	\$1,936,038	\$4,845,384	\$13,275.02	13.60	\$180,540
Federal Income Tax	\$7,053,052	\$18,542	\$7,071,594	\$4,681,893	\$11,753,487	\$32,201.33	-18.40	(\$592,504)
	<u>\$12,781,132</u>	<u>\$17,578</u>	<u>\$12,798,710</u>	<u>\$6,775,167</u>	<u>\$19,573,877</u>	<u>\$53,627</u>	<u>6.95</u>	<u>\$372,730</u>
						ALJ Allowance		372,730
						Company Claim (1)		352,273
						ALJ Adjustment		20,457
Notes:								
(1) Company Main Brief								

TABLE VI WASTEWATER SSS											
PENNSYLVANIA-AMERICAN WATER COMPANY											
CASH WORKING CAPITAL -- O & M EXPENSE											
R-2023-3043189, R-2023-3043190											
	Company		ALJ								
	Pro forma		Pro forma								
Description	Expense	ALJ	Expenses	Lag Days	Lag Dollars	Acquisition O&M Expenses Working Papers					
Service Company	\$1,903,699	(\$63,607)	\$1,840,092	12.05	\$22,180,837			Sadsbury	Farmington	Total	
Chemicals	\$1,827,234	(\$7,500)	\$1,819,734	47.20	\$85,894,457			Present	Present	Present	
Group Insurance	\$1,070,958	(\$15,709)	\$1,055,249	11.00	\$11,607,739			Rates	Rates	Rates	
Insurance, Other	\$2,098,237	(\$12,770)	\$2,085,467	-69.48	(\$144,888,732)			(1)	(2)	(3) = (1)+(2)	
Labor	\$5,286,389	(\$75,958)	\$5,210,431	12.05	\$62,807,577			Production Costs			
								Fuel & Power	7500	30000	37500
Leased Equip./Rent	\$50,345	\$0	\$50,345	-13.36	(\$672,466)			Chemicals		7500	7500
Leased Vehicles	\$176,055	\$0	\$176,055	54.08	\$9,521,809			Waste Disposal	185000	5000	190000
Miscellaneous	\$5,595,997	(\$106,873)	\$5,489,124	30.46	\$167,200,642			Labor & Labor Related			0
Natural Gas	\$431,432	\$0	\$431,432	33.33	\$14,380,908			Labor		65425	65425
Power	\$3,372,968	(\$37,500)	\$3,335,468	31.00	\$103,413,441			Group Insurance		15709	15709
Purchased Water	\$0	\$0	\$0	35.22	\$0			401k		2115	2115
Telephone	\$211,445	\$0	\$211,445	3.88	\$820,828			DCP		3210	3210
Waste Disposal	\$3,087,197	(\$190,000)	\$2,897,197	41.96	\$121,567,566			VEBA			0
Post Retirement Benefits	\$9,810	\$0	\$9,810	0.00	\$0			Other O&M			0
Pensions	\$216,538	\$0	\$216,538	-6.41	(\$1,389,085)			Service Company	22418	41189	63607
								Contracted Services	16500	51200	67700
	\$25,338,304	(\$509,917)	\$24,828,387	18.20	\$452,445,521			Insurance Other Than Group	3822	8948	12770
								Rents			0
								General Office			0
ALJ Average Revenue Lag	50.6							Miscellaneous	1500	8192	9692
Less: ALJ Avg. Expense Lag	18.2							Maintenance	9000	20480	29480
								Taxes Other Than Income			0
Net Difference	32.4	Days						Payroll Tax		5208	5208
ALJ Pro forma								Property Tax	3547		3547
O & M Expense per Day	\$68,023										0
								Total	249287	264176	513463
ALJ CWC for O & M	\$2,203,945										0
Less: Company Claim (1)	\$2,235,324							Claim	249288	264176	513464
											0
ALJ Adjustment	(\$31,379)							Difference	1	0	1
Notes:											
(1) See Table II, Notes 2 & 3. In PAWC Ex. 3-B, p. 305-306, "Labor", "401K", "DCP", & "Payroll Taxes" are assigned to Labor above. "Contracted Services", "Rents", "General Office", "Miscellaneous", & "Maintenance" are assigned to Miscellaneous above. Other O&M Expenses are assigned to a description above that matches the expense.											

TABLE I WASTEWATER CSS							
PENNSYLVANIA-AMERICAN WATER COMPANY							
INCOME SUMMARY							
R-2023-3043189, R-2023-3043190							
	Pro Forma Present Rates (1)	Company Adjustments (2)	Pro Forma Present Rates (Revised) (3)	ALJ Adjustments	ALJ Pro Forma Present Rates	ALJ Revenue Increase	Total Allowable Revenues
	\$	\$	\$	\$	\$	\$	\$
Operating Revenue	78,636,216	0	78,636,216	0	78,636,216	10,645,287	89,281,503
Expenses:							
O & M Expense	21,438,527	20,813	21,459,340	(113,746)	21,345,594	125,189	21,470,783
Depreciation	20,497,016	0	20,497,016	0	20,497,016	0	20,497,016
Taxes, Other	2,231,143	892	2,232,035	0	2,232,035	67,826	2,299,861
Income Taxes:							
State	1,984,048	(2,279)	1,981,769	9,060	1,990,829	835,137	2,825,966
Federal	4,906,577	(5,513)	4,901,064	21,910	4,922,974	2,019,598	6,942,572
Total Expenses	51,057,311	13,913	51,071,224	(82,776)	50,988,448	3,047,750	54,036,198
Net Inc. Available for Return	27,578,905	(13,913)	27,564,992	82,776	27,647,768	7,597,538	35,245,306
Rate Base	483,184,280	6,317,381	489,501,661	16,474	489,518,135		489,518,135
Rate of Return	5.71%		5.63%		5.65%		7.20000000%
Notes:							
(1) PAWC Ex. 3-A Initial.							
(2) Difference between PAWC Ex. 3-A Initial and Ex. 3-A Revised.							
(3) PAWC Ex. 3-A Revised.							
					Increase %	13.54%	
						7,597,537	
						0	

TABLE I(A) WASTEWATER CSS									
PENNSYLVANIA-AMERICAN WATER COMPANY									
RATE OF RETURN									
R-2023-3043189, R-2023-3043190									
					After-Tax		Effective		Pre-Tax
					Weighted		Tax Rate		Weighted
	Structure		Cost		Cost		Complement		Cost Rate
Total Cost of Debt					2.15000000%				
Long-term Debt (1)	42.73%		4.76%		2.03000000%				2.03%
Wastewater Specific Long-term Debt	4.40%		2.67%		0.12000000%				
Preferred Stock	0.00%		0		0.00000000%		0.726879		0.00%
Common Equity (1)	52.87%		9.55%		5.05000000%		0.726879		6.95%
	<u>100.00%</u>				<u>7.20000000%</u>				<u>8.98%</u>
Pre-Tax Interest Coverage	4.42								
After-Tax Interest Coverage	3.55								
Notes:									
(1) PAWC Main Brief pp. 41									

TABLE I(B) WASTEWATER CSS					
PENNSYLVANIA-AMERICAN WATER COMPANY					
REVENUE FACTOR					
R-2023-3043189, R-2023-3043190					
100%					1.00000000
Less:					
Uncollectible Accounts Factor (1)					0.01176000
PUC, OCA, OSBA, DPC Assessment Factors (1)					0.00637145
Gross Receipts Tax					0.00000000
Other Tax Factors					0.00000000
					0.98186855
State Income Tax Rate (1)					0.07990000
Effective State Income Tax Rate					0.07845130
Factor After Local and State Taxes					0.90341725
Federal Income Tax Rate (1)					0.21000000
Effective Federal Income Tax Rate					0.18971762
Revenue Factor (100% - Effective Tax Rates)					0.71369963
Notes:					
(1) PAWC Ex. 3-A Revised					

TABLE II WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
SUMMARY OF ADJUSTMENTS
R-2023-3043189, R-2023-3043190

Adjustments	Rate Base	Revenues	Expenses	Depreciation	Taxes-Other	State Income Tax	Federal Income Tax
	\$	\$	\$	\$	\$	\$	\$
RATE BASE:							
CWC:							
Int. & Div. (Table IV)	(31)						
Taxes (Table V)	16,505						
O & M (Table VI)	0						
REVENUES:							
Concomitant Revenue (1)		0	0		0	0	0
EXPENSES:							
AMP (2)			(113,746)			9,088	21,978
TAXES:							
Interest Synchronization (Table III)						(28)	(68)
TOTALS	16,474	0	(113,746)	0	0	9,060	21,910
Notes:							
(1) Revenue adjustments require concomitant adjustments for bad debt & general assessment expenses (Table IB) & forfeited discounts / late payment fee revenues (PAWC Ex. 3-A Revised, Pg. 216R) that are determined as a percentage of revenues. Concomitant revenue is then subject to the same adjustment.							
(2) No cash working capital adjustment is provided for non-cash adjustments, including for bad debt/AMP and depreciation. Tax adjustments are in Table V.							

TABLE III WASTEWATER CSS		
PENNSYLVANIA-AMERICAN WATER COMPANY		
INTEREST SYNCHRONIZATION		
R-2023-3043189, R-2023-3043190		
	Amount	
	\$	
Company Rate Base Claim	489,501,661	
ALJ Rate Base Adjustments	16,474	
ALJ Rate Base	489,518,135	
Weighted Cost of Debt	2.15000000%	
ALJ Interest Expense	10,524,640	
Company Claim (1)	10,524,286	
Total ALJ Adjustment	(354)	
Company Adjustment	0	
Net ALJ Interest Adjustment	(354)	
State Income Tax Rate	7.99%	
State Income Tax Adjustment	(28)	
Net ALJ Interest Adjustment	(354)	
State Income Tax Adjustment	(28)	
Net ALJ Adjustment for F.I.T.	(326)	
Federal Income Tax Rate	21.00%	
Federal Income Tax Adjustment	(68)	
Notes:		
(1) Company Main Brief		

TABLE IV WASTEWATER CSS						
PENNSYLVANIA-AMERICAN WATER COMPANY						
CASH WORKING CAPITAL - INTEREST AND DIVIDENDS						
R-2023-3043189, R-2023-3043190						
Accrued Interest			Preferred Stock Dividends			
	Long-Term Debt	Wastewater Specific Long- Term Debt				
Company Rate Base Claim	\$489,501,661	489,501,661	Company Rate Base Claim	489,501,661		
ALJ Rate Base Adjustments	\$16,474	16,474	ALJ Rate Base Adjustments	16,474		
ALJ Rate Base	\$489,518,135	489,518,135	ALJ Rate Base	489,518,135		
Weighted Cost of Debt	2.03000000%	0.12000000%	Weighted Cost Pref. Stock	0		
ALJ Annual Interest Exp.	\$9,937,218	587,422	ALJ Preferred Dividends	0		
Average Revenue Lag Days	50.6	50.6	Average Revenue Lag Days	50.6		
Average Expense Lag Days	81.6	81.6	Average Expense Lag Days	46.4		
Net Lag Days	-31.0	-31.0	Net Lag Days	4.2		
Working Capital Adjustment						
ALJ Daily Interest Exp.	\$27,225	\$1,609	ALJ Daily Dividends	\$0		
Net Lag Days	-31.0	-31.0	Net Lag Days	4.2		
ALJ Working Capital	(\$844,247)	(\$49,895)		\$0		
Company Claim (1)	(\$844,216)	(\$49,895)	Company Claim (1)	\$0		
ALJ Adjustment	(\$31)	\$0		\$0		
Total Interest & Dividend Adj.	(\$31)					
Notes:						
(1) Company Main Brief.						

TABLE V WASTEWATER CSS								
PENNSYLVANIA-AMERICAN WATER COMPANY								
CASH WORKING CAPITAL -TAXES								
R-2023-3043189, R-2023-3043190								
	Company		ALJ		ALJ			
	Proforma		Pro forma		Adjusted			
	Tax Expense		Tax Expense		Taxes at			
	Present	ALJ	Present	ALJ	Present		Net Lead/	Accrued Tax
Description	Rates	Adjustments	Rates	Allowance	Rates	Daily Expense	Lag Days	Adjustment
Assessments	\$497,495	\$0	\$497,495	\$67,826	\$565,321	\$1,548.82	190.20	\$294,586
Public Utility Realty	\$0	\$0	\$0		\$0	\$0.00	47.35	\$0
Local Property Tax	\$1,198,060	\$0	\$1,198,060		\$1,198,060	\$3,282.36	64.56	\$211,924
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
State Income Tax	\$1,981,769	\$9,060	\$1,990,829	\$835,137	\$2,825,966	\$7,742.37	13.60	\$105,296
Federal Income Tax	\$4,901,064	\$21,910	\$4,922,974	\$2,019,598	\$6,942,572	\$19,020.75	-18.40	(\$349,982)
	<u>\$8,578,388</u>	<u>\$30,970</u>	<u>\$8,609,358</u>	<u>\$2,922,561</u>	<u>\$11,531,919</u>	<u>\$31,594</u>	<u>8.29</u>	<u>\$261,824</u>
						ALJ Allowance		261,824
						Company Claim (1)		245,319
						ALJ Adjustment		16,505
Notes:								
(1) Company Main Brief								

TABLE VI WASTEWATER CSS					
PENNSYLVANIA-AMERICAN WATER COMPANY					
CASH WORKING CAPITAL -- O & M EXPENSE					
R-2023-3043189, R-2023-3043190					
	Company		ALJ		
	Pro forma		Pro forma		
Description	Expense		Expenses	Lag Days	Lag Dollars
Service Company	\$1,038,033	\$0	\$1,038,033	12.05	\$12,512,657
Chemicals	\$2,129,667	\$0	\$2,129,667	47.20	\$100,523,807
Group Insurance	\$1,327,139	\$0	\$1,327,139	11.00	\$14,598,529
Insurance, Other	\$1,434,260	\$0	\$1,434,260	-69.48	(\$99,645,841)
Labor	\$7,280,640	\$0	\$7,280,640	12.05	\$87,762,291
Leased Equip./Rent	\$16,425	\$0	\$16,425	-13.36	(\$219,391)
Leased Vehicles	\$690,475	\$0	\$690,475	54.08	\$37,343,849
Miscellaneous	\$3,209,124	\$0	\$3,209,124	30.46	\$97,751,042
Natural Gas	\$150,057	\$0	\$150,057	33.33	\$5,001,845
Power	\$1,691,208	\$0	\$1,691,208	31.00	\$52,434,512
Purchased Water	\$0	\$0	\$0	35.22	\$0
Telephone	\$120,976	\$0	\$120,976	3.88	\$469,628
Waste Disposal	\$1,704,931	\$0	\$1,704,931	41.96	\$71,539,599
Post Retirement Benefits	\$32,234	\$0	\$32,234	0.00	\$0
Pensions	\$245,439	\$0	\$245,439	-6.41	(\$1,574,484)
	<u>\$21,070,608</u>	<u>\$0</u>	<u>\$21,070,608</u>	<u>18.00</u>	<u>\$378,498,043</u>
ALJ Average Revenue Lag	50.6				
Less: ALJ Avg. Expense Lag	18.0				
Net Difference	32.6	Days			
ALJ Pro forma					
O & M Expense per Day	<u>\$57,728</u>				
ALJ CWC for O & M	\$1,881,933				
Less: Company Claim (1)	<u>\$1,881,933</u>				
ALJ Adjustment	<u>\$0</u>				
Notes:					
(1) Company Main Brief					

**6. PAWC Wastewater Tariff Effective July 1,
2025**

PENNSYLVANIA-AMERICAN WATER COMPANYS
Wastewater Division
(hereinafter referred to as the “Company”)
D/B/A
Pennsylvania American Water

RATES, RULES AND REGULATIONS

GOVERNING THE FURNISHINGS OF

WASTEWATER COLLECTION AND DISPOSAL SERVICE

IN CERTAIN MUNICIPALITIES AND TERRITORIES LOCATED IN:

ADAMS COUNTY, ALLEGHENY COUNTY, BEAVER COUNTY, BERKS COUNTY,
BUTLER COUNTY, CHESTER COUNTY, CLARION COUNTY, CUMBERLAND COUNTY,
LACKAWANNA COUNTY, LANCASTER COUNTY, LUZERNE COUNTY, MCKEAN COUNTY,
MONROE COUNTY, MONTGOMERY COUNTY, NORTHUMBERLAND COUNTY,
PIKE COUNTY, WASHINGTON COUNTY AND YORK COUNTY

ALL IN THE COMMONWEALTH OF PENNSYLVANIA

Issued: June 30, 2025

Effective: July 1, 2025

Issued by:
Justin Ladner, President
Pennsylvania American Water
852 Wesley Drive
Mechanicsburg, PA 17055

<https://www.amwater.com/paaw/>

NOTICE

This Tariff modifies the language of the Distribution System Improvement Charge to reflect applicable rate zones.
(Refer to pages 2, 4, 5, and 18.1)

LIST OF CHANGES

Clean-up page for the Wastewater Distribution System Improvement Charge (DSIC) on page 18.1 (33rd Revision), reflecting all rate changes and rate zone applicability effective July 1, 2025.

PENNSYLVANIA-AMERICAN WATER COMPANY

LIST OF CHANGES

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(C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

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(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

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(C) means Change and (D) means Decrease

PENNSYLVANIA-AMERICAN WATER COMPANY

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(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

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(C) means Change and (I) means Increase

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TERRITORIES SERVED

(By State Region and Company Wastewater System District)
(All territories are subject to Rate Zone 1 unless otherwise noted)

Central Pennsylvania

Fairview District

York County. Portions of Fairview and Newberry Townships.

Foster District – Rate Zone 1c

(C)

Luzerne County. Portions of Foster Township (and related points of bulk service interconnection).

Franklin District

Adams County. Portions of the Townships of Franklin, Hamiltonban and Highland.

McEwensville District

Northumberland County. McEwensville Borough.

New Cumberland District [language deleted]

(C)

Cumberland County. The Borough of New Cumberland.

Turbotville District

Northumberland County. Portions of The Borough of Turbotville.

York District – Rate Zone 1b

(C)

York County. The City of York and portions of West Manchester Township; and related points of bulk service interconnection. Portions of Manchester Township, West Manchester Township, and Spring Garden Township, limited to the administration of the Industrial Pretreatment Program.

Northeastern Pennsylvania

Northeast District – Lehman Pike, Blue Mountain Lakes, Clean Treatment, and Delaware

Monroe County. Portions of the Townships of Middle Smithfield, Smithfield and Stroud.

Pike County. Portions of Delaware and Lehman Townships.

Pocono District

Monroe County. A portion of Coolbaugh Township.

Scranton Sewer District – Rate Zone 2a

(C)

Lackawanna County. The City of Scranton and the Borough of Dunmore.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

TERRITORIES SERVED (CONT'D)

(By State Region and Company Wastewater System District)
(All territories are subject to Rate Zone 1 unless otherwise noted)

Southeastern Pennsylvania

Coatesville District

Chester County. The City of Coatesville, the Borough of Parkesburg and portions of the Borough of South Coatesville and portions of the Townships of Caln, East Fallowfield, Highland, Sadsbury, Valley, West Caln and West Sadsbury.

Lancaster County. Portions of Sadsbury Township (Rate Zone 1e).

Exeter Sewer District

Berks County. Portions of the Townships of Exeter, Alsace and Lower Alsace (and related points of bulk service interconnection).

Royersford District – Rate Zone 1a

Montgomery County. Royersford Borough and portions of Upper Providence Township.

Upper Pottsgrove District

Montgomery County. Portions of Upper Pottsgrove Township.

Berks County. A portion of Douglass Township.

Western Pennsylvania

Butler District – Rate Zone 1d

Butler County. City of Butler, portions of the Borough of East Butler, and portions of the Townships of Butler, Center, Connoquenessing, Oakland and Summit.

Clarion District

Clarion County. Clarion Borough and portions of the Townships of Clarion and Monroe **and Farmington (Rate Zone 1f)**. (C)

Claysville District

Washington County. Claysville Borough and portions of the Townships of Donegal.

Kane District – Rate Zone 2

McKean County. Kane Borough and portions of Wetmore Township.

Koppel District

Beaver County. Koppel Borough.

McKeesport District – Rate Zone 2

Allegheny County. The City of McKeesport, the City of Duquesne, Port Vue Borough, the Borough of Dravosburg, and a portion of West Mifflin Borough (and related points of bulk service interconnection).

Paint-Elk District

Clarion County. Shippensburg Borough and portions of the Townships of Elk and Paint.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

THIS PAGE RESERVED FOR FUTURE USE

SCHEDULE OF RATES

RATE ZONE 1 – SANITARY SEWER SYSTEM (“SSS”) METERED AND UNMETERED

(C)

APPLICABILITY

The rates under this schedule apply throughout the territories served under this tariff, unless otherwise noted on the territories served page, for service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

The rates under this schedule are available to customers in the Residential, Commercial, Municipal and Industrial classes.

METERED CHARGES (Based on Water Usage or Sewage Flows, determined at PAWC’s discretion)

All metered customers shall be subject to a monthly service per equivalent dwelling unit (EDU).

A. Residential

Service Charge per month: \$15.00 (I)

Usage Charge per 100 gallons: \$2.9539 (I)

B. Commercial

Service Charge per month: \$36.70 (I)

Usage Charge per 100 gallons: \$2.1986 (I)

C. Industrial

Service Charge per month: \$36.70 (I)

Usage Charge per 100 gallons: \$2.1986 (I)

D. Municipal

Service Charge per month: \$36.70 (I)

Usage Charge per 100 gallons: \$2.1986 (I)

E. Special Rate Charges

Bulk Metered Usage – Caln Twp., V.A. Hospital and West Brandywine Twp.

Service Charge per month: \$456.50 (I)

Usage Charge per 100 gallons: \$1.4900 (I)

Cleveland-Cliffs Plate and Victory Brewing Company

Service Charge per month: \$456.50

Usage Charge per 100 gallons: \$1.4800 (I)

Borough of Saint Lawrence

Service Charge per month: \$456.50 (I)/ (C)

Usage Charge per 100 gallons: \$0.4120 (I)

Township of Alsace – The bulk metered charge will be based on PUC approved rates for the direct customers of the Exeter sewer district shown above.

(I) means Increase and (C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

Canceling Sixth and Seventh Revised Page 11.2

SCHEDULE OF RATES

RATE ZONE 1 – SANITARY SEWER SYSTEM (“SSS”) METERED AND UNMETERED (C)

METERED CHARGES (cont’d)

Metered rates are available to customers in the Upper Pottsgrove Sewer service territory, served under this tariff in Rate Zone 1, that request metered rates and are 1) metered commercial, industrial, or multiple EDU in a single structure, 2) have an existing EDU allocation and 3) currently discharge to the collection system.

Special rate for Upper Pottsgrove customers who elect the metered option: (C)

[language deleted] (C)

Service charge per month, per EDU:	\$36.70	(D)(C)
Usage Charge per 100 gallons:	\$2.1986	(I)(C)

Special Rate for Rainbow Washhouse, Inc.

Service charge per month	\$75.00	(I)
Usage Charge per 100 gallons:	\$0.2226	(I)

UNMETERED CHARGES -This charge is a flat rate fee for customers not metered for water consumption.

A. Flat rate per month, per EDU:		(C)
Residential	\$110.00	(I)
Commercial	\$150.00	(I)/(C)
B. <u>Special Rate Charges</u>		
Knouse Foods, flat rate per month:	\$8,683.00	(I)
Strattanville Borough, flat rate per month:	\$6,426.00	(I)
Penn State Special Metals, flat rate per month:	\$2,988.00	(I)
PSC Metals, flat rate per month:	\$1,156.00	(I)
Ipsco Koppel Tubilers, flat rate per month:	\$17,948.00	(I)

(I) means Increase, (C) means Change, and (D) means Decrease

PENNSYLVANIA-AMERICAN WATER COMPANY

Canceling Fifth and Sixth Revised Page 11.3

SCHEDULE OF RATES

RATE ZONE 1a – METERED AND UNMETERED

APPLICABILITY

The rates as set forth below will apply in the Royersford service territory (former territory served by the Borough of Royersford) served under this tariff for service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

The rates under this schedule are available to customers in all classes.

METERED CHARGES (Based on Water Usage or Sewage Flows, determined at PAWC’s discretion)

All metered customers shall be subject to a minimum charge per meter.

<u>Residential</u>			(C)
Service Charge per month:	\$15.00	(D)	
Usage Charge per 100 gallons	\$1.4150	(I)	
<u>Non-Residential</u>			(C)
Service Charge per month:	\$36.70	(D)	
Usage Charge per 100 gallons	\$0.7500	(I)	

Special Provision for Public Laundromats: metered flow shall be calculated on the basis of 75% of the volume of water usage.

UNMETERED CHARGES

This charge is a flat rate fee for customers not metered for water consumption.

<u>Residential</u>		
Flat Rate per Month, per EDU:	\$75.00	(I)
<u>Non-Residential</u>		
Flat Rate per Month, per EDU:	\$113.00	(I)

Special Provision for Aqua Pennsylvania Wastewater customers in Limerick Township: the metered and unmetered rates above apply for “each user” in Limerick Township.

(I) means Increase, **(C)** means Change, and **(D)** means Decrease

PENNSYLVANIA-AMERICAN WATER COMPANY

Canceling Fourth and Fifth Revised Page 11.4

SCHEDULE OF RATES

RATE ZONE 1b – METERED

APPLICABILITY

The rates as set forth below will apply in the York service territory (former territory served by the York City Sewer Authority) served under this tariff for service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

The rates under this schedule are available to customers in all classes.

METERED CHARGES (Based on Water Usage or Sewage Flows, determined at PAWC's discretion, except as described below for industrial wastes.)

		<u>Effective 5/27/2022</u>	<u>Effective 5/27/2025</u>	
A. <u>Residential</u>				
Minimum Charge per month		\$18.00	\$15.00	(D)
Usage Charge per 100 gallons	0-2,000 gallons per month	\$0.00	\$0.7500	(I)
Usage Charge per 100 gallons	All over 2,000 gallons/month	\$0.9370	\$2.9539	(I)
B. <u>Commercial/Municipal</u>				
Minimum Charge per month		\$18.00	\$36.70	(I)
Usage Charge per 100 gallons	0-2,000 gallons per month	\$0.00	\$0.4000	(I)
Usage Charge per 100 gallons	All over 2,000 gallons/month	\$0.9370	\$2.1986	(I)
C. <u>Industrial</u>				
Usage Charge per 100 gallons		\$0.9370	\$2.1986	(I)
Whenever a customer with metered water usage who discharges industrial waste to the sewer system also discharges uncontaminated water to either a separate storm sewer or other outlet, an allowance for the amount of water so discharged shall be made in computing the sewer charges; provided that the customer so discharging uncontaminated water shall at their own expense install a meter or meters, as required, to indicate accurately to the satisfaction of the Company the amount of water claimed as a credit.				
D. <u>Special Rate Charges</u>				(C)
The following bulk wastewater customers in Rate Zone 1b are subject to the rates set forth in their respective contracts with the Company:				
Manchester Borough				
North York Borough				
Spring Garden Township				
Springettsbury Township				
West Manchester Township				
West York Borough/The York Water Company				
York Township				

(I) means Increase, (D) means Decrease and (C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

RATE ZONE 1c – UNMETERED

(C)

APPLICABILITY

The rates as set forth below will apply in the Foster Township Sewer service territory served under this tariff for service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

The rates under this schedule are available to customers in all rate classes.

UNMETERED CHARGES

This charge is a flat fee for customers not metered for water consumption.

A Flat Rate per month shall be billed to each unmetered customer as follows:

	<u>Effective Through 12/31/2024</u>	<u>Effective 1/01/2025</u>	
Residential:	\$85.00 per EDU	\$110.00 per EDU	(I)(C)
Non-Residential:	\$85.00 per EDU	\$150.00 per EDU	(I)(C)

Special conveyance-only rate for Butler Township: \$40 per EDU per month (I)

(I) means Increase and (C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

RATE ZONE 1d – UNMETERED

(C)

APPLICABILITY

The rates as set forth below will apply in the service territory formerly served by the Butler Area Sewer Authority served under this tariff for service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

The rates under this schedule are available to all customers classes.

UNMETERED CHARGES

This charge is a flat rate fee for customers previously billed a flat rate by the Butler Area Sewer Authority.

Flat rate per month, per EDU:	\$45.50
<u>Special Rate for Multi-Family Dwelling Units</u>	<u>Flat Rate per month, per EDU</u>
For the first 25 Units or any part thereof	\$45.50
For the next 25 Units or any part thereof	\$44.60
For the next 25 Units or any part thereof	\$43.70
For the next 25 Units or any part thereof	\$42.80
For the next 25 Units or any part thereof	\$41.90
For the next 25 Units or any part thereof	\$41.00
For all Units over 150 or any part thereof	\$40.10
<u>Special Rate for VA Hospital</u>	<u>Flat Rate per month, per EDU</u>
	\$0.00

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

RATE ZONE 1e – UNMETERED

(C)

APPLICABILITY

The rates as set forth below will apply in the Sadsbury Township, Lancaster County service territory (territory formerly served by Sadsbury Township Municipal Authority) served under this tariff for service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

The rates under this schedule are available to customers in all rate classes.

UNMETERED CHARGES

This charge is a flat fee for customers not metered for water consumption.

A Flat Rate per month shall be billed to each unmetered customer as follows:

\$128.33 per EDU

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

RATE ZONE 1f – UNMETERED

(C)

APPLICABILITY

The rates under this schedule apply in the Farmington service area for service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

The rates under this schedule are available to customers in all Customer Classes.

UNMETERED CHARGES - A Flat Rate per EDU, per month shall be billed to each customer.

Flat rate per month, per EDU: \$53.50

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

RATE ZONE 1g –METERED AND UNMETERED

(C)

APPLICABILITY

The rates under this schedule apply throughout the territories formerly served by Manwalamink Sewer Company, unless otherwise noted on the territories served page, service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

The rates under this schedule are available to all classes.

METERED CHARGES (Based on Water Usage or Sewage Flows, determined at PAWC's discretion)

A. All Customers Classes

Service Charge per month: \$16.92

Usage Charge per 100 gallons:

First 10,000 gallons per month \$0.6590

All Over 10,000 gallons per month \$0.2530

- B. Special Rate for Multiple Unit Billing: Where there are multiple dwellings located in a single building served through a single meter, the bill will be computed as follows:

Service Charge: Based on the actual number of units served through such meter.

Plus: Volume charge computed by dividing the metered volume by the number of units. The dollar amount for a unit is calculated on the above rates and multiplied by the number of units.

UNMETERED CHARGES

Applicable to customers previously charged a flat rate by Manwalamink Sewer Company and customers not metered for water consumption.

A. Residential

Flat Rate per month: \$44.80

B. Commercial

Flat Rate per month: \$58.00

C. Special Rate Charges for Large Commercial Users, Flat Rate per month

1. Ridge Top Recreation Area Pool \$124.29

2. River Village Recreational Area Pool \$124.29

3. Sun Mountain Recreational Area Pool \$124.29

4. Shawnee Mountain Ski Area \$426.12

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

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(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

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(C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

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(C)

(C) means Change

Issued: January 26, 2023

Effective Date: January 28, 2023

PENNSYLVANIA-AMERICAN WATER COMPANY

Canceling First and Second Revised Page 11.13

SCHEDULE OF RATES

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(C)

(C) means Change

Issued: January 26, 2023

Effective Date: January 28, 2023

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

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(C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

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(C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

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(C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

[Miscellaneous Fees and Charges moved to subsequent page] (C)

RATE ZONE 2 – COMBINED SEWER SYSTEM (“CSS”) METERED AND UNMETERED (C)

APPLICABILITY

The rates as set forth below will be in effect for all former customers of the Municipal Authority of the City of McKeesport and Kane service territory (former territory served by the Borough of Kane Authority).

AVAILABILITY

The rates under this schedule are available to customers in the Residential, Commercial, Industrial, Municipal and Bulk classes.

METERED CHARGES (Based on Water Usage or Sewage Flows, determined at PAWC’s discretion)

All metered customers shall be subject to a monthly or quarterly service charge.

A. Residential

Service Charge per month: \$20.00 (I)/(D)

Usage Charge per 100 gallons: \$2.6117 (I)/(D)

B. Commercial

Service Charge per month: \$40.00 (I)/(D)

Usage Charge per 100 gallons: \$2.1320 (I)/(D)

C. Industrial

Service Charge per month: \$40.00 (I)/(D)

Usage Charge per 100 gallons: \$2.1320 (I)/(D)

D. Municipal

Service Charge per month: \$40.00 (I)/(D)

Usage Charge per 100 gallons: \$2.1320 (I)/(D)

E. Special Rate Charges

Bulk Customers – Versailles, Elizabeth, Liberty, Glassport, Lincoln, North Versailles,
White Oak and East McKeesport

Usage Charge per 100 gallons: \$1.6680

Flat Rate Account

Per month, based on 6,000 gallons per month: \$86.00

Per quarter, based on 18,000 gallons per quarter: \$258.00

Provided sewage flow meters are installed, on or after January 1, 2018, during any billing period in which the gross volume of sewage from the municipality exceeds 350% of the aggregate quantity of water used by the municipality’s water users, the municipality shall pay PAWC’s prevailing rates for handling the excess, in addition to the sewage charges set forth above.

UNMETERED CHARGES

This charge is a flat fee of **\$104.00** per month for all customers not metered for water consumption. All flat rates will be billed monthly. (D)

(I) means Increase, (D) means Decrease, and (C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

RATE ZONE 2a – COMBINED SEWER SYSTEM (“CSS”) METERED AND UNMETERED (C)

APPLICABILITY

The rates as set forth below will apply in the Scranton Sewer service territory served under this tariff for service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

The rates under this schedule are available to customers in the Residential, Commercial, Industrial and Municipal classes.

METERED CHARGES (Based on Water Usage or Sewage Flows, determined at PAWC’s discretion)

All metered customers shall be subject to a monthly service charge per equivalent dwelling unit (EDU).

A. Residential

Service Charge per month: \$20.00 (I)

Usage Charge per 100 gallons: \$2.6117 (I)

Flat Rate \$104.00 (I)

B. Non-Residential

Service Charge per month: \$40.00 (I)

Usage Charge per 100 gallons: \$2.1320 (I)

(C)

(I) means Increase and (C) means Change

SCHEDULE OF RATES

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(C)

[Miscellaneous Fees and Charges moved to subsequent page]

(C)

(C) means Change

SCHEDULE OF RATES

Miscellaneous Fees and Charges

(C)

The following defines the application of the capacity reservation fee within the Company's service territory:

- A. Capacity Reservation Fee: A fee per EDU charged by the Company for the allocation of treatment, pumping, and transmission, trunk and interceptor main capacity.
1. Shared Service Lines: Each residential unit will be treated separately for purposes of determining an applicable capacity reservation fee -- whether such residential unit is served by a single service line or shares a common service line with one or more other residential units.
 2. Within the Company's service territory, no capacity reservation fee will be charged for any applicant for wastewater service that meets the criteria of a Bona Fide Service Applicant, as defined in 52 Pa. Code Section 65.1 if "wastewater" were substituted for "water".
 3. Within the Company's service territory or for any future development, a capacity fee of \$4,000 per EDU will be charged, and payable at the time the Planning Module is fully executed by the Company, the relevant municipality, and the Pennsylvania Department of Environmental Protection.
 4. For commercial and industrial customers, the EDUs per customer will be those set forth in the Planning Module that includes such customer, as approved by the Company, the relevant municipality and the Pennsylvania Department of Environmental Protection. If, after a commercial or industrial customer's EDUs are established, in the manner previously described, and the associated capacity reservation fees are paid, changes in the customer's facilities or mode of operation result in an increase in the number of EDUs or an increase in the customer's estimated wastewater flow above the levels set forth in the Planning Module previously used to determine the customer's EDUs, the customer must update the applicable Planning Module and submit it for approval by the Company, the relevant municipality and the Pennsylvania Department of Environmental Protection, and the customer will be required to pay any additional capacity reservation fees that are due based upon the calculation of capacity reservation fees using the EDUs reflected in the revised, approved Planning Module. The Company may at its discretion re-calculate the number of EDUs utilized by analyzing the actual wastewater flow, **or water usage**, over a period of one year. If the EDUs are greater than previously reserved and **(C)** paid for by the Capacity Reservation Fee, the customer will be required to pay any additional capacity reservation fees.
 5. Notwithstanding the foregoing, where is it prudent, reasonable and in the public interest, the Company may, at its option, enter into a negotiated Service Agreement that limits the application of the capacity reservation fee for flow stabilization reasons or to attract and retain bulk customers which have a viable competitive alternative to service by the Company. These Service Agreements with qualifying bulk customers shall become effective thirty (30) days after the Company has filed a copy thereof with the Pennsylvania Public Utility Commission, or if the Commission institutes an investigation, at such time as the Commission grants its approval thereof. For purposes of this provision only, "bulk customer" shall mean a municipal entity under agreement with the Company to provide wastewater flows from their owned collection system into the Company's system for treatment and disposal.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

Miscellaneous Fees and Charges (cont'd)

(C)

The following defines the application of the capacity reservation fee for the Company's bulk customers who are members of the Municipal Sewer Group (MSG) in the Company's Coatesville wastewater service territory:

1. Within the service area of an MSG member, no capacity reservation fee will be charged for an applicant for wastewater service that meets the criteria of a Bona Fide Service Applicant, as defined in 52 Pa. Code Section 65.1 if "wastewater" were substituted for "water" and "bulk customer's service area" were substituted for "the utility's certificated service territory" in the definition of a Bona Fide Applicant.
2. A capacity reservation fee of \$525 per EDU will be used for determining the payments for capacity available prior to the expansion of the Company's wastewater treatment plant under existing agreements between the Company and its bulk customers.
3. A capacity reservation fee of \$4,000 per EDU will be used for determining payments for capacity available after the expansion of the Company's wastewater treatment plant under existing agreements except as follows:
 - a. West Brandywine Township will be charged \$525 per EDU for 188,100 gallons per day of capacity under the Second Addendum dated December 11, 2008, to its sewage treatment agreement with the Company.
4. A capacity reservation fee of \$4,000 per EDU will be used for all new agreements (including amendments to existing agreements) with bulk customers. The capacity reservation fees will be paid at the time Planning Modules are fully executed by the Company, the relevant municipality, and the Pennsylvania Department of Environmental Protection, although a bulk customer will have the option to pay earlier, if it so chooses.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

Miscellaneous Fees and Charges (cont'd)

(C)

B. Service Line Inspection Fee

Charge for the Company's time involved in the inspection of a Service Line tie-in to the Company's wastewater system.

Size of Water Meter

5/8" and 3/4"	\$50.00
1"	\$50.00
1 1/2"	\$50.00
2"	\$50.00
3"	\$50.00
4"	\$50.00
6"	\$50.00
8"	\$50.00

C. Service Reconnection and Discontinuance Fee

A fee will be charged for the shut-off and turn-on of any service. The fee for service performed during regularly scheduled hours shall be \$30.00. For non-regularly-scheduled working hours, the fee is equivalent to the cost incurred by the Company. The Service Reconnection and Discontinuance Fee will apply only once if the customer is both a water and wastewater customer of the Company.

D. Return Check Fee

The customer will be responsible for the payment of a \$20.00 charge for each time a check presented to the Company for payment on that customer's utility bill is returned by the payer bank for any reason including, but not limited to, insufficient funds, account closed, payment stopped, two signatures required, post-dated, stale date, account garnished, or unauthorized signature. This fee is in addition to any charge which may be assessed against the Customer by the bank. The Return Check Fee will apply only once if the customer is both a water and wastewater customer of the Company.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES
Miscellaneous Fees and Charges (cont'd)

(C)

E. Wastewater Plant, Residential Septage and Commercial Waste Disposal Fee.

The Fee to be paid by private contractors to the Company to dispose of private residential septage and commercial Wastes at the Company's wastewater treatment plant.

The following rates shall be charged to haulers of residential septic waste who deliver waste:

All Rate Zones (excluding Exeter Township)

(C)

<u>%Solids</u>	<u>% Solids</u>	<u>Cost Per Gallon</u>
	< = 0.5%	\$0.0450
	< = 1%	\$0.0450
> 1%	< = 2%	\$0.0450
> 2%	< = 3%	\$0.0450
> 3%	< = 4%	\$0.0550
> 4%	< = 5%	\$0.0600
> 5%	< = 6%	\$0.0650
> 6%	< = 7%	\$0.0710
> 7%	< = 8%	\$0.1000

[language deleted]

(C)

Rate Zone 1 (Exeter Township)

Holding Tanks waste delivered and discharged (including sampling and lab work), per gallon	\$0.022
Septage waste delivered and discharged (including sampling and lab work), per gallon	\$0.032
Wash waters - coolant or rinse, per gallon	\$0.020
Leachate delivered and discharged (including sampling and lab work), per gallon	\$0.018
Extra Strength Leachate, per gallon	\$0.022
Industrial Wastewater- per gallon To be determined by characteristics of the waste stream	\$0.022 minimal
Portable Toilets, per gallon	\$0.032

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES
Miscellaneous Fees and Charges (cont'd)

(C)

Rate Zone 1 (Exeter Township) – cont'd

Sludge Discharge Fees, per gallon	
0.0% to 2.5%	\$0.045
2.6% to 4.0%	\$0.055
4.1% to 5.0%	\$0.060
5.1% to 6.0%	\$0.065
6.1% to 7.0%	\$0.071
7.1% to 8.0%	\$0.080
8.1% to 9.0%	\$0.092
9.1% to 10.0%	\$0.105
Above 10%	Priced upon request
Grease, per gallon	\$0.11
Car Wash, per gallon	\$0.04
Permit Fee (renewed in December for the following calendar year)	N/A

(D)

1. The Company reserves the right to limit the total amount of residential septage received in a day and /or the total numbers of loads received from a single hauler on a per day basis based on maintaining proper operation of the Company's wastewater treatment plant.
2. At the discretion of the Company, the Company reserves the right to accept or reject commercially generated waste based on the amount and constituents in the waste or for other good reason as determined by the Company. The cost, as determined by the Company, for testing and disposal will be a multiple of the residential septage fee based on the type and strength of the waste.

(C) means Change **(D)** means Decrease

[Miscellaneous Fees and Charges moved to prior page] (C)

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(C) means Change

[Miscellaneous Fees and Charges moved to prior page] (C)

THIS PAGE HELD FOR FUTURE USE (C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

LOW-INCOME RIDER – ALL RATE ZONES
FOR QUALIFYING RESIDENTIAL CUSTOMERS

APPLICABILITY

This rider applies throughout the territories served under this tariff for service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

This rider is available for a customer in the Residential Class that meets the low-income criteria of **200% (C)** based on the Federal Poverty Level.

RATE

Customers under this rate schedule will receive a discount off their total wastewater bill as follows:

Tier 1 (0%-50% of FPL):	85%	(D)
Tier 2 (51%-100% of FPL):	73%	(D)
Tier 3 (101%-150% of FPL):	55%	(D)
Tier 4 (151%-200% of FPL):	37%	(C)/(D)

(C) means Change and **(D)** means Decrease

SCHEDULE OF RATES

STATE TAX ADJUSTMENT SURCHARGE

In addition to the net charges provided for in this Tariff, a surcharge of **0.00%** will apply (I)
bills rendered on and after the Effective Date shown on the bottom of this page.

The above surcharges will be recomputed; using the elements prescribed by the Commission whenever any of the tax rates used in calculation of the surcharge are changed.

The above recalculations will be submitted to the Commission within 10 days after the occurrence of the event or date which occasioned such recomputations. If the recomputed surcharge is less than the one in effect, the Company will, and if the recomputed surcharge is more than the one in effect the Company may, submit with such recomputation a Tariff or Supplement to reflect such recomputed surcharge, the effective date of which shall be 10 days after filing.

(I) means Increase

SCHEDULE OF RATES

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE

In addition to the net charges provided for in this Tariff, a charge of **0.00%** will apply to bills rendered on or after the Effective Date shown on the bottom of this page. (D)

This charge **applies to Rate Zone 1 – SSS, Rate Zone 1a – Royersford, Rate Zone 1b – York, Rate Zone 1c – Foster, Rate Zone 1d – BASA, Rate Zone 2 – CSS, and Rate Zone 2a – Scranton. All other rate zones shall be excluded.** (C)

The above charge will be recomputed quarterly using the elements prescribed by the Commission as shown on pages 18.2, 18.3 and 18.4 of this tariff.

(C) means Change and (D) means Decrease

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE

1. General Description

Purpose: To recover the reasonable and prudent costs incurred to repair, improve, or replace eligible property which is completed and placed in service and recorded in the individual accounts, as noted below, between base rate cases and to provide the Utility with the resources to accelerate the replacement of aging infrastructure, to comply with evolving regulatory requirements and to develop and implement solutions to regional wastewater problems. The costs of extending facilities to serve new customers are not recoverable through the DSIC. Utility projects receiving PENNVEST funding or using PENNVEST surcharges are not DSIC eligible property to the extent of the PENNVEST funding or surcharge.

Eligible Property: The DSIC-eligible property will consist of the following:

- Collection sewers, collecting mains and service laterals, including sewer taps, curb stops and lateral cleanouts installed as in-kind replacements for customers; Accounts (360, 361 and 363)
- Collection mains and valves for gravity and pressure systems and related facilities such as manholes, grinder pumps, air and vacuum release chambers, cleanouts, main line flow meters, valve vaults and lift stations installed as replacements or upgrades for existing facilities that have worn out, are in deteriorated condition or are required to be upgraded by law, regulation or order; Accounts (360, 361, 364 and 365)
- Collection main extensions installed to implement solutions to wastewater problems that present a significant health and safety concern for customers currently receiving service from the wastewater utility; Accounts (360, 361 and 363)
- Collection main rehabilitation including inflow and infiltration projects; Accounts (360, 361 and 363)
- Unreimbursed costs related to highway relocation projects where a wastewater utility must relocate its facilities; and
- Other related capitalized costs.

Effective Date: The DSIC will become effective for bills rendered on or after January 1, 2015.

2. Computation of the DSIC

Calculation: The initial non-zero DSIC, effective April 1, 2015, shall be calculated to recover the fixed costs of eligible plant additions that have not previously been reflected in the Company's rates or rate base and will have been placed in service between January 1, 2015 through February 28, 2015. Thereafter, the DSIC will be updated on a quarterly basis to reflect eligible plant additions placed in service during the three-month periods ending one month prior to the effective date of each DSIC update. Thus, changes in the DSIC rate will occur as follows:

<u>Effective Date of Change</u>	<u>Date to which DSIC-Eligible Plant Additions Reflected</u>
April 1	February 28
July 1	May 31
October 1	August 31
January 1	November 30

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE

2. Computation of the DSIC (cont'd)

Determination of Fixed Costs: The fixed costs of eligible distribution system improvements projects will consist of depreciation and pre-tax return, calculated as follows:

Depreciation: The depreciation expense shall be calculated by applying the annual accrual rates employed in the Utility's most recent base rate case for the plant accounts in which each retirement unit of DSIC-eligible property is recorded to the original cost of DSIC eligible property.

Pre-tax return: The pre-tax return shall be calculated using the statutory state and federal income tax rates, the Company's actual capital structure and actual cost rates for long-term debt and preferred stock as of the last day for the three-month period ending one month prior to the effective date of the DSIC and subsequent updates. The cost of equity will be the equity return rate approved in the Company's last fully litigated base rate proceeding for which a final order was entered not more than two years prior to the effective date of the DSIC. If more than two years shall have elapsed between the entry of such a final order and the effective date of the DSIC, then the equity return rate used in the calculation will be the equity return rate calculated by the Commission in the most recent Quarterly Report on the Earnings of Jurisdictional Utilities released by the Commission.

Application of DSIC: The DSIC will be expressed as a percentage carried to two decimal places and will be applied to the total amount billed to each customer for distribution service under the Company's otherwise applicable rates and charges, excluding amounts billed for the State Tax Adjustment Surcharge (STAS). To calculate the DSIC, one-fourth of the annual fixed costs associated with all property eligible for cost recovery under the DSIC will be divided by the Company's projected wastewater revenue (including all applicable clauses and riders) for the quarterly period during which the charge will be collected, exclusive of revenues from the STAS.

Formula: The formula for calculation of the DSIC surcharge is as follows: (C)

$$\text{DSIC} = \frac{(\text{DSI} * \text{PTRR} + \text{STFT} + \text{Dep} + e)}{\text{PQR}}$$

Where:

- DSI = Original cost of eligible distribution system improvement projects net of accrued depreciation and associated accumulated deferred income taxes pertaining to property-related book/tax depreciation timing differences resulting from the use of accelerated depreciation per Internal Revenue Code, 26 U.S. Code § 168.
- PTRR = Pre-tax return rate applicable to DSIC-eligible property.
- STFT = (State Tax Flow Through) Pre-tax flow through calculated on book-tax timing differences between accelerated tax depreciation and book depreciation net of federal tax.
- Dep = Depreciation expense related to DSIC-eligible property.
- e = Amount calculated (+/-) under the annual reconciliation feature or Commission Audit as described below.
- PQR = Projected quarterly revenues for wastewater service will be based on the applicable three-month period, (including all applicable clauses and riders) from existing customers plus netted revenue from any customers which will be gained or lost by the beginning of the applicable service period.

Quarterly Updates: Supporting data for each quarterly update will be filed with the Commission and served upon the Commission's Bureau of Investigation and Enforcement, Commission's Bureau of Audits, the Office of Consumer Advocate, and the Office of Small Business Advocate at least ten (10) days prior to the effective date of the update.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE

3. Customer Safeguards

Cap: The DSIC is capped at 5% of the amount billed to customers for distribution service (including all applicable clauses and riders) as determined on an annualized basis.

Audit/Reconciliation: The DSIC is subject to audit at intervals determined by the Commission. Any cost determined by the Commission not to comply with any provision of 66 Pa C.S. §§ 1350, *et seq.*, shall be credited to customer accounts. The DSIC is subject to annual reconciliation based on a reconciliation period consisting of the twelve months ending December 31 of each year or the utility may elect to subject the DSIC to quarterly reconciliation but only upon request and approval by the Commission. The revenue received under the DSIC for the reconciliation period will be compared to the Company's eligible costs for that period. The difference between revenue and costs will be recouped or refunded, as appropriate, in accordance with Section 1307 (e), over a one year period commencing on April 1 of each year, or in the next quarter if permitted by the Commission. If DSIC revenues exceed DSIC-eligible costs, such over-collections will be refunded with interest. Interest on the over-collections and credits will be calculated at the residential mortgage lending specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41 P.S. §§ 101, *et seq.*) and will be refunded in the same manner as an over-collection. The utility is not permitted to accrue interest on under collections.

New Base Rates: The DSIC will be reset at zero upon application of new base rates to customer billings that provide for prospective recovery of the annual costs that had previously been recovered under the DSIC. Thereafter, only the fixed costs of new eligible plant additions that have not previously been reflected in the Company's rates or rate base will be reflected in the quarterly updates of the DSIC.

Customer Notice: Customers shall be notified of changes in the DSIC by including appropriate information on the first bill they receive following any change. An explanatory bill insert shall also be included with the first billing.

All customer classes: The DSIC shall be applied equally to all customer classes.

Earning Reports: The DSIC will also be reset at zero if, in any quarter, data filed with the Commission in the Company's then most recent Annual or Quarterly Earnings reports show that the Company will earn a rate of return that would exceed the allowable rate of return used to calculate its fixed costs under the DSIC as described in the Pre-tax return section. The utility shall file a tariff supplement implementing the reset to zero due to overearning on one-days' notice and such supplement shall be filed simultaneously with the filing of the most recent Annual or Quarterly Earnings reports indicating that the Utility has earned a rate of return that would exceed the allowable rate of return used to calculate its fixed cost.

Residual E-Factor Recovery Upon Reset to Zero: The utility shall file with the Commission interim rate revisions to resolve the residual over/under collection or E-factor amount after the DSIC rate has been reset to zero. The utility can collect or credit the residual over/under collection balance when the DSIC rate is reset to zero. The utility shall refund any over collection to customers and is entitled to recover any under collections as set forth in Section 3 – Audit Reconciliation. Once the utility determines the specific amount of the residual over or under collection amount after the DSIC rate is reset to zero, the utility shall file a tariff supplement with supporting data to address that residual amount. The tariff supplement shall be served upon the Commission's Bureau of Investigation and Enforcement, The Bureau of Audits, the Office of Consumer Advocate, and the Office of Small Business Advocate at least ten (10) days prior to the effective date of the supplement.

PENNSYLVANIA-AMERICAN WATER COMPANY

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SCHEDULE OF RATES

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(C)

(C) means Change

RULES AND REGULATIONS

Section A – DEFINITIONS

The following words and phrases, when used in this tariff, shall have the meanings assigned below unless the context clearly indicates otherwise:

1. **Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended,** (C)
33 U.S.C. section 1251 et seq.
2. **Allowable Headworks Loading or AHL. The estimated maximum loading of a pollutant that can be** (C)
received at the headworks of a treatment plant and not cause the treatment plant to violate a particular
treatment plant or environmental criterion. AHLs are developed to prevent pass through and interference.
3. **Applicant:** A person, association, partnership, corporation, municipality, authority, state or federal
governmental agency or other entity who applies to become a customer of the Company in accordance with
Section C, of this tariff.
4. **Authorized Representative of the User.** (C)
(1) **If the user is a corporation:**
 - (a) **The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal
business function, or any other person who performs similar policy or decision-making
functions for the corporation; or**
 - (b) **The manager of one or more manufacturing, production, or operating facilities, provided the
manager is authorized to make management decisions that govern the operation of the
regulated facility including having the explicit or implicit duty of making major capital
investment recommendations, and can initiate and direct other comprehensive measures to
assure long-term environmental compliance with environmental laws and regulations; can
ensure that the necessary systems are established or actions taken to gather complete and
accurate information for wastewater discharge permit requirements; and where authority to
sign documents has been assigned or delegated to the manager in accordance with corporate
procedures.**
- (2) **If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.**
- (3) **If the user is a federal, state, or local government facility: a director or highest official appointed
or designated to oversee the operation and performance of the activities of a government facility,
or their designee.**
- (4) **A duly authorized representative designated by one of the individuals described in paragraphs 1
through 3, above, provided that the authorization is in writing, the authorization specifies the
individual or position responsible for the overall operation of the facility from which the discharge
originates or the individual or position with overall responsibility for environmental matters, and
the written authorization is submitted to the Company.**
5. **Biochemical Oxygen Demand or BOD5:** The quantity of oxygen [language deleted] (C)
utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at
twenty (20) degrees Centigrade, **usually expressed as a concentration (e.g., mg/l) and determined in
accordance with EPA test methods referenced in 40 CFR 136.** [language deleted]

(C) means Change

RULES AND REGULATIONS

Section A – DEFINITIONS (cont'd)

- 6. Best Management Practices or BMPs.** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in subsection 2.1 of Section T of this tariff. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- 7. Bypass.** The intentional diversion of wastewater from any portion of an industrial user's pretreatment facility through which the wastewater normally passes.
- 8. Capacity Reservation Fee:** A fee charged by the Company for the allocation of capacity on a per EDU basis.
- 9. Categorical Industrial User or CIU.** An industrial user who, if it were discharging to a POTW, would be subject to a categorical pretreatment standard or categorical standard.
- 10. Categorical Pretreatment Standard or Categorical Standard.** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- 11. Chemical Oxygen Demand or COD.** A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water, expressed as a concentration (mg/l) and determined in accordance with EPA test methods referenced in 40 CFR Part 136.
- 12. Combined Sewer System or CSS:** A sewage collection system which conveys both sanitary sewage and storm water flow. (C)
- 13. Commission:** The Pennsylvania Public Utility Commission.
- 14. Company:** Pennsylvania-American Water Company and its duly authorized officers, agents and employees, acting within the scope of their authority and employment.
- 15. Company Service Line:** Company owned wastewater service line from the sewer main of the Company which connects to the Customer Service Line at the edge of the right-of-way or actual property line.
- 16. Composite Sample.** A sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. A sample may be composited either as a time composite sample, composed of discrete sample aliquots collected in one container at constant time intervals providing representative samples irrespective of flow, or as a flow proportional composite sample collected either as a constant sample volume at time intervals proportional to flow or by increasing the volume of each aliquot as flow increases while maintaining a constant time interval between the aliquots. As provided in these rules, grab samples for certain parameters may be composited prior to analysis.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section A – DEFINITIONS (cont'd)

17. **Cooling Water.** Noncontact cooling water or contact cooling water, as follows: (C)
(a) “Noncontact Cooling Water” means water used for cooling purposes only, which has no direct contact with any raw material, intermediate, or final product and which does not contain a level of contaminants detectably higher than that of the source of the water.
(b) “Contact Cooling Water” means water used for cooling purposes only, which may become contaminated either through the use of water treatment chemicals used for corrosion inhibitors or biocides, or by direct contact with process materials and/or wastewater.
18. **Customer:** A person or entity who is an owner, occupant or who contracts with the Company for or who takes or receives wastewater collection, treatment and/or disposal service.
19. **Customer Service Line:** Customer owned wastewater service line extending from the end of the Company Service Line or connection to and within the customer’s premise.
20. **Daily Maximum.** The arithmetic average of all effluent samples for a pollutant collected during a calendar day or other 24-hour period as allowed by the Company. (C)
21. **Daily Maximum Limit.** The maximum allowable discharge limit of a pollutant during a calendar day. (C)
Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
22. **DEP.** The Pennsylvania Department of Environmental Protection or any successor agency. (C)
23. **Domestic Sewage:** Liquid or water-carried waste that is generated from sanitary conveniences and from household activities such as bathing, washing, cooking, dishwashing and laundry, but that does not contain industrial waste. [language deleted] (C)
24. **Dwelling Unit:** A structure or dwelling intended to be occupied as a whole by one family.
25. **Environmental Protection Agency or EPA.** The U.S. Environmental Protection Agency or any successor agency. (C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

THIS PAGE HELD FOR FUTURE USE

(C)

(C) means Change

RULES AND REGULATIONS

Section A – DEFINITIONS (cont'd)

26. **Equivalent Dwelling Units or EDU:** Except for existing customers acquired by the Company through a purchase or acquisition, the EDU is a measure based upon the estimated average daily wastewater flow for the type of business, as calculated by the PaDEP Regulation at 25 Pa Code: 73.17 divided by the typical estimated average daily wastewater flow from a current single-family unit.

For existing customers without a predetermined EDU allocation, the EDU is a measure based upon the estimated average daily wastewater flow for the type of business based on water usage, divided by the typical estimated average daily wastewater flow from a current single-family unit. (C)

For **other** existing customers acquired by the Company through a purchase or acquisition, the number of equivalent dwelling units is available at the following link: www.amwater.com/paaw (C)

Any new customers, or existing customers who modify their properties in a manner that impacts the EDU calculation, in areas previously acquired by the Company, will be subject to the EDU definition described above. [language deleted] (C)

27. **Excess Loading Fee.** The fee applicable to discharges with loadings that exceed a local limit or IWDP limit, as defined in subsection 7.2(b) of Section T and Section U of this tariff.

28. **Existing Source.** Any source of discharge that is not a “New Source.”

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section A – DEFINITIONS (cont'd)

29. **Garbage:** Solid waste from domestic and commercial preparation, cooking and dispensing of food, and from handling, storage, and sale of produce. (C)
30. **Garbage Properly Shredded:** [language removed] (C)
Wastes from the preparation, cooking, and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in dimension.
31. **Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.** (C)
32. **Grinder Pump:** Any mechanical or powered device, owned by the Customer, used to grind, macerate or fluidize garbage so that it can be discharged into the Sanitary Sewer.
- [paragraph removed] (C)
33. **Holding Tank Waste. Any sewage from holding tanks.** (C)
34. **Indirect Discharge. The discharge or the introduction of pollutants from any non-domestic source into the treatment works.** (C)
35. **Individual Wastewater Discharge Permit or IWDP. A permit as set forth in subsections 4 and 5 of Section T of this tariff, issued by the Company to a user.** (C)
36. **Industrial Loading Fee. The fee applicable to discharges with loadings above typical domestic sewage loadings up to but not exceeding any applicable local limit or IWDP limit, as defined in subsection 7.2(a) of Section T and Section U of this tariff.** (C)
37. **Industrial Pretreatment Program or IPP. The program established by the Company that includes these rules and applicable local limits for individual service areas.** (C)
38. **Industrial Pretreatment Program (IPP) Coordinator. The person designated by the Company to supervise the implementation of these rules and the operation of its Industrial Pretreatment Program.** (C)
39. **Industrial User. See definition of user, below.** (C)
40. **Industrial Waste. Solid, liquid or gaseous waste discharged by a user, including commercial wastewater, but not domestic sewage.** (C)
- [language deleted] (C)
[language deleted] (C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section A – DEFINITIONS (cont'd)

- 41. Inhibition.** The impact of a pollutant or discharge that inhibits or disrupts the treatment plant or its performance, its treatment processes or operations, or its sludge processes, use or disposal. Sometimes considered a category of interference, inhibition may also be specifically defined as any pollutant which might impair, effectively reduce, or terminate the biological process and/or biological operation of the treatment (wastewater treatment or sludge stabilization), on either a chronic or acute basis. (C)
- 42. Instantaneous Limit.** The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event. (C)
- 43. Interference.** A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the treatment works, its treatment processes or operations, or its sludge processes, use or disposal; and therefore, is a cause of a violation of the Company's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act or RCRA; any State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act. Also refer to Inhibition and Toxicity definitions, which may be causes of interference. (C)
- 44. Line extension (for line extension purposes):** An addition to the Company's main line which is necessary to serve the premises of a Customer. Refer to Section H of this tariff. (C)
- 45. Local Limit.** Specific pollutant discharge limits developed and enforced by the Company upon users to implement the general and specific discharge prohibitions identified herein. Applicable Local Limits are specified in an IPP submitted to DEP and published on the Company's website. (C)
- 46. Main:** The Company's pipe, excluding service connections, located in a public highway, street, alley or private right-of-way which pipe is used in transporting wastewater.
- 47. Maximum Allowable Headworks Loading or MAHL.** The estimated maximum loading of a pollutant that can be received at the headworks of a treatment plant without causing pass through or interference. The most protective (lowest) of the AHLs estimated for a pollutant. (C)
- 48. Maximum Allowable Industrial Loading or MAIL.** The estimated maximum loading of a pollutant that can be received at the headworks of a treatment plant from all permitted industrial users and other controlled sources without causing pass through or interference. The MAIL is usually calculated by applying a safety factor to the MAHL and discounting for uncontrolled sources, hauled waste and growth allowance. (C)
- 49. Medical Waste.** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes. (C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section A – DEFINITIONS (cont'd)

50. **Meter:** Any device supplied by the Company or other for the purpose of measuring water consumption or wastewater discharge.
51. **Monthly Average.** The sum of all “daily discharges” measured during a calendar month divided by (C) the number of “daily discharges” measured during that month.
52. **Monthly Average Limit.** The highest allowable average of “daily discharges” over a calendar (C) month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.
53. **National Pollutant Discharge Elimination System or NPDES.** A system of discharge permits issued (C) pursuant to Section 402 of the Act (33 USC § 1342).
54. **New Source.** (C)
- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section and if such source were to discharge to a POTW, provided that:
- a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater-generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of new source section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- a. Begun, or caused to begin, as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section A – DEFINITIONS (cont'd)

55. **Nonresidential Service:** Wastewater service supplied to a commercial or industrial building, including a hotel or motel, or to a master-metered trailer park or multi-tenant apartment building, or to any customer who purchases wastewater service from the Company for the purpose of resale.
56. **Non-Significant Categorical Industrial User or NSCIU.** A categorical industrial user that meets the following conditions as determined by the Company: 1) never discharges more than 100 gpd of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard), 2) has consistently complied with all applicable pretreatment standards and requirements, 3) never discharges any untreated concentrated wastewater, and 4) annually submits the certification statement in subsection 6.13 of Section T of this tariff stating that the facility met the definition of an NSCIU together with any additional information necessary to support the certification statement. (C)
57. **Operator.** Any person having charge, care, management or control of a tank truck(s) or treatment system(s) used in the removal, transportation, disposal, or treatment of sewage or industrial wastes. (C)
58. **Owner.** Any person vested with ownership, legal or equitable, sole or partial, of an improved property. (C)
59. **Pass Through.** A discharge which exits the treatment works into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Company's NPDES permit, including an increase in the magnitude or duration of a violation. (C)
60. **Person.** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local governmental entities. (C)
61. **pH.** A measure of the acidity or alkalinity of a solution, expressed in standard units and determined in accordance with the EPA test methods referenced in 40 CFR Part 136. (C)
62. **Pollutant.** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD5, COD, toxicity, or odor). (C)
63. **Pretreatment:** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the treatment works. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.[language deleted]. (C)
64. **Pretreatment Requirements.** Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard. (C)

(C) means Change

RULES AND REGULATIONS

Section A – DEFINITIONS (cont'd)

65. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

66. Process Wastewater: Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

67. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in subsection 2.1 of the Section T of this tariff.

68. Publicly Owned Treatment Works or POTW. A treatment works as defined by EPA in 40 CFR §403.3(q).

69. Public Utility: Persons or corporations owning or operating equipment or facilities in this Commonwealth for water, electric or wastewater collection, treatment, or disposal for the public for compensation.

70. Residential Applicant: A natural person at least 18 years of age not currently receiving service who applies for residential service provided by the Company or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. A Residential Applicant does not include a person who, within 30 days after service termination or discontinuance of service, seeks to have another service reconnected at the same location or transferred to another location within the Company's service territory.

71. Residential Customer: A natural person at least 18 years of age in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. A Residential Customer includes a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the Company's service territory.

72. Residential Service: Wastewater service supplied to an individual single-family residential dwelling unit.

73. Sanitary Sewer System or SSS: A sewer **system** which primarily carries sanitary wastewater, (C) together with such storm, surface and ground water as may be present.

74. Septic Tank Waste. Partially-treated liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system that maintains a downstream effluent disposal method (e.g., a leach field). Septic tank waste is also known as septage and is to be distinguished from holding tank waste, dilute or otherwise.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section A – DEFINITIONS (cont'd)

- 75. Sewage.** See definition of Domestic Sewage above. (C)
- 76. Significant Industrial User or SIU.** (C)
Except as provided in paragraphs (3) and (4) of this definition, a significant industrial user is:
- (1) An industrial user that would be subject to categorical pretreatment standards if it were discharging to a POTW; or
 - (2) An industrial user that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the treatment works (excluding sanitary, noncontact cooling water and boiler blowdown wastewater).
 - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
 - c. Is designated as such by the Company on the basis that it has a reasonable potential for adversely affecting the treatment work's operation or for violating any pretreatment standard or requirement.
 - (3) The Company may determine that an industrial user that would be subject to categorical pretreatment standards if it were discharging to a POTW is a NSCIU rather than an SIU as provided in paragraph (1) of this definition, provided that the Company finds that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
 - a. The industrial user, prior to the Company's finding, has consistently complied with all applicable pretreatment standards and requirements;
 - b. The industrial user annually submits the certification statement required in subsection 6.13 of Section T of this tariff, together with any additional information necessary to support the certification statement; and
 - c. The industrial user never discharges any untreated concentrated wastewater.
 - (4) The Company, on its own initiative or in response to a request from the industrial user, may determine that an industrial user meeting the criteria of paragraph (2) of this definition should not be considered an SIU, provided that the Company finds that the industrial user has no reasonable potential to adversely affect the operation of the treatment works or to violate any pretreatment standard or requirement.
- 77. Significant Wastewater Modification.** Any change to a user's operations or system, or to the quantity or quality of a user's wastewater discharge, that involves any of the following: (C)
- a. the introduction of new pollutants that were not previously disclosed to and approved by the Company;
 - b. any increase in the maximum loading (measured in pounds per day) of any previously disclosed Pollutant which would exceed the loading limitations established under subsection 2.5 of Section T of this tariff or set forth in the applicable IWDP;
 - c. any cumulative increase in the maximum loading (measured in pounds per day) of any previously disclosed pollutant;
 - d. any change in the loadings of any pollutant or in the physical or chemical characteristics of the wastewater that could cause pass through or interference; or
 - e. any cumulative and sustained increase in volume of flow in excess of the maximum anticipated flow previously disclosed to and approved by the Company.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section A – DEFINITIONS (cont'd)

78. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in subsection 2.1 of Section T of this tariff. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through or in any other way violate these rules, local limits or permit conditions. (C)

79. Special Discharge Fee. The fee applicable to discharges with loadings or concentrations that exceed a local limit or IWDP limit and that impact sludge handling or disposal methods and costs, necessitate acquisition of nutrient credits, result in damages to the facility, or require extraordinary measures, as defined in subsection 7.2(c) of Section T of this tariff. (C)

80. Specific Pollutant Discharge Limitation. See definition of Local Limit, above. (C)

81. Standard Industrial Classification or SIC. A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972. (C)

82. Storm Sewer: A sewer which carries surface, ground water, or storm water from the buildings, ground, streets, or other areas.

83. Storm Water or Storm Water Flow: Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt. (C)
[paragraph removed] (C)

84. Tariff: All of the service rates, rules and regulations issued by the Company, together with any supplements or revisions thereto, officially approved by the Commission and contained in this document.

[paragraph removed] (C)

85. Total Suspended Solids or Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering, expressed in terms of concentration (mg/L). (C)

86. Toxicity. The effect of wastewater containing toxic pollutants or pollutants that result in the presence of toxic gases, vapors, or fumes, in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, cause injury or worker health and safety problems, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the treatment plant, or exceed the limitation set forth in a categorical pretreatment standard. Toxic pollutants include any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA or DEP under the provisions of the Clean Water Act 307(a) or other Acts. The Company may impose biomonitoring or other toxicity testing to assess an industrial user discharge. (C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section A – DEFINITIONS (cont'd)

- 87. Treatment Plant.** That portion of the treatment works which is designed to provide treatment of domestic sewage and industrial waste. (C)
- 88. Treatment Works.** All of the facilities and works owned by the Company and used in the collection, storage, treatment, recycling or reclamation of domestic or industrial wastewater and any conveyances which convey wastewater to a treatment plant. (C)
- 89. Unauthorized Use of Service:** Unreasonable interference or diversion of service, including meter tampering (any act which affects the proper registration of service through a meter), by-passing unmetered service that flows through a device connected between a main or service line and customer-owned facilities, unauthorized service restoration, unauthorized stormwater/groundwater connection to Sanitary or Combined Sewer, or the otherwise taking or receiving of wastewater service without the knowledge or approval of the Company.
- 90. User.** Any person that introduces or has the potential to introduce an indirect discharge to the treatment works. (C)
- 91. Wastes:** Any liquid, gaseous, or solid substances or combination thereof which are discarded, leached, or spilled substances or combination thereof including sanitary wastewater **and domestic sewage** but excluding stormwater. (C)
- 92. Wastewater:** Liquid and water-carried wastes from dwellings, commercial facilities, industrial facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, in the Company's sewer system. (C)
- 93. Wastewater Treatment Plant.** See definition of Treatment Plant, above. (C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

THIS PAGE HELD FOR FUTURE USE

(C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section B – The Wastewater Tariff

1. Filing and Availability

A copy of this Tariff, which is the rates, rules and regulations under which wastewater service will be supplied by the Company to its Applicants and Customers in Pennsylvania, is on file with the Pennsylvania Public Utility Commission, and is available and open for inspection at the offices of the Company.

2. Revisions

This Tariff may be revised, amended, supplemented and otherwise changed from time to time in accordance with the Pennsylvania "Public Utility Code," and such changes, when effective, shall have the same force and effect as the present Tariff.

3. Applications of Tariff

The Tariff provisions apply to any party or parties applying for or receiving service from the Company, including Unauthorized Use of Service.

4. Amendment of Commission Regulations

(C)

Whenever Commission regulations in Title 52 of the Pennsylvania Code are duly amended in such a way as would produce a difference between Commission regulations and this tariff, the tariff is deemed to be amended to be consistent with the amendments to the regulations, except that if application of the amendment to Title 52 is discretionary, this tariff will remain unchanged.

(C) means Change

RULES AND REGULATIONS

Section C - Applications for Service

1. **Service Application Required:** Any Applicant who wishes to receive wastewater service from the Company under this Tariff must contact the Company and complete an application for service. Applications for service may be made by completing a written application, by telephoning the Company, or through application via the Company's website on the Internet. All applications for service must be signed by the owner or owners of the property to which wastewater collection service will be provided; except that where a lessee of property occupies or uses the property under a lease having a fixed term of more than six (6) months, the lessee may request service as an applicant. If the Company is not the provider of water service to the property to which wastewater collection service will be provided, the Company may require the Applicant to be the same person or entity who is the account holder for water service. **Where the water provider of the service location notifies the Company pursuant to a (C) usage data agreement that the customer of the service location has changed, the customer of the service location does not need to complete an application for wastewater service.** The Company may, at its sole discretion, require that a separate contract for service be signed by the Applicant.

Prior to providing utility service, the Company may require the Applicant to provide: (1) information that positively identifies him/her self; (2) the name of any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested; (3) the names of each adult occupant residing at the location, and proof of their identity; or (4) a cash deposit, as may be required in accordance with Section G of this Tariff.

In the case of Residential Applicants, the Company may ask for the combined gross income of all adult occupants at the time the application for service is made; however, the Residential Applicant is not required to provide the information as a condition of receiving wastewater service, unless such applicant is seeking to enroll in the Company's *Help to Others Program*.

Nonresidential service customers which desire to discharge Industrial[deleted] Waste into the Sanitary Sewer or existing industrial[deleted] users which desire to commence operations of a new facility or a new or different process that will affect the characteristics of the wastewater discharging into the Sanitary Sewer, shall notify the Company prior to the commencement of the new or different operations at the facility and provide such other information regarding the proposed discharge as the Company may request, including an application for an Individual Wastewater Discharge Permit when deemed necessary.

2. **Change in Ownership or Tenancy:** A new application must be made to the Company upon any change in ownership where the owner of the property is the Customer, or upon any change in the identity of a lessee where the lessee of the property is the Customer. The Company shall have the right to discontinue or otherwise interrupt wastewater collection service upon three (3) days notice if a new application has not been made and approved for the new customer.

(C) means Change

RULES AND REGULATIONS

Section C - Applications for Service (cont'd)

3. **Acceptance of Application and Right to Reject:** An application for service shall be considered accepted by the Company only upon written approval by the Company. All regulatory requirements shall be met before Company can provide approval. The Company may limit the amount or character of service it will supply, or may reject applications for service for the following reasons: requested service is not available under a standard rate; requested service may affect service to other customers; for a non-Residential Applicant's or non-Residential Customer's failure to establish Creditworthiness; for failure to address prior Company debts; for the Applicant's failure to provide identifying documentation of the Applicant and each adult occupant residing at the location; when identifying documentation cannot be verified; for the reasons set forth in Section D, paragraph 5, or for other good and sufficient reasons.
4. **Temporary Service:** In the case of temporary service for less than a 12-month period, the Company may require the Customer to pay all costs of making the service connection and for its removal after the service has been discontinued, or to pay a fixed amount in advance to cover such expenses. If the actual costs differ from the estimate, the Applicant will pay to the Company any excess amount due or the Company will refund to the Applicant any excess amount paid.
5. **Owner or Landlord Responsibility for Service:** If a building is master metered, the Company may, at its discretion, require the building owner or landlord to establish a single account for the building at the master meter in the name of the building owner or landlord even where there are existing meters for individual tenants behind the master meter.
6. **Acquired Customers:** Upon acquisition of a wastewater system where the Company is already the water service provider, the Customer of record for wastewater service shall be the same as the Customer of record for water service.
7. **Meter Installations:** The Company will furnish and install for each Customer who receives water service (C) from a private well, upon the Customer's request, and without charge, a suitable meter and will keep the same in repair, except to the extent Customer is responsible for the meter pursuant to this Rule C.8. All Company meters will be owned by the Company and remain the property of the Company and shall be accessible to the Company and subject to its control. The Customer, however, shall properly protect the meter from damage by frost or other causes and shall be responsible for repairs or replacement of the meter resulting from the negligence or intentional act of the Customer.
8. **Meter Space and Location:** The Customer shall provide a safe, readily-accessible and protected (C) location for the installation of a meter. The location must be acceptable to the Company so that the meter may be easily examined, read, or removed.
9. **Meter Removal:** The Company shall not remove meters except as required by Commission regulation. (C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section D - Construction and Maintenance of Facilities

- 1. Customer Service Line:** The Customer service line shall be furnished, installed, maintained and/or replaced, when necessary, by and at the sole expense of the Customer. The Company reserves the right to determine the size, type, quality, depth, and connection location of the customer service lines. Prior to connection to the Company service line, the Customer, at their sole cost, shall have the Customer service line air pressure tested and checked for alignment by a Company approved qualified person under the supervision of a Company representative.
- 2. Separate Trench:** The customer wastewater service line shall not be laid in the same trench with drain or water pipe, the facilities of any other public utility or of any municipality or municipal authority that provides a public utility service.
- 3. Customer's Responsibilities:** All service lines, connections and fixtures furnished by the customer shall be maintained by the Customer in good working order. All valves, meters and appliances furnished by the Company and on property owned or leased by the Customer shall be protected properly by the customer. All leaks in the Customer service line or any pipe or fixtures in or upon the customer's premises must be repaired immediately by the Customer as determined solely by the Company. The failure of a Customer to properly install and maintain a service line, including replacement, shall constitute grounds for the Company to initiate action to terminate service to the customer and seek recovery for any damage to the Company's facilities caused by an improperly functioning service line. For Customers who also receive water service from the Company, where an undetected, non-surfacing, underground leak is found in a Customer's Water Service Pipe, the Company shall credit the Customer with a one-time bill adjustment for wastewater service equal to forty percent (40%) of that portion of one month's consumption that exceeds the average monthly usage, based on the prior twelve month period, upon proper verification that the Water Service Pipe leak has been repaired. The Company shall require documentation to establish, to the Company's satisfaction, the existence of such repaired leak at the Customer's premises. Such bill adjustment will be provided only to the extent the Customer has not received a bill adjustment for an undetected, non-surfacing, underground leak at the same premises in the past five (5) years.
- 4. Customer Grinder Pump:** In areas of the collection system where the Company has installed a pressure sewage collection system or where required as determined by the Company, the Customer, in conjunction with the construction of their service line, shall install, own, operate, and maintain and replace a grinder pump and holding tank at the Customer's expense as specified by the Company prior to connection and shall maintain such facilities in good order and repair. The pump shall meet specifications as provided by the Company. The failure of a customer to properly install and maintain a grinder pump, including replacement, shall constitute grounds for the Company to initiate action to terminate service to the customer and seek recovery for any damage to the Company's facilities caused by an improperly functioning grinder pump.
- 5. Right to Reject:** The Company may refuse to connect with any customer service line or furnish wastewater collection, treatment and/or disposal through a service already connected if such system or service is not properly installed or maintained.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section D – Construction and Maintenance of Facilities (cont'd)

6. Water Use Standards for Certain Plumbing Fixtures: This rule establishes maximum water use criteria for certain plumbing fixtures installed in all new construction or renovation. Such standards have been implemented to achieve maximum efficiency of water use which the Commission has determined is technologically feasible and economically justified.

(a) Maximum permitted water usage levels shall be as follows:

<u>Plumbing Fixture</u>	<u>Maximum Water Use</u>
water closets	1.6 gallons/flush
urinals	1.5 gallons/flush

(b) The Company may exempt particular customers, or classes of customers, when it is determined that the water use standards for plumbing fixtures listed above are unreasonable, cannot be accommodated by existing technology or are otherwise inappropriate.

7. Individual Service Lines: Except as otherwise expressly authorized by the Company, each individual customer shall be served only through a separate service line connected directly to the Company Service Line, and that Customer Service Line shall not cross over the property of or serve any other customer or premise. The maximum service line length shall be two hundred and fifty (250) feet from the point of connections with clean-outs every 50 feet. The Company shall have the right to waive this maximum length requirement at its sole discretion. No additional attachment may be made to any Customer Service Line for any purpose without the express written approval of the Company.

8. Connection to Company Mains: No connection shall be made to the Company's main, nor detachment from it, except under the direction and control of the Company. All such connections shall be property of the Company and shall be accessible to it and under its control. The Company will furnish, install and maintain all service lines from the main to the property line or right-of-way.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section E - Discontinuance, Termination and Restoration of Service

1. Discontinuance by Customer: Where a customer requests the Company to discontinue service, the following rules shall apply:

(a) A customer who wishes to have service discontinued shall give at least three (3) days notice to the Company, specifying the date on which service is to be discontinued. In the absence of proper notice, the Customer shall be responsible for all service rendered until the time that the Company shall have actual or constructive notice of the Customer's intent to discontinue service. The Customer shall not begin to use nor cease to use wastewater service without the prior consent of the Company.

2. Termination by Company: Wastewater and/or water service to the Customer may be terminated for good cause, including, but not limited to, the following:

- (a) making an application for wastewater service that contains material misrepresentations;
- (b) failure to repair leaks in sewer pipes or fixtures;
- (c) Unauthorized Use of Service, tampering with any Company Service Line, or installing or maintaining any unauthorized connection;
- (d) theft of sewer service, which shall include taking service without having made a proper application for service under Section C;
- (e) failure to pay, when due, any charges accruing under this tariff;
- (f) discharge of any prohibited substance listed in Section R into the wastewater system;
- (g) receipt by the Company of an order or notice from the Department of Environmental Protection, a health agency, local plumbing inspector or other similar authority, to terminate service to the property served on the grounds of violation of any law or ordinance, or upon notice to the Company from any such authority that has ordered an existing violation on the property to be corrected and that such order has not been complied with or
- (h) material violation of any provisions of the tariff;
- (i) failure to permit access to meters, service connection or other property of the Company for the purpose of replacements, maintenance, operation or repair of meter reading device after proper notice;
- (j) failure to properly install and maintain a grinder pump, including its replacement when improperly functioning as solely determined by the Company;

RULES AND REGULATIONS

Section E - Discontinuance, Termination and Restoration of Service (cont'd)

2. Termination by Company (cont'd)

- (k) any unauthorized, un-inspected, or improper connection, as herein defined, found to exist will be required to be disconnected within ten (10) days. The Company may require a plumber's sworn statement or certificate as evidence that the connection has been discontinued;
- (l) Not abiding by the provisions of the Company's **IPP** [language deleted]; **(C)**
- (m) Failure to remove direct connections to the Customer Service Line that allow surface, subsurface, storm water, or roof run off water into the Sanitary Sewer;
- (n) Not complying with any part of this tariff;
- (o) Supplying sewer service to other units, buildings or premises when Capacity Reservation Fees have not been paid for in accordance with tariff;
- (p) For termination of water service by Company in accordance with the Company's water tariff on file with the Commission;
- (q) For Customer's tendering payment for reconnection of service that is subsequently dishonored, revoked, canceled or otherwise not authorized and which has not been cured or otherwise made in full payment within three business days of the Company's notice; or
- (r) After receiving a written termination notice from the Company, for Customer's tendering payment which is subsequently dishonored under 13 Pa. C.S. § 3502, or, in the case of an electronic payment, that is subsequently dishonored, revoked, canceled or otherwise not authorized and which has not been cured or otherwise made in full payment within three business days of the Company's notice.

In order to terminate wastewater service, the Company can at its discretion install a shut off valve on the Company's Service Line to terminate service. The cost for the installation of the shut off valve and all the other charges accruing under this tariff shall be paid to the Company before service is restored.

3. Turn-on Charge: Whenever service is discontinued or terminated pursuant to Rule 1 or Rule 2 of this Section, service shall be permitted by the Company only upon the payment by the Customer of a turn-on fee and the curing of the problem that gave rise to the terminations if under Rule 2. Refer to Schedule of Miscellaneous Fees and Charges; section C for Service Reconnection and Discontinuance Fee.

4. Service Restoration Following Termination of Service: When wastewater service to any premise has been terminated by Company for any reason, it will be restored only after the conditions, circumstances, or practices which caused the wastewater service to be terminated are corrected and all applicable arrearages, deposits and fees paid.

(C) means Change

RULES AND REGULATIONS

Section E - Discontinuance, Termination and Restoration of Service (cont'd)

5. Termination of Residential Service for Nonpayment of Bills (C)

Before termination of **residential** service, the Company will take the following steps: (C)

- (a) Provide a written notice of termination to the Customer at least 10 days prior to the scheduled shut off and the notice shall be in the form required by the Commission;
- (b) Attempt to make personal contact with the Customer at least three days prior to the shut off date;
- (c) During winter months (December 1 through March 31), if the Company cannot reach the Customer at the time of termination, the Company will leave a 48-hour notice at the residence;
- (d) After complying with paragraphs (B) and (C), the Company will attempt to make personal contact with the Customer or responsible adult at the time service is terminated. Termination of service will not be delayed for failure to make personal contact;
- (e) Upon termination, the Company will make a good faith attempt to provide a post termination notice.

6. Landlord Ratepayer Termination of Service for Nonpayment of Bills

Before termination of service to a Landlord Ratepayer that has tenants, the Company will take the following steps:

- (a) Provide a written notice of termination to the Landlord Ratepayer at least 37 days prior to the scheduled shut off;
- (b) Provide written notice of termination to each dwelling unit reasonably likely to be occupied by affected tenant at least 30 days prior to the scheduled shut off;
- (c) Upon termination, the Company will post the termination notice at the dwelling, including common areas when possible.

7. Protection from Abuse Order

If you are a **residential Customer who is a** victim of domestic violence and have a Protection from Abuse Order or other court order that shows clear evidence of domestic violence, there are special protections available. The Company will not shut off your wastewater service during the winter months (December 1 through March 31), without PUC permission. Depending on your income, a special payment arrangement may be available. Your service may not be terminated on a Friday. You may not be held responsible for a bill in someone else's name. You may not be required to pay a security deposit. If you are required to pay a security deposit, you may be able to pay it over three payments. You will receive additional 48-hour notice prior to termination. (C)

(C) means Change

RULES AND REGULATIONS

Section F - Billing and Collection

8. **Billing Period:** The Company shall render a bill once every billing period to every Customer in accordance with approved rate schedules. The due date for payment of a bill for Residential and Non-Residential service shall be no less than twenty (20) days from the date of transmittal. If the last day for payment falls on a Saturday, Sunday or bank holiday, or on any day when the offices of the Company are not open to the general public, the due date shall be extended to the next business day. The Company may not impose a late-payment charge unless payment is received more than five (5) days after the stated due date.
9. **Late-Payment Charge:** All amounts not paid when due shall accrue a late-payment charge at the rate not to exceed one and fifty one-hundredths percent (1.50%) per billing period, not to exceed eighteen percent (18%) per year when not paid as prescribed in Rule 1 of this Section.
10. **Change in Billing Address:** Where a customer fails to notify the Company of a change in billing address, the Customer shall remain responsible to remit payment by the billing due date.
11. **Application of Payment:** Utility bills rendered by the Company shall include only the amount due for utility service. Where a customer remittance to the Company includes payment for any non-utility services, proceeds will be applied first to pay all outstanding regulated utility charges.
12. **Return Check Fee:** The customer will be responsible for return check fee as provided in the Schedule of Miscellaneous Fees and Charges section of the tariff, per incident where a check or automatic transfer of funds, which has been presented to the Company or its agent for payment of any bill, is returned by the bank for any reason including, but not limited to, non-sufficient funds, account closed, payment stopped, two signatures required, postdated, stale date, no account, drawn against uncollected funds, and unauthorized signature. This fee is in addition to any and all charges assessed by the bank.
13. **Disputed Bills:** In the event of a dispute between the Customer and the Company with respect to any bill, the Company will promptly make such investigation as may be required by the particular case and report the result to the Customer. The Customer is not obligated to pay the disputed amount during the pendency of the Company's investigation. When the Company has made a report to the Customer sustaining the bill as rendered, the Customer shall have fifteen (15) days from the date of such report in which to pay the bill. If the Company determines that the bill originally rendered is incorrect, the Company will issue a corrected bill with a new due date for payment. Any amount received by the Company in excess of the amount determined to be due by the Company's investigation of the dispute shall be refunded to the Customer.
14. **Residential Customer Payment Arrangement:** (C)
A **residential** Customer must first contact the Company to request a payment arrangement. The (C)
Company will take into consideration the size of the unpaid balance, the ability of the Customer to pay, the payment history of the Customer and the length of time over which the bill accumulated. A Customer has the right to decline the Company's payment arrangement. If a Customer breaks a Company payment arrangement, the Commission may establish a payment arrangement.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section F - Billing and Collection (cont'd)

15. **Termination of Free Service Under Certain Contracts and Other Instruments:** Notwithstanding any (C) contrary provision contained in any deed, grant, contract, franchise, permit, consent or other instrument (other than an instrument expressly set forth in and constituting a part of this tariff) made, executed or delivered between the Company or any predecessor in interest and a Customer of the Company or any predecessor in interest:
- (A) Every person who takes wastewater service shall pay for all wastewater service taken as provided in the applicable schedule of rates set forth herein and subject to the Rules and Regulations of the Company.
- (B) No credit, off-set or other allowance shall be allowed by the Company against any wastewater bill on account of the making, execution, or delivery of, or pursuant to any provisions of, any such instrument.

(C) means Change

RULES AND REGULATIONS

Section G – Credit/Deposits

1. Customer's Liability for Charges:

The Customer who has made application for wastewater service to any premise shall be held liable for all wastewater service furnished to such premise until such time as the Customer properly notifies the Company to discontinue the service for this account.

2. Prior Company Debts:

(a) Service will not be furnished to former Customers until any indebtedness to the Company for previous service of the same or similar classification has been satisfied or a payment arrangement has been made on the debt. This rule does not apply to the disputed portion of disputed bills under investigation. The Company will apply this rule to the disputed portion of disputed bills, if, and only if: (1) the Company has made diligent and reasonable efforts to investigate and resolve the dispute; (2) the result of the investigation is that the Company determines that the customer's claims are unwarranted or invalid; and (3) the Commission and/or the Bureau of Consumer Services has decided a formal or informal complaint in the Company's favor and no timely appeal is filed. **The Company will inform the Applicant or (C) Customer of any information relied upon by the Company to determine their responsibility for prior unpaid debt. The Company will also inform the Applicant or Customer of their right to dispute that information, as well as the Applicant or Customer's right to obtain service while a dispute is pending. The Company will not deny service to a Customer or Applicant who has a protection from abuse, or other similar order evidencing domestic violence, on the basis that a prior debt was incurred in the name of someone other than the Customer or Applicant.**

(b) The Company may utilize means in accordance with applicable law of determining an Applicant's or Customer's liability for any indebtedness to the Company for previous service, including, but not limited to, the following: (1) use of Company records that containing confidential information previously provided to the Company for service; (2) [deleted] **a copy of a valid mortgage, lease or deed, (C) which the Applicant or Customer is obligated to provide upon Company request; (C) other (C) information contained in the Company's records that indicate that the Applicant or Customer was an adult occupant during the time the prior debt accrued; (4) use of commercially available skip tracing software that contains records of names and addresses; (5) use of information contained in credit reporting data utilized by the Company; or (6) a web-based tool such as "LexisNexis" to research the (C) Applicant's or Customer's information.**

3. Residential Customers' Deposits: The Company may charge deposits to Residential Applicants and Residential Customers as permitted by Commission statutes, rules regulations, and as permitted by Federal Bankruptcy Law. **The Company will not charge a security deposit to a Customer or (C) Applicant for service if the Customer or Applicant for service is confirmed to be income eligible for the Company's bill discount program.**

(a) Deposits may be required from a Residential Applicant who is unable to establish Creditworthiness to the satisfaction of the Company through the use of a generally accepted credit scoring methodology which employs standards for using the methodology that falls within the range of general industry practice and specifically assess the risk of public utility bill payment.

(b) Deposits may be required from a Residential Customer who fails to comply with the material terms or conditions of a settlement or payment arrangement or is delinquent in the payment of two consecutive bills, or three or more bills within the preceding twelve months.

(C) means Change

RULES AND REGULATIONS

Section G – Credit/Deposits (cont'd)

3. Residential Customers' Deposits (cont'd):

- (c) Prior to reconnection of service, deposits may be required from a Residential Applicant or Residential Customer whose service was terminated for any of the following reasons: (a) nonpayment of an undisputed delinquent account; (b) failure to complete payment of a deposit, providing a guarantee or establish credit; (c) failure to permit access to meters, service connections or other property of Company for the purpose of replacement, maintenance, repair or meter reading; (d) Unauthorized Use of Service on or about the affected dwelling; (e) failure to comply with the material terms of a settlement or payment arrangement; (f) fraud or material misrepresentation of identity for the purposes of obtaining utility service; (g) tampering with meters, including, but not limited to, bypassing a meter or removal of an automatic meter reading device or other Company equipment; or (h) violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the Company's water distribution system.
- (d) **Deposit Amount and Payment Period** - For Residential Applicants or Customers, the cash deposit required shall be in an amount equal to 1/6 of an Applicant's or Customer's estimated annual bill at the time the Company determines the deposit is required. Any Residential Applicant or Customer shall have up to 90 days to pay the deposit in full and may elect to pay the required deposit in three installments: 50% bill upon the determination that the deposit is required; 25% billed 30 days after the determination; and 25% billed 60 days after the determination. The Residential Applicant or Customer may elect to pay the deposit in full before the due date.
- (e) **Deposit Refunds and Interest**—A deposit will be refunded if service is discontinued and the final bill is paid or if the customer has paid the bills for the prior 12-month period without having been late on more than two (2) occasions and is not currently delinquent. Interest on deposits will be accrued until is returned to the Customer or upon termination or discontinuance of the service covered by the deposit. Deposits from residential customers shall bear simple interest at the rate determined by the Secretary of Revenue for interest on the underpayment of tax under section 806 of The Fiscal Code (72 P.S. § 806). The applicable interest rate for each year shall be determined as of January 1 of that year.

4. Nonresidential Customers' Deposits:

- (a) The Company may charge deposits to Non-Residential Applicants and Non-Residential Customers if they have bad credit, lack Creditworthiness, or for other reasonable grounds determined by the Company, and as permitted by Federal Bankruptcy Law.
- (b) The amount of the deposit will not be greater than an estimated average bill for one (1) billing period plus the estimated bill for one (1) additional month's service.
- (c) **Deposit Refunds and Interest**— A deposit will be refunded if the customer pays all bills on time over a 12-month period or if service is disconnected and the final bill has been paid. There will be no interest paid on deposits for nonresidential accounts.

5. Landlord Assumption of Responsibility

(C)

If an Applicant for service, who is a landlord, assumes responsibility for rates and charges related to water or wastewater service provided to tenants and is billed for such service, the landlord must assume responsibility and be billed for both water and wastewater service, if such service is provided or billed by the Company.

(C) means Change

RULES AND REGULATIONS

Section G – Credit/Deposits (cont'd)

6. Denial of Residential Service

(C)

- (a) If the Company denies service **to a residential customer**, the Company will inform the Applicant in writing of the reasons for the denial within 3 business days of the denial. With the Applicant's consent, the Company may provide to the Applicant the information electronically. The written denial statement will include the reason for the denial and information on the Applicant's ability to challenge the denial. If the Company is requiring payment of an unpaid balance, the Company will specify in writing the amount of the unpaid balance, the dates during which the balance accrued and the location and customer name at which the balance accrued. The statement will inform the Applicant of the right to furnish a third-party guarantor in accordance with Commission regulations and the Applicant's right to contact the Commission. **(C)**
- (b) The written denial statement will inform the Applicant that if he or she is, based upon household income, confirmed to be eligible for a customer assistance program a deposit is not required. The Company will inform the Applicant of the procedures and documentation necessary to qualify for an exemption from a security deposit requirement.
- (c) The written denial statement will include information informing victims of domestic violence with a protection from abuse order, or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence, that there are special protections available. The Company will not shut off your wastewater service during the winter without PUC permission. Depending on your income, a special payment arrangement may be available. Your service may not be terminated on a Friday. You may not be held responsible for a bill in someone else's name. You may not be required to pay a security deposit. If you are required to pay a security deposit, you may be able to pay it over three payments. You will receive additional 48-hour notice prior to termination.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section H - Line Extensions for Applicants other than Bona Fide Service Applicants

1. When an extension to serve a Customer is required or requested, such extension will be made under the terms of a "Sewer Main Extension Agreement" or a "Sewer Main Extension Deposit Agreement".
2. Customer shall contribute all facilities required for the Company to directly connect the Customer to the Sanitary Sewer. This includes pumping stations, vaults, manholes, mains or any other apparatuses where applicable. The Company shall have the right to locate the facilities as required to meet the long term system needs of the Customers.
3. Customer shall also pay a capacity reservation fee to the Company for each proposed equivalent dwelling unit.
4. **Size of Main and Other Facilities:** The Company shall have the exclusive right to determine the type and size of mains and the other facilities required to render adequate service. However, where the Company decides to install a pipe larger than necessary to render extension of adequate service to the applicant, estimated or actual cost figures in the Sewer Main Extension Agreement or Sewer Main Extension Deposit Agreement shall include only the material and installation cost for a pipe the size of which is necessary to provide adequate service to the applicant. Any incremental costs of a larger pipe will be the responsibility of the Company. All estimated or actual cost figures referred to in the Sewer Main Extension Agreement or Sewer Main Extension Deposit Agreement shall include a reasonable allowance for overhead costs and taxes as appropriate.
6. **Length of Extension:** In determining the necessary length of an extension, the terminal point of such extension shall be at that point in the property line or right-of-way, which is equidistant from the side property lines of the last lot for which service was requested except where the Company, in its sole opinion, determines that it is necessary to extend beyond the last lot and connect to an existing main to provide adequate and reliable wastewater service. A street service connection will be provided only for customer service lines that extend at right angles from the curb line in a straight line to the premises to be served.
7. **Offsite Development Marketing Contracts:** Where it is prudent, reasonable and in the public interest, the Company may, at its option enter into offsite development marketing contracts which depart from the standard terms of the "Sewer Main Extension Agreement" or "Sewer Main Extension Deposit Agreement". These marketing agreements shall become effective 30 days after the Company has filed a copy thereof with the Pennsylvania Public Utility Commission, or in the event that the Commission institutes an investigation, at such time as the Commission grants its approval thereof.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section I- Service Continuity

1. **Regularity of Service:** The Company may, at any time, shut off service in case of accident or for the purpose of making connections, alterations, repairs or changes, or for other reasons. The Company will, pursuant to Commission regulations at 52 Pa. Code '67.1 and as circumstances permit, notify customers to be affected by service interruptions.

[paragraph deleted] (C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section J– Waivers

The Company may, at its sole discretion, waive any of the Rules contained herein that operate for the benefit of the Company; provided, that no such waiver will be valid unless in writing and signed by an authorized representative of the Company, and provided that no waiver will be allowed where the waiver would constitute a violation of the Public Utility Code, the regulations of the Commission or of any other applicable statute, law or regulation.

Section K– Amendment of Commission Regulations

Whenever Commission regulations in Title 52 of the Pennsylvania Code are duly amended in such a way as would produce a difference between Commission regulations and this tariff, this tariff is deemed to be amended so as to be consistent with the amendments to the regulations, except that if application of the amendment to Title 52 is discretionary, this tariff will remain unchanged.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section L. Privilege to Investigate/Right of Access

The Company's authorized representatives shall have the right of access at all reasonable times to all parts of any premises connected with the system, including meters, service connections and other property owned by it on the premises of the Customer, for the purpose of examining and inspecting connections and fixtures, including the water and/or wastewater metering arrangement, for disconnecting service for any proper cause, or for purposes of replacement, maintenance, operation or repair thereof.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section M – MAIN EXTENSIONS FOR BONA FIDE SERVICE APPLICANTS

General Provisions

(A)(1) The Company will extend existing sewer mains for a Bona Fide Service Applicant making application for sewer service, other than temporary or seasonal service, under, and pursuant to, these Rules and Regulations, to commence immediately upon installation of the Street Service Connection.

(2) When the costs of the main extension exceed the Company Contribution as defined in Subsection (D), then such extension will be made under and pursuant to the terms of an Extension Deposit Agreement for Bona Fide Service Applicant, as hereinafter set forth, and subject to the applicable provisions of these Rules and Regulations. The construction of facilities to serve such Bona Fide Service Applicant will not commence until an Extension Deposit Agreement for Bona Fide Service Applicant has been executed and all applicable terms and conditions therein have been satisfied by the Applicant.

(3) When an extension is requested or required to serve a Bona Fide Service Applicant requiring Special Utility Service, construction of the extension or of any facilities needed to provide such Special Utility Service will not commence until a Special Utility Service Agreement has been executed and all applicable terms and conditions therein have been satisfied by the Applicant including, but not limited to, paying the requisite sum of money for construction of the facilities needed to furnish Special Utility Service, in accordance with the Preliminary Memorandum to such Special Utility Service Agreement.

(B) The Company shall have exclusive right to determine the type and size mains to be installed and the other facilities required to render adequate service. If a Bona Fide Service Applicant desires any facilities other than those facilities determined by the Company to be required to render adequate service, those other facilities will be installed by, owned by, maintained by, and will become the sole responsibility of the Bona Fide Service Applicant.

(C) In determining the length of and necessity for any extension required pursuant hereto, the terminal point of such extension shall, in all cases, be at the point in the curb line which is equidistant from the side property lines of the last lot for which sewer service is requested, except as provided in Paragraph B above wherein it may be necessary to extend beyond the last lot and connect to an existing main to provide adequate and reliable sewer service. A street service connection will be provided only when Customer service lines from the curb to the premises to be served are laid in a straight line at right angles to the curb line.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section M –MAIN EXTENSIONS FOR BONA FIDE SERVICE APPLICANTS (cont'd)

(D) For the purposes of this rule:

(1) "Bona Fide Service Applicant" shall mean a person or entity applying for General Sewer Service to an existing structure for which a valid occupancy permit has been issued if such structure is within the Company's certificated service territory and is either: (1) a primary residence of the Applicant; or (2) a place of business. An Applicant shall not be deemed a Bona Fide Service Applicant if such Applicant is requesting sewer service to: (1) a building lot or subdivision; or (2) a primary residence if such primary residence was constructed, or the request for sewer service was made, as part of a plan for the development of a residential subdivision; or (3) sewer service for temporary or seasonal services. To become a Bona Fide Service Applicant, a person or entity must file a signed application for a new Street Service Connection to qualifying premises, extend the necessary customer service line to the curb line of premises, and request sewer service to begin immediately following installation of the Street Service Connection. If the Company shall be delayed or prevented from installing the Street Service Connection for a period of one (1) year or more from the date of application, the Bona Fide Service Applicant shall have the right to withdraw the Application for Service.

(2) "Company Contribution" shall mean that portion of the main extension costs which the Company will fund based upon the following formula:

Average Annual Revenue	\$ _____
Minus	
Operation and Maintenance Expenses	\$ _____
Subtotal	\$ _____
Divided by	
Depreciation Rate and Weighted Cost of Debt	_____ %
Company Investment	\$ _____

The Bona Fide Service Applicant will be required to pay one-third of the Customer Contribution prior to the commencement of any work by the Company. The Customer Contribution will be an amount equal to the difference between the Company Contribution and the cost of the main extension and applicable interest charges. After the initial payment any remainder will be amortized over thirty-six (36) equal monthly installments beginning with the Bona Fide Service Applicant's first bill for sewer service. The Company will also provide information to the applicant on financial institutions that may offer financing to the Bona Fide Service Applicant for the line extension.

(a) The Average Annual Revenue for residential customers with a 5/8" water meter shall be calculated based upon the average residential consumption for customers with a 5/8" water meter used to determine rates approved by the Pennsylvania Public Utility Commission in the Company's last approved general rate increase. Consumption for residential customers with larger water meters will be determined by selecting up to twenty (20) existing customers with similar water meter sizes, as available, which have received service for at least twelve (12) months prior to the date of application, and applying the Company's latest approved rates to the annual average consumption of those customers.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section M – MAIN EXTENSIONS FOR BONA FIDE SERVICE APPLICANTS (cont'd)

(b) The Average Annual Revenue for Commercial, Industrial and Municipal customers shall be calculated by selecting up to twenty (20) existing, similar commercial, industrial or municipal ratepayers, as available, which have received service for at least twelve (12) months prior to the date of application, to determine the average consumption to be used in calculating the Company Contribution.

(c) Operation and Maintenance Expenses shall be the Company's average annual operation and maintenance costs associated with serving an additional customer.

(d) The depreciation rate shall be the Company's depreciation rate for the facilities to be installed as determined in the Company's last approved general rate increase filing.

(e) The weighted cost of debt shall be the Company's long-term debt costs as determined in the Company's last approved general rate increase.

(3) "General Sewer Service" shall mean basic residential sewer service or sewer service for general commercial or municipal purposes but excluding, without limitation, sewer service for seasonal or temporary uses and sewer service solely for sprinkler systems or for any other fire protection use.

(4) "Special Utility Service" shall mean any residential or business service which exceeds that required for ordinary residential purposes. By way of illustration but not limitation, Special Utility Service shall include: the installation of facilities such as oversized mains, lift stations, additional plant capacity or pretreatment facilities required as necessary to adequately treat or convey flows, or service to large sewer producing commercial and industrial applicants. An otherwise Bona fide applicant requesting service which includes a special utility service component is entitled to a Bona fide applicant status, including the corresponding contribution toward the costs of the line extension which do not meet the special utility service criteria.

(5) "Street Service Connection" shall mean a pipe with appurtenances used to conduct sewer from a collection main of the Company to the curb line of the premises.

(E) (1) Street service supplying a premise shall not pass through or across any premises or property other than that to be supplied, except as provided in (E) (2). No sewer pipes or plumbing in any premises shall be extended therefrom to adjacent or other premises. Street service connections will not be permitted to cross intervening properties unless there is no other way in which service can be provided and appropriate easements are obtained. Only service applicant(s) owning property in fee which directly abuts a street wherein there is an existing main of the Company will be permitted to attach to the Company's service line for the purpose of receiving sewer service therefrom, unless appropriate easements are obtained pursuant to Subsection(2) below. It is understood that such property owned in fee by the said service applicant(s) shall be a complete standard building lot which complies with the existing zoning laws and regulations of the municipality in which such property is located. It is further understood that if such property owned in fee by a service applicant(s) is subsequently sold, the purchaser of such property will be entitled to receive sewer service upon compliance with all of the provisions of this tariff, but that the seller of such property shall only be entitled to continue to receive service if such seller complies with all of the provisions of this tariff.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section M – MAIN EXTENSIONS FOR BONA FIDE SERVICE APPLICANTS (cont'd)

(2) A service applicant(s) may obtain a recorded easement or right-of-way that runs with the land, of at least fifteen (15) feet in width connecting the property to be served to the street wherein the Company's main is located. Such easement or right-of-way shall not cross multiple properties. The service applicant(s) shall present the Company with a certified copy of a duly recorded instrument which (a) describes the easement or right-of-way by metes and bounds, (b) gives the easement in perpetuity to the heirs, successors and assigns of said service applicant(s), (c) grants access to the customer or company service line for purposes of repair and replacement, and (d) is recorded in the County Office of the Recorder of Deeds. **(C)**

(F) Where substantial public need exists and the public health and safety may be compromised by the absence of a public sewer supply in a portion of the Company's authorized service territory, the Company, subject to the Commission's prior approval, may install main extensions and Special Utility Service facilities without the payment of the Customer Contribution that would otherwise be required under subparagraphs (A)(3) and (D)(2), respectively of Section M.

PENNSYLVANIA-AMERICAN WATER COMPANY

**Calculation of Company Funded Portion of Main Extensions
(For Illustrative Purposes Only)**

Average Annual Revenue	\$340
minus	
Operation and Maintenance Expenses	\$102
<u>Subtotal</u>	<u>\$238</u>
Divided by	
Depreciation Rate (Mains Only) and	6.08%
Weighted Debt Costs	
<u>Total</u>	<u>\$3,914</u>

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section N – EXTENSION DEPOSIT AGREEMENT FOR BONA FIDE SERVICE APPLICANT

THIS AGREEMENT entered into this _____ day of _____, 20____, by and between Pennsylvania-American Water Company hereinafter called the "COMPANY," and _____ hereinafter called the "BONA FIDE SERVICE APPLICANT."

WHEREAS, the BONA FIDE SERVICE APPLICANT desires extension of the sewer mains of the COMPANY, as hereinafter described;

NOW, THEREFORE, this agreement WITNESSETH:

FIRST: THE COMPANY contracts and agrees to lay the sewer main(s) (and other facilities, if any) as shown in red on the diagram hereto attached and made a part hereof described and located as follows:

(LEAVE SPACE FOR DESCRIPTION)

SECOND: It is expressly understood and agreed that if the COMPANY shall be delayed or prevented from installing the sewer main (s) (and other facilities, if any) hereinabove described because of its failure to secure pipe or other construction materials, or for any other causes beyond its control, such failure or delay in performance shall be excused; provided, however, if such failure or delay in performance shall extend for a period of more than one (1) year from the date thereof, the BONA FIDE SERVICE APPLICANT shall have the right to cancel and terminate this agreement on thirty (30) days' written notice to the COMPANY, and thereafter both parties shall be relieved of all duties and obligations arising hereunder. But this right to cancel and terminate by the BONA FIDE SERVICE APPLICANT shall not be invoked if the COMPANY has received the construction material, in which event the COMPANY shall have the obligation to prosecute the work diligently to its completion.

THIRD: The BONA FIDE SERVICE APPLICANT hereby agrees, upon notice from the COMPANY that it is prepared and able to go forward with the work provided in Paragraph FIRST hereof, to pay for the actual costs of extending the facilities as provided in Paragraph FIRST hereof, by depositing an amount in cash equal to (1) the Estimated Cost less (2) the Company Contribution. Items (1) and (2) are to be determined as follows:

(1) The Estimated Cost shall be the estimated cost of the extension, including the estimated cost of said main(s) and the estimated cost of any other facilities which the COMPANY shall have determined are required to render adequate service.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section N – EXTENSION DEPOSIT AGREEMENT FOR BONA FIDE SERVICE APPLICANT (cont'd)

(2) The Company Contribution shall be a credit as determined by the following formula:

Average Annual Revenue	\$ _____
Minus	
Operation and Maintenance Expenses	\$ _____
Subtotal	\$ _____
Divided by	
Depreciation Rate and Weighted Cost of Debt	_____ %
Total	\$ _____

multiplied by the number of bona fide service applicants who will be directly served by the extension.

The BONA FIDE SERVICE APPLICANT agrees to pay at least one-third of the deposit prior to the commencement of construction of the extension, and the remainder of the deposit plus applicable interest charges in thirty-six (36) equal monthly installments beginning with BONA FIDE SERVICE APPLICANT'S first bill for sewer service. Interest will be charged on the unpaid portion each month, equal to the monthly portion of the embedded cost of long-term debt recognized in the Company's last approved general rate increase.

Upon such written notice, a Preliminary Memorandum in the form attached shall be prepared and signed by both parties showing the deposit required in accordance with foregoing provisions. Upon completion of the installation of the extension, a Final Memorandum in the form attached shall be prepared and signed by both parties showing the deposit required based on the same calculations as set forth above but by using the actual cost of the extension, including the actual installation costs of the mains and other facilities, for the Estimated Cost and calculating the Applicable Credit. If the deposit shown to be due on the Final Memorandum differs from that shown on the Preliminary Memorandum, the APPLICANT will deposit any additional amount shown to be due or the COMPANY will refund to the APPLICANT any excess amount shown to have been deposited. Any additional amount of required deposit must be made by the APPLICANT to the COMPANY before the granting of refunds to the APPLICANT.

FOURTH: The COMPANY hereby agrees to refund to the BONA FIDE SERVICE APPLICANT during the period of ten (10) years from actual date of deposit as shown on the Preliminary Memorandum a Per-Customer Refund Amount for each additional BONA FIDE SERVICE APPLICANT for whom a street service connection shall be directly attached to such main extension, as distinguished from extensions or branches thereof; provided however, that the total amount refunded shall not exceed the amount of the original deposit by the BONA FIDE SERVICE APPLICANT to the COMPANY as of the date of the refund, and further provided that, if there is an unpaid balance owed then the Per-Customer Refund Amount shall first be deducted from the unpaid balance. All or any part of the deposit not refunded within said 10-year period shall become the property of the COMPANY. The Customer Refund Amount shall be the Company contribution divided by the number of customers connected to the initial main extension.

FIFTH: The BONA FIDE SERVICE APPLICANT may request refunds under Paragraph FOURTH, once in each Calendar quarter, furnishing the COMPANY, at such time, a listing of additional bona fide service applicants; however, failure on the part of the BONA FIDE SERVICE APPLICANT to make such request shall not constitute a waiver of any rights hereunder or relieve the COMPANY of the obligation to make refunds with reasonable promptness.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section N – EXTENSION DEPOSIT AGREEMENT FOR BONA FIDE SERVICE APPLICANT (cont'd)

SIXTH: The ownership of the sewer main(s) and other facilities installed hereunder shall at all times be with the COMPANY, its successors and assigns.

SEVENTH: This agreement shall be valid and binding on the COMPANY only when executed by its duly authorized representative.

EIGHTH: This agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the respective parties.

NINTH: Any notice given hereunder shall be deemed sufficient if in writing and sent by registered mail to the COMPANY at

(Address of COMPANY)

and to the BONA FIDE SERVICE APPLICANT at

(Address of BONA FIDE SERVICE APPLICANT)

Issued:

Effective:

TENTH: This agreement is entered into pursuant to the legally established Rules and Regulations of the COMPANY, and the words, phrases, and terms hereof are to be understood and interpreted in conformity with said Rules and Regulations, which are hereby incorporated herein by reference.

Executed in triplicate by the parties hereto on the date first above written.

WITNESS:

PENNSYLVANIA-AMERICAN WATER COMPANY

BY: _____

Title: _____

WITNESS:

BONA FIDE SERVICE APPLICANT:

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section N – EXTENSION DEPOSIT AGREEMENT FOR BONA FIDE SERVICE APPLICANT (cont'd)

PRELIMINARY MEMORANDUM

This Preliminary Memorandum is executed by the parties hereto under and pursuant to the provisions of Paragraph THIRD of a certain agreement in writing between the parties entered into on the ___ day of _____, 20___, for the installation by the COMPANY of certain sewer main(s) and other facilities therein described. It is, therefore, agreed and stipulated:

- (a) Estimated Cost Main(s) \$ _____
- (b) Estimated Cost of Other Facilities \$ _____
- (c) Total \$ _____
- (d) Company Contribution \$ _____
- (e) Amount of Deposit \$ _____ (c) minus (d)

This Preliminary Memorandum shall be attached to the original agreement in accordance with the provisions of Paragraph THIRD thereof.

Dated: _____
Date

WITNESS:

PENNSYLVANIA-AMERICAN WATER COMPANY

BY: _____

Title: _____

WITNESS:

BONA FIDE SERVICE APPLICANT:

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section O– SPECIAL UTILITY SERVICE

THIS AGREEMENT entered into this ____ day of _____, 20____, by and between Pennsylvania-American Water Company hereinafter called the "COMPANY," and _____ hereinafter called the "APPLICANT."

WHEREAS, the APPLICANT desires Special Utility Service, as defined in Section M(4) of the Company's tariff and as hereinafter described;

NOW, THEREFORE, this agreement WITNESSETH:

FIRST: THE COMPANY contracts and agrees to construct the facilities needed to furnish Special Utility Service shown in red on the diagram hereto attached and made a part hereof and described and located as follow:

(LEAVE SPACE FOR DESCRIPTION)

SECOND: It is expressly understood and agreed that if the COMPANY shall be delayed or prevented from installing facilities hereinabove described because of its failure to secure construction materials, or for any other causes beyond its control, such failure or delay in performance shall be excused; provided, however, if such failure or delay in performance shall extend for a period of more than one (1) year from the date thereof, the APPLICANT shall have the right to cancel and terminate this agreement on thirty (30) days' written notice to the COMPANY, and thereafter both parties shall be relieved of all duties and obligations arising hereunder. But this right to cancel and terminate by the APPLICANT shall not be invoked if the COMPANY has received the construction material and the APPLICANT has made the deposit as hereinafter required, in which event the COMPANY shall have the obligation to prosecute the work diligently to its Complete on.

THIRD: The APPLICANT hereby agrees to pay to the COMPANY, upon notice from the COMPANY that it is prepared and able to go forward with the work provided in Paragraph First hereof, an amount in cash equal to the Estimated Cost. The Estimated Cost shall be the estimated cost including material, labor and overheads of the facilities hereinabove described for providing Special Utility Service.

Upon such written notice, a Preliminary Memorandum in the form attached shall be prepared and signed by both parties showing the payment required in accordance with foregoing provisions. Upon completion of the Memorandum in the form attached shall be prepared and signed by both parties showing the payment required based on the same calculation as set forth above but by using the actual installation cost of the facilities, for the Estimated Cost. If the payment shown to be due on the Final Memorandum differs from that shown on the Preliminary Memorandum, the APPLICANT shall pay any additional amount shown to be due or the COMPANY will refund to the APPLICANT, without interest, any excess amount shown to have been paid, it being the intent of this agreement that the payment required shall be based on actual installation cost. If the actual installation cost exceeds the payment required as shown on the Preliminary Memorandum, the additional amount of required payment must be made by the APPLICANT to the COMPANY before installation of the facilities, a Final service to the APPLICANT commences.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section O- SPECIAL UTILITY SERVICE (cont'd)

FOURTH: The ownership of the facilities installed hereunder shall at all times be with the COMPANY, its successors and assigns.

FIFTH: This agreement shall be valid and binding on the COMPANY only when executed by its duly authorized representative.

SIXTH: This agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the respective parties.

SEVENTH: Any notice given hereunder shall be deemed sufficient if in writing and sent by registered mail to the COMPANY at

(Address of Company)

and to the Applicant at _____

(Address of APPLICANT)

EIGHTH: This agreement is entered into pursuant to the legally established Rules and Regulations of the COMPANY, and the words, phrases, and terms thereof are to be understood and interpreted in conformity with said Rules and Regulations, which are hereby incorporated herein by reference.

Executed in triplicate by the parties hereto on the date first above written.

PENNSYLVANIA-AMERICAN WATER COMPANY

WITNESS:

BY: _____

Title: _____

WITNESS:

APPLICANT:

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section O- SPECIAL UTILITY SERVICE (cont'd)

PRELIMINARY MEMORANDUM

This Preliminary Memorandum is executed by the parties hereto under and pursuant to the provisions of Paragraph THIRD of a certain agreement in writing between the parties entered into on the ____ day of _____, 20____, for the installation by the COMPANY of certain facilities therein described. It is, therefore, agreed and stipulated:

(a) Estimated Cost of Facilities \$ _____
 for Special Utility Service
 (exclusive of the cost of the
 main and appurtenances, street
 service connection and meter)

This Preliminary Memorandum shall be attached to the original agreement in accordance with the provisions of Paragraph THIRD thereof.

Dated: _____
 Date of Payment

WITNESS:

WITNESS:

PENNSYLVANIA-AMERICAN WATER COMPANY

BY: _____

Title: _____

APPLICANT:

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section O- SPECIAL UTILITY SERVICE (cont'd)

FINAL MEMORANDUM

This Final Memorandum is executed by the parties hereto under and pursuant to the provisions of Paragraph THIRD of a certain agreement in writing between the parties entered into on the _____ day of _____, 20____, for the installation by the COMPANY of certain facilities therein described. It is, therefore, agreed and stipulated:

(a) Actual Cost of Facilities \$ _____
for Special Utility Service
exclusive of the cost of the
main and appurtenances, street
service connection and meter)

This Final Memorandum shall be attached to the original agreement in accordance with the provisions of Paragraph THIRD thereof.

Dated: _____
Date of Payment on
Preliminary Memorandum

WITNESS:

WITNESS:

PENNSYLVANIA-AMERICAN WATER COMPANY

BY: _____

Title: _____

APPLICANT:

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section P - Grinder Pumps for Paint-Elk Wastewater

This section applies to those customers from the former Paint-Elk Joint Sewer Authority (PEJSA) whose service addresses are listed on updated Schedule 1.1 of the acquisition closing documents. Original Schedule 1.1 from the Purchase Agreement was included in PAWC's Application filing on 12/6/2013, which was approved by the Public Utility Commission's Order entered on July 24, 2014, at Docket Number A-2013-2395998.

1. Those customers within the Former PEJSA whose addresses do not appear on Schedule 1.1 of the Purchase Agreement own their Customer service line in its entirety, including the grinder pump on their Customer service line should one exist.
2. For those customers within the Former PEJSA whose addresses appear on Schedule 1.1 of the Purchase Agreement, PAWC shall own and maintain the grinder pump units for a period of three years from the date of Closing.
3. PAWC shall be responsible to repair/replace any malfunctioning grinder pumps during this three year period. The decision to repair/replace shall be made in PAWC's sole discretion. Any customer may indicate to PAWC that it does not wish to have this service and such services shall cease upon notification from the customer and the ownership of the grinder pump unit shall revert to the customer.
4. The customer must agree to allow PAWC the necessary access to maintain the grinder pump unit or PAWC's obligation as to that particular customer shall cease without any further obligation from PAWC.
5. Three years from the date of Closing, PAWC's obligation to operate and maintain the grinder pump units shall cease. At that time, PAWC will provide written notification to the addresses listed on Schedule 1.1 that ownership of the grinder pump units has transferred to the customer and all responsibilities related to the grinder pump unit reside with the customer.

This section applies to residential customers from the former Farmington Township wastewater system, as reflected in the Purchase Agreement included in PAWC's Application filing on 8/28/2023, which was approved by the Public Utility Commission's Order entered on 09/26/2024, at Docket Number A-2023-3042587. (C)

1. **Upon customer request, Company will replace grinder pumps at residential customer properties that were installed at the time the properties were originally constructed for a period of five years after the Closing Date.**
2. **The residential customer will continue to own and maintain the grinder pumps both before and after replacement by Company.**
3. **At the end of this five-year period, Company's obligations pursuant to this section will cease.**

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section Q – Liability of Company (General)

1. The liability of the Company for any loss or damages due to any negligent act of omission or commission, by the Company, shall be limited to and in no event exceed an amount equivalent to 1/4 the average charge of 4 billing periods to the Customer for the period of service during which such deficiency has occurred. Such average shall be determined by reference to the billed charges to the Customer for the four billing periods immediately prior to the billing period during which the loss or damage occurred.
(C)
2. In any legal action where a court does not recognize, or is being asked to interfere with or hamper, the jurisdiction of the Commission to authorize limitations of liability or to exclusively determine whether the service and facilities of the Company are in conformity with the regulation and Order of the Commission, the Company may certify to the Commission the question of the appropriateness of such court action by filing a petition for declaratory judgment with the Commission.
3. Notwithstanding any provision in this tariff to the contrary, the Company shall not be liable in any action where the loss or damage involves an act of God or does not involve a duty of the Company, including breaks or leaks on facilities that are not owned by the Company, such as breaks, leaks, defects or condition in the Customer's own service line, meter vault, pressure reducing valve, back flow prevention device, check valve, pressure relief valve, or any other control valve, internal plumbing or fixture, or due to the materials out of which those facilities are made. Further, the Company shall not be liable in any action where the loss or damage does not involve a breach of a duty of the Company, including where the Company does not receive actual notice, either written or oral, that a Company facility (located within the public right-of-way, in a sidewalk or on a Customer's property) is in need of repair, such as the condition or elevation of a curb box or valve box that is not proven to have been in that condition at the time of installation or that is caused by a plumber, developer, or other person or event.

(C) means Change

RULES AND REGULATIONS

[paragraphs deleted]

(C)Section R – Stormwater Connections to Sanitary or Combined Sewer System:

(C)

(a) No person shall install any new connection to discharge stormwater or groundwater drainage to a Sanitary or Combined Sewer, or undertake any modification that increases the flow of stormwater or groundwater being discharged via an existing connection to the Sanitary or Combined Sewer, without applying for and obtaining a Connection Permit from the Company. Consideration and issuance of any Connection Permit is subject to the following:

(1) No new or increased discharge of stormwater or groundwater to the Sanitary or Combined Sewer will be permitted if separate stormwater system facilities or receiving streams exist in reasonable proximity to the proposed connection to the Sanitary or Combined Sewer. The person seeking a Connection Permit must demonstrate to the satisfaction of the Company that the discharge stormwater or groundwater flows to anywhere but to the Sanitary or Combined Sewer is not (i) technically or economically feasible, or (ii) permissible under applicable environmental regulations.

(2) No new or increased discharge of stormwater or groundwater will be allowed unless there is adequate capacity in the Sanitary or Combined Sewer system, and such flows can be managed in compliance with all laws and requirements applicable to the Sanitary or Combined Sewer system. When known or potential hydraulic capacity overloads may exist or may be created as the result of the proposed new or modified connection to the Sanitary or Combined Sewer, the Company reserves the right to require a detailed hydraulic study of the affected portion of the Sanitary or Combined Sewer system. The work and costs associated with such study shall be paid for by the party seeking the Connection Permit.

(3) Any new or modified connection involving the discharge of stormwater or groundwater to the Sanitary or Combined Sewer shall comply with all applicable state regulations and municipal ordinances.

(4) In the case of new or modified connections from a property that is presently contributing stormwater or groundwater drainage to a Sanitary or Combined Sewer, the peak rate of discharge must be controlled. The peak rate of discharge to the Sanitary or Combined Sewer after development or improvement shall be no greater than 75% of the peak rate of discharge to the Sanitary or Combined Sewer prior to development or improvement under storm conditions up to a 100-year rainfall event. Stormwater peak discharge and runoff shall be determined through the use of: (A) the USDA NRCS Soil Cover Complex Method as set forth in Urban Hydrology for Small Watersheds, Technical Release No. 55 (USDA, 1986), with specific attention given to antecedent moisture conditions, flood routing, time of concentration, and peak discharge specifications included therein and in Hydrology National Handbook, Section 4 (USDA, 1985); (B) the USDA NRCS Technical Release No. 20; or (C) other procedures as approved by the Company. Refer to Pennsylvania Stormwater Best Management Practices Manual (363-0300-002) dated December 30, 2006.

(5) Except where specifically approved by the Company, all new sanitary sewer laterals and mains shall be separate from stormwater laterals and mains.

(b) If a connection to the Sanitary or Combined Sewer is permitted as provided in 5(a), (1) any facilities using the connection to the Sanitary or Combined Sewer shall utilize inlet structures equipped with devices to prevent solids and floatable debris from entering the Sanitary or Combined Sewer of a design approved by the Company; and (2) the connection shall be made to an existing or new manhole or other Company approved structure that complies with design standards prescribed by the Company.

(c) No downspout gutter shall be connected to the Sanitary or Combined Sewer

(C) means Change

RULES AND REGULATIONS

**Section S – TAXES ON DEPOSITS FOR CONSTRUCTION, CUSTOMER ADVANCES
AND CONTRIBUTIONS IN AID OF CONSTRUCTION**

The Company will pay income taxes on any deposit, advance, contribution or other like amounts received from an applicant which shall constitute taxable income to the Company as defined by the Internal Revenue Service. Such income taxes shall be segregated in a deferred account for inclusion in rate base in a future rate case proceeding. Such income tax associated with a deposit, advance or contribution will not be charged to the specific depositor / contributor of the capital.

[paragraphs deleted] (C)

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (C)

1. GENERAL PROVISIONS (C)

1.1 Purpose and Policy

- (a) These rules set forth uniform requirements applicable to users of the wastewater collection, treatment, and disposal services provided by the Company and the nature of wastes acceptable for discharge into the Company's treatment works, either directly or indirectly. In developing these rules, the Company was guided by the "EPA Model Pretreatment Ordinance" (January 2007) published by the U.S. Environmental Protection Agency ("EPA") for use by municipalities operating Publicly Owned Treatment Works ("POTWs") as well as EPA regulations designed to control pollutants discharged to POTWs at 40 CFR Part 403 (General Pretreatment Regulations for Existing and New Sources of Pollution). These rules shall apply throughout the Company's service territory.
- (b) The objectives of these rules are:
- (i) To prohibit the introduction of pollutants into the Company's treatment works that will interfere with its operation or impact the quality or classification of the resulting sludge;
 - (ii) To prohibit the introduction of pollutants into the Company's treatment works that will pass through the treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the treatment works;
 - (iii) To protect both the Company's personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
 - (iv) To promote reuse and recycling of industrial wastewater and sludge from the Company's treatment works;
 - (v) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Company's treatment works;
 - (vi) To enable the Company to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the Company's treatment works is subject;
 - (vii) To require the pretreatment of wastewater discharged into the Company's treatment works as appropriate and consistent with standards for pretreatment of wastewater that have been promulgated by the EPA or otherwise imposed by the DEP; and
 - (viii) To otherwise provide the conditions of wastewater collection, treatment, and disposal service by the Company.

[paragraphs deleted] (C)

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd) (C)

- (c) These rules shall apply to all users of the Company's treatment works. These rules authorize the issuance of wastewater discharge permits; provide for monitoring, compliance, and enforcement activities; establish administrative review procedures; require user reporting; and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

Except as otherwise provided herein, the Company shall administer, implement, and enforce these rules. Any powers granted to or duties imposed upon the Company may be delegated by the Company to the Company's IPP Coordinator or other duly authorized Company employee.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd) (C)

1.3 Abbreviations

(C)

The following abbreviations, when used in these rules, or in the implementation of these rules, shall have the designated meanings:

BOD5 – Biochemical Oxygen Demand (5-day)
BMP – Best Management Practice
C - Celsius
CERCLA - Comprehensive Environmental Response, Compensation and Liability Act
CFR - Code of Federal Regulations
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
DEP – Pennsylvania Department of Environmental Protection
EPA – U.S. Environmental Protection Agency
F - Fahrenheit
FOG - Fats, Oils and Grease
gpd – gallons per day
IU – Industrial User
IPP – Industrial Pretreatment Program
IWDP – Individual Wastewater Discharge Permit
mg/l – milligrams per liter
MGD - Million Gallons per Day
NH3-N - Ammonia Nitrogen
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW - Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
TDS - Total Dissolved Solids
TKN - Total Kjeldahl Nitrogen
TN - Total Nitrogen
TP - Total Phosphorus
TSS – Total Suspended Solids
U.S.C. – United States Code

[paragraphs deleted] **(C)**

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

2. GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

- (a) General Prohibitions. No user shall introduce or cause to be introduced into the treatment works any pollutant or wastewater which causes pass through or interference or damages the treatment works. These general prohibitions apply to all users of the treatment works whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standard or requirement.
- (b) Specific Prohibitions. No user shall introduce or cause to be introduced into the treatment works the following pollutants, substances, or wastewater:
- (i) Liquids, solids or gases that by reason of their nature or amount are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any way to persons, the treatment works or the operation of the treatment works, including, but not limited to, any discharge with a closed-cup flashpoint of less than 140° F (60°C) using the test methods specified in 40 CFR §261.21. At no time shall any wastewater cause two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), to be more than five percent (5%) nor any single reading to be over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter.
 - (ii) Wastewater having a pH less than 6.0 or higher than 9.0 as measured by a grab sample, unless otherwise specified by the Company in an IWDP, or wastewater having other corrosive properties capable of causing damage or hazard to structures, equipment, or personnel of the treatment works.
 - (iii) Solid or viscous substances which may cause obstruction to the flow in the sewer system or other interference with the operation of the treatment works such as, but not limited to, grease, **except at (C) discharge points designated by the Company in accordance with subsection 2.10 of Section T of this tariff**, garbage (not properly shredded), animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent limestone or marble dust, bentonite, lye, building materials, rubber, leather, porcelain, china, metal glass, straw, shavings, grass clippings, rages, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes or any material which can be disposed of as trash.
 - (iv) Pollutants, including oxygen-demanding pollutants (BOD5, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the treatment works.

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd) (C)

- (v) Wastewater with a temperature at the introduction into the treatment works which exceeds 120 degrees F (49 degrees C), or less than 32°F, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C).
- (vi) Petroleum oil, motor oils or lubricants removed from vehicles or machinery, non- biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (vii) Pollutants in sufficient quantity which, either alone or by interaction with other pollutants, would result in the presence of toxic gases, vapors or fumes, cause worker injury or disruption of any wastewater treatment process, including the disposal of sludge, or be in non-compliance with any categorical or pretreatment standards established in accord with 40 CFR §403.6.
- (viii) Trucked or hauled pollutants, except at discharge points designated by the Company in accordance with subsection 2.10 of Section T of this tariff.
- (ix) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewer system for maintenance or repair.
- (x) Wastewater which imparts color which cannot be removed by the treatment process, and which consequently imparts color to the treatment plant's effluent.
- (xi) Wastewater containing any radioactive wastes or isotopes with half-lives or concentrations that exceed (A) measured background or naturally-occurring levels or (B) limits established by the Company.

[paragraphs deleted] (C)

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd) (C)

- (xii) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Company.
- (xiii) Sludges, screenings, or other residues from the pretreatment of industrial wastes
- (xiv) Medical wastes, except as specifically authorized by the Company in an IWDP.
- (xv) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test or otherwise create a toxic effect in receiving waters.
- (xvi) Detergents, surface-active agents, or other substances that might cause excessive foaming in the treatment works.
- (xvii) Discharge which is or contains hazardous waste or, if otherwise disposed of, would be considered hazardous waste.
- (xviii) Any substance which may cause the treatment plant's effluent or any other product of the treatment plant, such as residues, sludge or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the treatment works cause the Company to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act, nor any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management methods being used by the Company.
- (xix) Any pollutant, including oxygen demanding pollutants and suspended solids, released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference or pass through to the treatment works. In no case shall a slug load have a flow rate or contain a concentration or quantity of a pollutant that exceeds for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour permitted concentration, quantity, or flow during normal operation
- (xx) Any wastewater which because of its chemical nature or composition causes the sewer atmosphere to contain airborne chemical concentrations in excess of concentrations established by the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR Part 1910, regardless of duration of exposure experienced by any individual, unless written authorization is granted by the Company.

[paragraphs deleted] (C)

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd) (C)

- (xxi) Substances which will cause pass through or interference or otherwise cause the Company to violate its NPDES permit or air quality or receiving water quality standards, or that are prohibited by any permit issued by the Company, the Commonwealth of Pennsylvania or EPA.
 - (xxii) Wastes which are not amenable to biological treatment or reduction in existing treatment facilities, including but not limited to nonbiodegradable complex carbon compounds.
 - (xxiii) Wastewater containing any organic compounds of endrin, lindane, methoxychlor, toxaphene, dichlorophenoxyacetic acid, trichlorophenoxypropionic acid or other herbicides, pesticides or rodenticides.
 - (xxiv) Wastewater containing any of the pollutants listed on EPA's "Priority Pollutant List" (40 CFR Part 423, Appendix A), without authorization from the Company in an IWDP.
- (c) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the treatment works.

2.2 National Categorical Pretreatment Standards

- (a) The National Categorical Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated by reference. Any industrial user that would be a categorical industrial user under the provisions of one or more categorical standards if it were discharging to a POTW is a significant industrial user under these rules and is required to obtain an individual wastewater discharge permit as described in subsection 4 of this Section T, unless otherwise determined by the Company pursuant to these rules. The IWDP will reflect the effluent limitations and standards of the pertinent categorical standard(s). Although the Company is not subject to EPA's pretreatment regulations, the Company will use pertinent standards and requirements contained in 40 CFR, Chapter I, Subchapter N, Part 403 as guidance in administering and applying the categorical standards. Any categorical standard or local limit, if more stringent than the limitations imposed under an IWDP, shall immediately supersede the limitations imposed under the IWDP.
- (b) Where a categorical standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Company may impose equivalent concentration or mass limits in the manner described in 40 CFR §403.6(c).

[paragraphs deleted] (C)

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

- (i) When the limits in a categorical standard are expressed only in terms of mass of pollutant per unit of production, the Company may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentrations for purposes of calculating effluent limitations applicable to individual industrial users.
- (c) When wastewater subject to a categorical standard is mixed with wastewater not regulated by the same standard, the Company shall impose an alternate limit using the combined waste stream formula in 40 CFR §403.6(e).
- (d) Once included in its IWDP, an industrial user must comply with the equivalent limitations developed in this subsection 2.2 of this Section T in lieu of the categorical standard from which the equivalent limitations were derived.
- (e) Where a categorical standard specifies one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average (or 4-day average) limitations, the same production flow figure shall be used in calculating both the average and the maximum equivalent limitation.
- (f) Any industrial user operating under an IWDP incorporating equivalent mass or concentration limits calculated from a production-based standard, as provided in paragraph (c) of this subsection 2.2, shall notify the Company within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Company of such anticipated change will be required to meet the mass or concentration limits in its IWDP that was based on the original estimate of the long term average production rate.

2.3 Modification of National Categorical Pretreatment Standards

The Company may modify specific limits in a categorical pretreatment standard where appropriate for purposes of these rules or an IWDP. Although not subject to EPA's pretreatment regulations, the Company will utilize the standards and requirements contained in 40 CFR, Chapter I, subchapter N, Part 403 generally, and particularly sections 403.7 (removal credits), 403.13 (fundamentally different factors), and 403.15 (net limits), as guidance in considering any such modifications.

2.4 State and Federal Requirements

Applicable state or federal requirements and limitations on discharges shall apply in any case where they are more stringent than those in these rules.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

[paragraphs deleted] (C)

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd) (C)

2.5 Specific Pollutant Discharge Limitations – Local Limits

- (a) All industrial users shall be subject to the local limits applicable to their service area as specified in the Company's IPP.
- (b) Local limits are the highest allowable concentrations in a discharge, unless otherwise specified in an IWDP.
- (c) Local limits apply at the point where wastewater is discharged to the treatment works or at the point designated by the Company.
- (d) The Company reserves the right to allocate among users the total loading applicable to a particular pollutant by establishing maximum daily industrial concentrations specific to each user, provided that the total maximum allowable daily industrial load for the treatment plant is not exceeded.
- (e) In addition to industrial users, the Company reserves the right to apply local limits to any user's wastewater discharge which is not composed strictly of domestic sewage.
- (f) The Company reserves the right to establish alternate limits in IWDPs in order to protect against pass through or interference or to assure that the Company complies with its National Pollutant Discharge Elimination System permit and federal and state law. The alternate limits, if more stringent than the categorical standards, shall immediately supersede the categorical standards.
- (g) The Company may develop BMPs in IWDPs to implement local limits and the requirements of subsection 2.1 of this Section T.

2.6 Reservation of Right to Impose More Stringent Requirements

The Company reserves the right to establish, in IWDPs, more stringent limits or requirements on discharges to the treatment works, if deemed necessary, consistent with the purpose of these rules.

2.7 Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Company may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

2.8 Compliance with Other Applicable Standards and Requirements

Compliance with these rules and permits or compliance or cessation directives issued hereunder does not relieve the industrial user from its obligations to comply with any and all applicable local, state, and federal standards and requirements including any such applicable standard or requirement that may become effective during the term of a permit or directive or these rules.

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

2.9 Environmental Emergency Response Plans (C)

Industrial users shall prepare and maintain all environmental emergency response plans required by EPA, DEP or any other federal or state authority, including but not limited to: spill prevention control and countermeasure plans; preparedness, prevention and contingency plans; spill prevention response plans; and facility response plans. Such plans may be prepared in accordance with DEP's Guidelines for the Development and Implementation of Environmental Emergency Response Plans (the "DEP PPC Guidelines"). A copy of any such plan prepared and maintained by an industrial user shall be submitted to the Company.

2.10 Hauled Wastewater

- (a) Septic tank waste and holding tank waste may be introduced into the treatment works only at locations designated by the Company, and at such times as are established by the Company. Such waste shall not violate subsection 2 of this Section T or any other requirements established by the Company. The Company may require septic and holding tank waste haulers to enter septic disposal agreements with the Company.
- (b) The Company may require haulers of industrial waste or generators of hauled industrial waste to obtain individual wastewater discharge permits. The Company also may prohibit or refuse the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of these rules.
- (c) Industrial waste haulers may discharge loads only at locations designated by the Company. No load may be discharged without prior consent of the Company. The Company may collect samples of each hauled load to ensure compliance with applicable standards. The Company may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry and all known or suspected waste constituents and confirm that no wastes are RCRA hazardous wastes.

2.11 Accidental Discharge/Slug Discharge Control Plans

- (a) All significant industrial users, and any other industrial user identified by the Company, shall prepare an accidental discharge/slug discharge control plan. Such plan shall be submitted to the Company for review and approval as part of any application for issuance or renewal/reissuance of an IWDP or otherwise when requested by the Company. The Company may request modification of an accidental discharge/slug discharge control plan at any time circumstances warrant.

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

- (b) An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
 - (i) Description of discharge practices, including non-routine batch discharges;
 - (ii) Description of stored chemicals;
 - (iii) Procedures for immediately notifying the Company of any accidental or slug discharge, as required by subsection 6.6 of this Section T; and
 - (iv) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures shall include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
- (c) The Company may include conditions relating to implementation of an accidental discharge/slug discharge control plan when issuing an IWDP or by letter approving a plan submitted independently of an IWDP application.
- (d) An approved environmental emergency response plan prepared in accordance with the DEP PPC Guidelines may substitute for all or a portion of the contents of an accidental discharge/slug discharge control plan to the extent that it satisfies the requirements described herein.

2.12 Drainage of Water Filtration Systems

Filter back-wash may be discharged to the treatment works only as follows:

- (a) Sand filter back-wash may be discharged to the treatment works. An IWDP may be required to permit such discharge if the discharge is non-domestic in nature.
- (b) Diatomaceous earth filter back-wash, if discharged to the treatment works, shall be connected to the treatment works through settling tanks with no less than three (3) months storage capacity of spent diatomaceous earth, which tanks shall be readily accessible for removing solid waste for disposal. An IWDP may be required to permit such discharge if the discharge is non-domestic in nature.

2.13 Grease Traps

Users shall install, operate and maintain interceptor/collector devices (e.g., traps) to capture and remove fats, oils and grease prior to discharge to the treatment works whenever the Company determines that such devices are necessary for the proper handling of wastewater. All such devices shall be designed and installed so as to accommodate the maximum flow rate expected to occur and to be readily and easily accessible for cleaning and inspection. The user shall be responsible to operate and maintain the devices, including regular cleaning, to ensure that they consistently remove FOG prior to discharge to the treatment works. Alternatively, or in addition, the Company may require users to implement BMPs in order to eliminate FOG at the point of use and thereby reduce the generation of FOG in wastewater. **Upon the request of the Company, the user shall provide to the Company records of cleaning and maintenance of the interceptor/trap.** (C)

2.14 Removal, Transportation, and Disposal of Sewage and Industrial Wastes

- (a) Any waste to be discharged from tank trucks or rail car shall be disposed at the location designated by the Company at the treatment plant at the time or times, and at a rate or rates of discharge, fixed by the Company.
- (b) The wastes discharged by the tank trucks or rail car at the treatment plant shall not contain industrial waste, chemicals, or other matter, with or without pretreatment, that does not conform to the requirements of these rules. Conformity with these rules is to be determined by the Company.

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

3. PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities – General

Users shall provide wastewater treatment as necessary to comply with these rules and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in subsection 2.1 of this Section T within the time limitations specified by EPA, the state, or the Company, whichever is more stringent. Any facilities necessary for compliance, including the design, construction, operation, and maintenance of these facilities, shall be at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Company for review, and shall be acceptable to the Company before such facilities are constructed or procedures are implemented. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities or procedures as necessary to produce a discharge acceptable to the Company under the provisions of these rules.

3.2 Proper Operation and Maintenance

The user shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the user to achieve compliance with these rules. Proper operation and maintenance includes but is not limited to: effective performance, adequate funding, adequate operator staffing and training, proper disposal of residuals, and adequate laboratory and process control, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary procedures only when necessary to achieve compliance with these rules.

The user shall maintain records demonstrating proper operation and maintenance of pretreatment facilities, retain such records for a period of at least five (5) years, and make such records available to the Company upon request.

3.3 Duty to Halt or Reduce Activity

Upon reduction of efficiency of operation of treatment facilities, or loss or failure of all or part of the treatment system, the user shall, to the extent necessary to maintain compliance with these rules, control its production or discharges (or both) until operation of the treatment system is restored or an alternative method of treatment is provided. It shall not be a defense for the user that it would have been necessary to halt or reduce an activity in order to maintain compliance with these rules.

[paragraphs deleted] **(C)**

(C) means Change

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Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

3.4 Bypass of Treatment Facilities

- (a) Bypass of treatment systems is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage and no feasible alternative exists.
- (b) The user may allow bypass to occur which does not cause the effluent limitations to be exceeded, but only if it is necessary for essential maintenance to assure *efficient* operation.
- (c) Notification of Bypass:
 - (i) Anticipated Bypass. If the user knows in advance of the need for bypass, it shall submit prior written notice, at least ten (10) days before the date of the bypass, to the Company.
 - (ii) Unanticipated Bypass. The user shall immediately notify the Company and submit a written report to the Company within five (5) days. This report shall specify:
 - 1) A description of the bypass, its cause, and its duration;
 - 2) Whether the bypass has been corrected; and
 - 3) The steps being taken or to be taken to reduce, eliminate, and prevent a reoccurrence of the bypass.

3.5 Damage Liability

The person producing or introducing waste to the treatment works shall be liable for all damages, increased costs of treatment or maintenance, or other costs incurred by the Company directly attributable to such waste, including the costs of repairs, testing, consulting and all other costs associated with the damage. Any user violating any of the provisions of these rules shall be liable to the Company for all expenses, losses, or damages occasioned by the Company by reason of such violation, whether incidental or consequential.

3.6 Disposal Sludges

Sludges, floats, oils, etc., generated by industrial users must be contained and transported in a safe manner as prescribed by the rules of regulatory agencies, including but not limited to the U.S. Department of Transportation, and handled by reputable persons who shall dispose of all such wastes in accordance with all federal, state, and local regulations. The owner of such sludges, floats, oils, etc., shall keep records and receipts needed to demonstrate proper disposal for review by the Company upon request.

3.7 Additional Pretreatment Measures

- (a) Grease, oil and sand interceptors or traps shall be provided when, in the opinion of the Company, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand, or to avoid interference. All interceptors or traps shall be of the type and capacity acceptable to the Company, and shall be located as to be readily and easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired by the user at the user's expense. **Cleaning and maintenance records for the interceptor or traps must be made available to the Company upon request.** (C)
- (b) The use of mechanical garbage grinders producing a finely divided mass, properly flushed with an ample amount of water, shall be permitted upon the condition that no mechanical garbage grinder to serve premises used for commercial purposes shall be installed until permission for such installation shall have been obtained from the Company.
- (c) Users with the potential to discharge combustible or flammable substances may be required to install and maintain an approved combustible gas detection meter.

(C) means Change

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Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

4 INDIVIDUAL WASTEWATER DISCHARGE PERMITS

4.1 Wastewater Analysis

When requested by the Company, a user must submit information on the nature and characteristics of its wastewater. Upon receipt of a questionnaire or permit application from the Company, a user shall have forty-five (45) days (unless extended by the Company for good reason) to return the completed questionnaire or application, signed by an authorized representative of the user. The Company may periodically require users to update this information.

4.2 Permit Requirements

- (a) No significant industrial user shall discharge wastewater into the treatment works without first obtaining an individual wastewater discharge permit from the Company.
- (b) No person discharging industrial waste to the treatment works shall undertake any significant wastewater modification without first notifying the Company and obtaining a new or amended IWDP from the Company, except as authorized by the Company in accordance with the provisions of these rules.
- (c) The Company may require that other users obtain IWDPs as necessary to carry out the purposes of these rules.
- (d) Any violation of the terms and conditions of an IWDP shall be deemed a violation of these rules and subjects the wastewater discharge permittee to the sanctions set out in subsection 8 through subsection 10 of this Section T. Obtaining an IWDP does not relieve a permittee of its obligation to comply with all federal and state standards or requirements or with any other requirement of federal, state, and local law.
- (e) At the discretion of DEP, a significant industrial user may be required to obtain an individual NPDES permit from DEP to authorize its discharge to the treatment works.

4.3 Permitting: Existing Connections

All existing industrial users presently permitted on the date these rules become effective to such user will receive written notice from the Company that the terms and conditions of the permit presently in place will remain in force until the termination date of the permit, subject to any renewal of or change in the permit in accordance with these rules. Such notice also shall specify that continued discharge to the treatment works for thirty (30) days after receipt of such notice shall constitute acceptance of the continuation of such permit under the administration and enforcement of the Company pursuant to these rules and acknowledgement that renewal of such permit shall be in accordance with these rules.

4.4 Permitting: New Connections

Any user required to obtain an Individual Wastewater Discharge Permit who proposes to begin or recommence discharging into the treatment works must obtain such permit prior to the beginning or recommencing of such discharge. An application for this IWDP, in accordance with subsection 4.5 of this Section T, must be filed at least 180 days prior to the date upon which any discharge will begin or recommence.

[paragraphs deleted] **(C)**

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

4.5 Permit Application Contents

- (a) All users required to obtain an individual wastewater discharge permit must submit a permit application. The Company may require users to submit all or some of the following information as part of a permit application:
- (i) Identifying Information
 - 1) The name and address of the facility, including the name of the operator and owner, and location (if different from the mailing address); and
 - 2) Contact information, description of activities, facilities, and plant production processes on the premises.
 - (ii) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (iii) Description of Operations
 - 1) A brief description of the nature, rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user, including a schematic process diagram, which indicates points of discharge to the treatment works from the regulated processes;
 - 2) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the treatment works, as well as material safety data sheets for all materials and chemicals identified;
 - 3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - 4) Type and amount of raw materials processed (average and maximum per day);
 - 5) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge. It is recommended that these plans be signed and sealed by a Professional Engineer licensed in the Commonwealth of Pennsylvania, to ensure compliance with sound engineering principles and all applicable federal, state, and local codes and statutes.
 - (iv) Time and duration of discharges.
 - (v) The location for monitoring all wastes covered by the permit.
 - (vi) Flow Measurement. Information showing the measured average daily, maximum daily, and 30 minute flow rates, in gallons per day, including daily, monthly, and seasonal variations if any, to the treatment works from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in subsection 2.2 (40 CFR §403.6(e)).
 - (vii) Measurement of Pollutants
 - 1) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
 - 2) For all industrial users subject to categorical standards, any other information required in a baseline monitoring report as stated in 40 CFR §403.12(b).
 - 3) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Company, of regulated pollutants in the discharge from each regulated process.
 - 4) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - 5) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection 6.9 of this Section T. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Company or the applicable standards to determine compliance with the standard.
 - 6) Sampling must be performed in accordance with procedures set out in subsection 6.10 of this Section T.
 - 7) In instances where an industrial user has not yet begun operation (and therefore, wastewater constituents and characteristics are unknown), submission of comparable data from similar industries will be accepted for permit application purposes.

(C) means Change

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Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

- (viii) Where known, the nature and concentration of any pollutants in the discharge which are limited by these rules, categorical pretreatment standards, or local limits and a statement certified by a qualified professional regarding whether or not applicable standards are being met on a consistent basis and, if not, whether additional operation and maintenance or additional pretreatment is required to meet the standards.
- (ix) If additional pretreatment or operation and maintenance will be required to meet applicable standards, a schedule by which the industrial user will provide such additional pretreatment or operation and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable categorical pretreatment standard or, in the case of local limits, such a date as determined by the Company. The following conditions shall apply to this schedule:
 - 1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial user to meet the applicable pretreatment standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - 2) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Company including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Company.
- (x) Any other information as may be deemed necessary by the Company to evaluate the permit application.
- (b) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.
- (c) Applicants wishing to claim confidentiality of information required in the application shall indicate on the application which information is of a confidential nature. Wastewater constituents and characteristics shall not be considered as confidential information.

4.6 Permitting: General Permits

- (a) At the discretion of the Company, the Company may use general permits to control discharges to the treatment works, if the following conditions are met. All facilities to be covered by a general permit must:
 - (i) Involve the same or substantially similar types of operations; (C)
 - (ii) Discharge the same type of wastes; (C)
 - (iii) Require the same effluent limitations; (C)
 - (iv) Require the same or similar monitoring; and (C)
 - (v) In the opinion of the Company, be more appropriately controlled under a general permit than under individual wastewater discharge permits. (C)
- (b) Users that are eligible may request coverage by a general permit under this section in lieu of an IWDP.
- (c) To be covered by the general permit, the user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, verification that it will meet the requirements of the general permit, and any other information the Company deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the Company has provided written notice to the user that such a waiver request has been granted.

(C) means Change

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Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

- (d) The Company will retain a copy of the general permit, documentation to support the Company's determination that a specific user meets the criteria in subsection 4.6(a) and applicable state regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general permit.
- (e) The Company may not control a user through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or industrial users whose limits are based on the combined wastestream formula (subsection 2.2(b)) or net/gross calculations (subsection 2.3).

4.7 Application Signatories and Certifications

- (a) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in subsection 6.13 of this Section T.
- (b) If the designation of an authorized representative of the user is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Company prior to or together with any reports to be signed by the authorized representative of the user.
- (c) A facility determined to be a non-significant categorical industrial user by the Company must annually submit the signed certification statement in subsection 6.13 of this Section T.

4.8 Permit Decisions

The Company will evaluate the data furnished by the user and may require additional information. The Company will determine whether to issue an individual wastewater discharge permit or a general permit and may deny any application for an IWDP or general permit.

4.9 Permit Renewal

- (a) A user with an expiring IWDP or general permit shall apply for permit reissuance by submitting a permit application, in accordance with subsection 4.5 of this Section T, a minimum of one hundred twenty (120) days prior to the expiration of the user's existing permit, unless the deadline is extended in writing by the Company.
- (b) In the event that a timely and complete application to renew an IWDP has been submitted and the IWDP cannot be reissued before the expiration date, through no fault of the user, the terms and conditions of the existing IWDP will be automatically continued and will remain fully effective and enforceable pending the granting or denial of the application for IWDP renewal.

[paragraphs deleted] **(C)**

(C) means Change

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[paragraphs deleted]

(C)

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

5 INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE

(C)

5.1 Permit Duration

Individual wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than five (5) years at the discretion of the Company. Each IWDP will indicate a specific date upon which it will expire.

5.2 Permit Contents

- (a) Individual wastewater discharge permits shall be expressly subject to all provisions of these rules, the Company's IPP, and such other conditions as are deemed reasonably necessary by the Company to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the treatment works.
- (b) Individual wastewater discharge permits will contain the following:
 - (i) A statement that indicates the IWDP issuance date, expiration date and effective date.
 - (ii) A statement that the IWDP is nontransferable without prior notification to the Company in accordance with subsection 5.5 of this Section T, and provisions for furnishing the new owner or operator with a copy of the existing IWDP.
 - (iii) Effluent limits, including BMPs, based on applicable pretreatment standards.
 - (iv) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or BMPs) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.
 - (v) A statement of fees for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal state, or local law.
 - (vi) Requirements to control slug discharge, if determined by the Company to be necessary.
- (c) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:
 - (i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
 - (ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - (iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
 - (iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the treatment works.
 - (v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the treatment works.
 - (vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices.
 - (vii) A statement that compliance with the IWDP does not relieve the permittee of responsibility for compliance with all applicable federal pretreatment standards, as incorporated by subsection 2.2 of this Section T, including those which become effective during the term of the IWDP.
 - (viii) Requirements for notification to the Company for any significant wastewater modification.
 - (ix) Requirements for notification to the Company of any accidental discharge or other potential problem.
 - (x) Requirements for submission of reports. Periodic compliance reports will be required a minimum of twice a year, indicating the nature and concentration of pollutants in the discharge as well as a record of flows.
 - (xi) Other conditions as deemed appropriate by the Company to ensure compliance with these rules, the Company's IPP, and state and federal laws and regulations.

(C) means Change

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Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

5.3 Appeals

- (a) The permittee may appeal to the Company to reconsider the terms of an individual wastewater discharge permit within thirty (30) days of receipt of the permit. This appeal must be in writing and must indicate the permit provisions objected to, the reasons for the objection, and the alternative condition, if any, sought to be placed in the permit.
- (b) The effectiveness of the permit shall not be stayed pending reconsideration by the Company.
- (c) The Company, with the direct involvement of a Vice President, will review the appeal and other pertinent information and determine if any amendment to the permit is warranted.
- (d) If the Company determines that an amendment is warranted, it will issue an amended IWDP; if the Company determines that no amendment is warranted, it will so notify the permittee.
- (e) The Company will act in a timely manner on any appeal.

5.4 Permit Modification

- (a) The Company may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
 - (i) To incorporate any new or revised federal, state, or local pretreatment standard or requirement;
 - (ii) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the IWDP issuance;
 - (iii) A change in the treatment works that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (iv) Information indicating that the permitted discharge poses a threat to the treatment works, Company personnel or the receiving stream;
 - (v) Violation of any terms or conditions of the IWDP;
 - (vi) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (vii) Revision of or a grant of variance from categorical pretreatment standards as provided in 40 CFR §403.13;
 - (viii) To correct typographical or other errors in the IWDP;
 - (ix) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with subsection 5.5 of this Section T; or
 - (x) Upon request of the permittee, provided such a request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.
- (b) When an additional or new categorical pretreatment standard is promulgated, any user subject to such additional or new standard shall apply to modify its IWDP within 180 days of the promulgation of such standard.
- (c) The filing of a request by the permittee for a permit modification does not stay or suspend any permit condition.
- (d) The Company will act in a timely manner on any request for permit modification.
- (e) The user shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit may include a reasonable time schedule for compliance in the event that compliance cannot reasonably be achieved in 30 days.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

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Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

5.5 Permit Transfer

- (a) Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least forty (40) days advance notice to the Company and the Company approves the IWDP transfer. The notice to the Company must include a written certification by the new owner or operator which:
 - (i) States that the new owner or operator has no immediate intent to change the facility's operations and processes;
 - (ii) Identifies the specific date on which the transfer is to occur; and
 - (iii) Acknowledges full responsibility for complying with the existing IWDP.
- (b) Within ten (10) days of receiving an IWDP transfer notice, the Company will determine if the notice is administratively complete and issue to the permittee either an acknowledgement of completeness or a letter specifying any deficiencies. If a permit transfer notice is deficient, the permittee shall cure the deficiencies and resubmit the notice, which the Company then, within ten (10) days, will review again for completeness and issue to the permittee either an acknowledgement of completeness or a letter specifying any deficiencies.
- (c) The Company will approve or disapprove a permit transfer within thirty (30) days of issuing an acknowledgement of completeness of the notice, and approval of such transfer shall not be unreasonably withheld by the Company.
- (d) Failure to provide advance notice of a transfer renders the IWDP void as of the date of facility transfer.

5.6 Permit Revocation

- (a) The Company may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
 - (i) Failure to provide prior notification to the Company of a significant wastewater modification pursuant to subsection 6.5 of this Section T;
 - (ii) Failure to factually report the wastewater constituents and characteristics of a discharge or misrepresentation of relevant facts in an application for an IDWP;
 - (iii) Falsifying self-monitoring reports and certification statements;
 - (iv) Tampering with monitoring equipment;
 - (v) Refusing to allow the Company reasonable and timely access to the facility premises for purposes of compliance inspection, records review, sampling or monitoring;
 - (vi) Failure to meet effluent limitations;
 - (vii) Failure to pay fees or sewer charges;
 - (viii) Failure to meet compliance schedules;
 - (ix) Failure to complete a wastewater survey or the wastewater discharge permit application;
 - (x) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
 - (xi) Violation of any pretreatment standard or requirement or any term or condition of an IWDP or these rules.
- (b) If an IDWP is revoked, the Company may take steps it deems advisable, including severance of the sewer connection to terminate service, in order to promote compliance with these rules. The Company reserves the right to terminate wastewater service for violation of any provision of these rules, subject to the Commission's rules and regulations.
- (c) Prior to revocation of an IWDP or termination of service, the Company will provide notice to the user of the proposed revocation or termination and reasonable opportunity for the user to show cause why the proposed action should not be taken. The Company, with the direct involvement of a Vice President, will review the information presented by the user and other pertinent information and determine if revocation of the permit or termination of service is warranted.

(C) means Change

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Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

6 REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR §403.6(a)(4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the treatment works shall submit to the Company a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the Company a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged using forms approved by the Company.
- (b) Users described above shall submit the information set forth below.
- (i) All information required in subsections 4.5(a)(i)(1), 4.5(a)(ii), 4.5(a)(iii)(1), and 4.5(a)(vi).
 - (ii) Measurement of pollutants.
 - 1) The user shall provide the information required in subsection 4.5(a)(vii)(1) through 4.5(a)(vii)(4)
 - 2) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - 3) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR §403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with subsection 2.2 and 40 CFR §403.6(e) this adjusted limit along with supporting data shall be submitted to the Company;
 - 4) Sampling and analysis shall be performed in accordance with subsections 6.9 and 6.10;
 - 5) The Company may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - 6) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the treatment works.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

- (iii) Compliance Certification. A statement, reviewed by the authorized representative of the user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (iv) Compliance Schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection 6.2 of this Section T.
- (v) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with subsection 6.13 of this Section T and signed by an authorized representative of the user.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by subsection 6.1(b)(iv) of this Section T.

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the Company no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the Company.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the treatment works, any user subject to such pretreatment standards and requirements shall submit to the Company a report containing the information described in subsections 4.5(a)(vi), 4.5(a)(vii) and 6.1(b)(ii) of this Section T. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR §403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection 6.13 of this Section T. All sampling will be done in conformance with subsection 6.10.

6.4 Periodic Compliance Reports

- (a) All significant industrial users must submit reports to the Company on a quarterly basis, within thirty (30) days following the end of each calendar quarter, unless otherwise specified in the user's individual wastewater discharge permit, indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with BMPs or pollution prevention alternatives, the user must submit documentation required by the Company or the pretreatment standard necessary to determine the compliance status of the user.
- (b) All periodic compliance reports must be signed and certified in accordance with subsection 6.13 of this Section T.
- (c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

- (d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Company, using the procedures prescribed in subsection 6.10 of this Section T, the results of this monitoring shall be included in the report.
- (e) Significant industrial users not subject to categorical pretreatment standards under these rules shall submit periodic compliance reports as specified by the user's IWDP.

6.5 Reports of Changed Conditions

- (a) Each user must notify the Company of any significant wastewater modification at least ninety (90) days before the change.
- (b) The Company may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an IWDP application.
- (c) The Company may issue a new IWDP or modify an existing IWDP in response to changed conditions or anticipated changed conditions.

6.6 Reports of Potential Problems

- (a) In the case of any discharge, including, but not limited to, an accidental discharge, a discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug discharge or slug load, that might cause potential problems for the treatment works, the user, upon discovery, and after assessing the situation and taking initial corrective action, shall immediately telephone and notify the Company of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and initial corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the Company, submit a detailed written report including the date, time and duration of the discharge and describing the cause(s) of the discharge, all corrective actions implemented or attempted, and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the treatment works, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fees or other liability which may be imposed pursuant to these rules.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees are advised of the emergency notification procedure.
- (d) Significant industrial users are required to notify the Company immediately of any changes at its facility affecting the potential for a slug discharge.

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

6.7 Reports from Unpermitted Users

All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Company as the Company may require.

6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Company within twenty-four (24) hours of becoming aware of the violation and submit to the Company within five (5) business days, unless otherwise specified, a detailed written report describing the discharge and the measures taken to prevent similar future occurrences. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Company within the current quarterly reporting cycle, however no later than thirty (30) days after becoming aware of the violation. Resampling by the user is not required if the Company performs sampling at the user's facility at least once a month, or if the Company performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the Company receives the results of this sampling, or if the Company has performed the sampling and analysis in lieu of the user. (C) (C) (C)

6.9 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard, and shall use appropriate reporting limits at or below any applicable local limit or IWDP limit. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Company determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Company. The Company may specify appropriate alternative procedures in a user's IWDP.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

6.10 Sample Collection

- (a) Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that are representative of conditions occurring during the reporting period.
- (b) Except as indicated in subsections (c) and (d) below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Company. Where time-proportional composite sampling or grab sampling is authorized by the Company, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Company, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.
- (c) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (d) For sampling required in support of baseline monitoring and 90-day compliance reports required in subsections 6.1 and 6.3, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Company may authorize a lower minimum. For the reports required by subsection 6.4, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.
- (e) The user bears the obligation to complete all sampling required by these rules. Upon request by a user, the Company may agree to conduct sampling on behalf of a user.

6.11 Date of Receipt of Reports

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, including reports submitted by electronic mail, the date of receipt of the report shall govern.

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

6.12 Recordkeeping

Users subject to the reporting requirements of these rules shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by these rules, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with BMPs established under subsection 2.5(g). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least five (5) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Company, or where the user has been specifically notified of a longer retention period by the Company.

6.13 Certification Statements

- (a) Certification of Permit Applications, User Reports and Initial Monitoring Waiver – The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with subsection 4.7; users submitting baseline monitoring reports under subsection 6.1(b)(v); users submitting reports on compliance with the categorical pretreatment standard deadlines under subsection 6.3; and users submitting periodic compliance reports required by subsection 6.4. The following certification statement must be signed by an authorized representative of the user:

I certify that this document and all attachments were prepared under my direction or (C) supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. [language deleted] (C)

- (b) A facility determined by the Company to be a NSCIU must annually submit the following certification statement signed an authorized representative of the user. This certification must accompany an alternative report required by the Company:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR_____, I certify that, to the best of my knowledge and belief that during the period from_____,_____to_____,_____ [months, days, year]:

- (a) *The facility described as_____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section A of the rules and regulations specified in Pennsylvania-American Water Company's Wastewater Tariff; and*
- (b) *The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and*
- (c) *The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.*

This compliance certification is based on the following information:

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

7 FEES AND CHARGES

The following fees and charges are billed on a quarterly basis. (C)

7.1 General Fees.

- (a) IWDP Application Fee: \$1,000.00.
- (b) IWDP Transfer/Modification/Renewal Fee: \$250.00.
- (c) Facility Inspection Fee: \$250.00 per inspection.
- (d) Monitoring Report Review Fee: \$250.00 per monitoring report.
- (e) Sampling and Analysis Fee:
 - (i) For use of outside services, actual cost of sampling and laboratory analysis plus 25% to cover administrative costs.
 - (ii) For use of in-house services:

Analytical Procedure/Service	Cost
Sample processing	\$12.00
Sampling, composite	\$40.00
Sampling, grab	\$25.00
Ammonia as N	\$20.00
BOD5	\$20.00
Metals digestion	\$16.00
Metals analysis	\$17.00
pH	\$6.00
Phosphorus as P	\$9.00
Total Suspended Solids	\$5.00

- (f) Accidental Discharge, Slug Control, and/or Monitoring Fee: Actual cost of response to accidental discharges or discharges of slugs loads, including but not limited to the costs incurred for any additional treatment or other actions required to manage such discharges, monitor and respond to such discharges, correct any resulting contamination or other impacts to the treatment works.
- (g) Compliance and Enforcement Fee: Administrative and Legal: Actual cost incurred by the Company for investigation and actions to address a user's non-compliance with the terms of these rules or any IWDP.
- (h) Damage Repair: Actual cost for cleaning, repair, replacement or correction of any damage to the treatment works caused or contributed to by a user's discharge.

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

7.2 Specific Fees

- (a) An Industrial Loading Fee shall apply on a quarterly basis to discharges with concentrations above typical domestic sewage concentrations up to but not exceeding any applicable local limit or IWDP limit, based on sampling and analysis required to be reported by the user under an IWDP and any composite sampling and analysis conducted by the Company, as follows:

Industrial Loading Fee = $[Pollutant\ Removal\ Cost\ (\$/lb.) \times Total\ Quarterly\ Flow\ (MG) \times 8.34 \times Measured\ Pollutant\ Concentration\ (mg/L)]$ minus $[Pollutant\ Removal\ Cost\ (\$/lb.) \times Total\ Quarterly\ Flow\ (MG) \times 8.34 \times Typical\ Domestic\ Pollutant\ Concentration\ (mg/L)]$

Typical Domestic Pollutant Concentrations are as follows:

BOD5 = 300 mg/L

NH3-N = 30 mg/L

TSS = 300 mg/L

TN = 40 mg/L

TP = 10 mg/L

Pollutant removal costs are specified in Section U of this tariff for each wastewater system. An Industrial Loading Fee will be calculated, based on the formula above, for each pollutant for which a removal cost is specified in Section U for the applicable system. Total Quarterly Flow shall be as measured by the user or the Company. **Measured pollutant concentration will be the quarterly average of all samples collected by the user and the Company.** **(C)**

An Industrial Loading Fee also may apply when total quarterly flow, as measured by the user or by the Company, exceeds total permitted quarterly flow, even if pollutant concentrations do not exceed the pollutant concentrations expected in typical domestic sewage. In such circumstances, the Industrial Loading Fee shall be calculated as follows for each pollutant for which a removal cost is specified in Section U for the applicable system:

Industrial Loading Fee = $[Pollutant\ Removal\ Cost\ (\$/lb.) \times Total\ Quarterly\ Flow\ (MG) \times 8.34 \times Measured\ Pollutant\ Concentration\ (mg/L)]$ minus $[Pollutant\ Removal\ Cost\ (\$/lb.) \times Total\ Permitted\ Quarterly\ Flow\ (MG) \times 8.34 \times Typical\ Domestic\ Pollutant\ Concentration\ (mg/L)]$

(C) means Change

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

- (b) Excess Loading Fee: If, in any quarter, the **average** loading **or concentration** of a pollutant for **(C)** Which a removal cost is specified in Section U of this tariff exceeds a local limit or IWDP limit, then for the applicable parameter, in calculating the Industrial Loading Fee under subsection 7.2(a) of this Section T, the pollutant removal cost applicable to the total loading of that parameter will be 125% of the value set forth in Section U to compensate for the additional administrative, oversight and management costs associated with managing such excessive loadings. Users are exempt from Excess Loading Fees during the period of any compliance schedule established in the user's Individual Wastewater Discharge Permit. This exemption from Excess Loading Fees applies to Excess Loading Fees for all pollutants, unless otherwise provided by the IWDP.
- (c) A Special Discharge Fee shall apply to discharges with loadings or concentrations that exceed a local limit or IWDP limit and that impact sludge handling or disposal methods and costs, necessitate acquisition of nutrient credits, result in damage to the facility, cause a violation of the facility's NPDES Permit, or require extraordinary measures. The Special Discharge Fee shall be equal to the actual cost incurred by the Company, including but not limited to: (1) additional costs of managing impacted sludge (including costs related to use of alternative disposal facilities, additional monitoring, etc.), (2) costs of acquiring nutrient credits to meet NPDES Permit cap limits; (3) costs of repairs to and restoration of the treatment works, (4) costs associated with enforcement by DEP or EPA, including civil penalties or other liabilities; and (5) costs of implementing any other measures required to control, manage and address such excessive loadings or concentrations.

7.3 Administration.

- (a) If a user wishes to dispute the calculation of any fees assessed by the Company, it shall appeal to the Company, in writing, identifying the fees subject to dispute and the reason(s) they are disputed. The Company, acting in a timely manner with the direct involvement of a Vice President, will review the appeal and other pertinent information and determine if any adjustment to the fee is warranted and so advise the user. In the event that a user is not satisfied with the Company's determination on its appeal, the user may seek appropriate relief from the Commission.
- (b) All fees shall be payable by the industrial user within forty-five (45) days of notification, or the industrial user will be subject to such enforcement action deemed appropriate by the Company, including, but not limited to, termination of service and a revocation of the IWDP.
- (c) Fees may be modified or amended as the Company deems necessary, subject to review and approval by the Commission.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

8 COMPLIANCE

8.1 Right of Entry: Inspection and Sampling

- (a) In addition to the rights afforded by Section L of this tariff, and without limiting such rights in any way, the Company shall have the right to enter the premises of any user at all reasonable times to inspect the facility, perform sampling, review and copy of records, and take other actions necessary to determine whether the user is complying with all requirements of these rules and any individual wastewater discharge permit or compliance directive issued hereunder.
- (b) The Company will sample and analyze the discharge of each significant industrial user holding an IWDP at least once per year, the costs of which shall be borne by the user.
- (c) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Company shall be permitted to enter without delay for the purposes of performing specific responsibilities. The user shall inform the Company of any applicable safety procedures that the Company must follow in any area, or with respect to any process, that is the subject of inspection, evaluation or other action by the Company.
- (d) The Company shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling or metering of the user's operations. Sampling shall be conducted pursuant to approved EPA methods or guidance, where applicable.
- (e) The Company may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least one per year, and more frequently if necessary, to ensure their accuracy.
- (f) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the user at the written or verbal request of the Company and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (g) Unreasonable delays in allowing the Company access to the user's premises shall be a violation of these rules.

8.2 Confidential Information

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the Company's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Company that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state or federal law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR §2.302, shall not be recognized as confidential information and shall be available to the public without restriction.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

9 ADMINISTRATIVE ENFORCEMENT REMEDIES

9.1 General

Users of the Company's treatment works are obligated to comply with applicable provisions of these rules, pretreatment standards, and the terms and conditions of permits issued by the Company. Failure to comply with these requirements may lead to suspension or termination of service, permit revocation, assessment of costs, and/or legal action. In determining what enforcement remedies are appropriate, the Company, in its discretion, may consider the nature and extent of the violation, the harm or threat of harm presented by the discharge, the compliance history of the user, and whether the user is in "significant noncompliance" as defined by 40 CFR §403.8(f)(2)(viii)(A)-(H), among other factors.

9.2 Emergency Response

- (a) The Company may immediately suspend a user's discharge or the individual wastewater discharge permit of any user, upon notice to the user, whenever such suspension is necessary, in the opinion of the Company, in order to stop an actual or threatened discharge which presents or reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or the environment, causes or contributes to interference or pass through, causes or contributes to a violation of any condition of the Company's NPDES permit, or threatens to interfere with the operation of the treatment works.
- (b) Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge to the treatment works. In the event of a user's failure to immediately comply voluntarily with the suspension notice, the Company may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the treatment works, its receiving stream, or endangerment to any individuals or the environment.
- (c) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the Company describing the causes of the harmful discharge and the measures taken to prevent any future occurrence. The detailed written statement shall be submitted to the Company within five (5) days of the first date of the occurrence.
- (d) The Company may reinstate the IWDP or the wastewater treatment service, and allow the user to recommence its discharge, upon demonstration by the user to the satisfaction of the Company that the non-complying discharge has been eliminated and that the period of endangerment has passed.

9.3 Notice of Violation

When the Company finds that a user has violated, or continues to violate, any provision of these rules, the terms and conditions of an individual wastewater discharge permit, a compliance or cessation directive issued hereunder, or any pretreatment standard or requirement, the Company may deliver to that user a written notice of violation stating the nature of the violation(s). Within the timeframe set forth in such notice, the user shall submit to the Company an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific remedial actions. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt the notice. Nothing in this section shall limit the authority of the Company to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section T- Wastewater Control and Industrial Pretreatment Regulations (cont'd)

(C)

9.4 Compliance Directives

When the Company finds that a user has violated, or continues to violate, any provision of these rules, an individual wastewater discharge permit, a compliance or cessation directive issued hereunder, or any pretreatment standard or requirement, the Company may issue a compliance directive to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance directives also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance directive may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance directive relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance directive shall not be a bar against, or a prerequisite for, taking any other action against the user.

9.5 Cessation Directives

- (a) When the Company finds that a user has violated, or continues to violate, any provision of these rules, an individual wastewater discharge permit, a compliance or cessation directive issued hereunder, or any pretreatment standard or requirement, or that the user's past violations are likely to recur, the Company may issue a directive to the user directing it to cease and desist all such violations and directing the user to:
 - (i) Immediately comply with all requirements; and
 - (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- (b) Issuance of a cessation directive shall not be a bar against, or a prerequisite for, taking any other action against the user.

9.6 Referral to the DEP

When the Company finds that the Industrial user has failed or is failing to meet categorical pretreatment standards applicable under these rules or an individual wastewater discharge permit, the Company may report the user to the DEP and recommend that the DEP require that the user obtain an individual NPDES permit to authorize its discharge.

10 JUDICIAL ENFORCEMENT REMEDIES

10.1 Injunctive Relief and Civil Actions

When the Company finds that a user has violated, or continues to violate, any provision of these rules, an individual wastewater discharge permit, a compliance or cessation directive issued hereunder, or any pretreatment standard or requirement, the Company may petition the Court of Common Pleas in the county in which the user is located for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the IWDP, directive, or other requirement imposed by these rules. The Company also may seek such other action as is appropriate for legal or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive or other judicial relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

10.2 Remedies Nonexclusive

The remedies provided for in these rules are not exclusive and the Company may take any, all, or any combination of actions against a noncompliant user. As a general policy, however, the Company will seek to resolve compliance matters informally with a user before pursuing formal enforcement proceedings.

(C) means Change

RULES AND REGULATIONS

Section U- Industrial Pretreatment Program - Pollutant Removal Costs

This Section U applies to industrial and commercial customers served under the rate zones identified below within the Company's service territory. All such customers shall comply with the Industrial Pretreatment Program ("IPP") made available on the Company's website, and as may be amended by the Company or the Pennsylvania Department of Environmental Protection from time to time. Such customers shall be responsible for the charges and fees set forth in subsection 7 of Section T of the rules and regulations of this tariff related to the implementation, administration, and enforcement of the IPP, including fees and charges for the additional costs for treatment of wastewaters with excess loadings and characteristics. These fees are separate from and in addition to all other rates chargeable by the Company under this tariff.

The "Pollutant Removal Costs" identified in subsection 7.2(a) of Section T of the rules and regulations of this tariff applicable to each rate zone shall be as specified below. These "Pollutant Removal Costs" shall be utilized in the calculation of Industrial Loading Fees and Excess Loading Fees in accordance with subsection 7.2(a) and (b) of Section T.

1 Coatesville District

This Section applies to industrial and commercial customers served under Rate Zone 1 of this tariff and by the Coatesville treatment plant.

Pollutant Removal Costs:

BOD5 Removal Cost = \$0.35/lb.	(I)
NH3-N Removal Cost = N/A	
TN Removal Cost = \$1.08/lb.	
TP Removal Cost = \$2.32/lb.	
TSS Removal Cost = \$0.19/lb.	

2 Exeter Area

This Section applies to industrial and commercial customers served under Rate Zone 1 of this tariff and by the Exeter treatment plant.

Pollutant Removal Costs:

BOD5 Removal Cost = \$0.24/lb.
NH3-N Removal Cost = \$0.97/lb.
TN Removal Cost = N/A
TP Removal Cost = N/A
TSS Removal Cost = \$0.31/lb.

(I) means Increase

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section U- Industrial Pretreatment Program - Pollutant Removal Costs (cont'd) (C)

3 Franklin Township Area

This Section applies to industrial and commercial customers served under **Rate Zone 1** of this tariff and by the Franklin treatment plant. (C)

Pollutant Removal Costs:

BOD5 Removal Cost = \$0.30/lb.
NH3-N Removal Cost = \$1.25/lb.
TN Removal Cost = N/A
TP Removal Cost = N/A
TSS Removal Cost = \$0.30/lb.

4 McKeesport Area

This Section applies to industrial and commercial customers served under Rate Zone 6 of this tariff and by the McKeesport treatment plant.

Pollutant Removal Costs:

BOD5 Removal Cost = \$0.30/lb.
NH3-N Removal Cost = N/A
TN Removal Cost = N/A
TP Removal Cost = N/A
TSS Removal Cost = \$0.30/lb.

5 Royersford Area

This Section applies to industrial and commercial customers served under **Rate Zone 9** of this tariff and by the Royersford treatment plant. (C)

Pollutant Removal Costs:

BOD5 Removal Cost = \$0.30/lb.
NH3-N Removal Cost = N/A
TN Removal Cost = N/A
TP Removal Cost = N/A
TSS Removal Cost = \$0.30/lb.

6 Scranton Area

This Section applies to industrial and commercial customers served under **Rate Zone 3** of this tariff and by the Scranton treatment plant. (C)

Pollutant Removal Costs:

BOD5 Removal Cost = \$0.30/lb.
NH3-N Removal Cost = N/A
TN Removal Cost = \$1.25/lb.
TP Removal Cost = \$3.25/lb.
TSS Removal Cost = \$0.30/lb.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section U- Industrial Pretreatment Program - Pollutant Removal Costs (cont'd)

(C)

7 York Area

This Section applies to industrial and commercial customers served under Rate Zone 7 of this tariff and by the York treatment plant.

Pollutant Removal Costs:

BOD5 Removal Cost = \$0.26/lb.
NH3-N Removal Cost = \$0.78/lb.
TN Removal Cost = N/A
TP Removal Cost = \$2.61/lb.
TSS Removal Cost = \$0.43/lb.

8 All Other Areas

This Section applies to industrial and commercial customers in areas not addressed by subsections 1 - 7 of this Section U, above. In any such area, the pollutant removal costs below shall apply, based on the type of treatment provided, pending completion of a cost evaluation specific to the treatment plant serving the subject area and amendment of this Section U to establish system-specific pollutant removal costs for such area.

Pollutant removal costs for treatment plants with advanced nutrient removal:

BOD5 Removal Cost = \$0.30/lb.
NH3-N Removal Cost = N/A
TN Removal Cost = \$1.25/lb.
TP Removal Cost = \$3.25/lb.
TSS Removal Cost = \$0.30/lb.

Pollutant removal costs for treatment plants with nitrification:

BOD5 Removal Cost = \$0.30/lb.
NH3-N Removal Cost = \$1.25/lb.
TN Removal Cost = N/A
TP Removal Cost = N/A
TSS Removal Cost = \$0.30/lb.

Pollutant removal costs for treatment plants with secondary treatment:

BOD5 Removal Cost = \$0.30/lb.
NH3-N Removal Cost = N/A
TN Removal Cost = N/A
TP Removal Cost = N/A
TSS Removal Cost = \$0.30/lb.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section V - Wastewater Control and Protection of Collection Systems

(C)

1. APPLICABILITY

This Section V establishes uniform requirements applicable to users of wastewater collection and conveyance services provided by the Company and the nature of wastes acceptable for discharge into the Company's wastewater collection and conveyance facilities, either directly or indirectly, where the Company provides collection and conveyance services only and the wastewater is treated at a wastewater treatment plant owned or operated by a municipality, municipal authority, other public utility or other party.

2. REQUIREMENTS

2.1. Compliance and Cooperation with Treatment Plant Operator and Host Municipality

In circumstances where the Company provides wastewater collection and conveyance services but not wastewater treatment services within a service territory:

- (a) All users shall comply with all rules, regulations and requirements established by the treatment plant operator and/or the host municipality, including but not limited to requirements specifying prohibited discharges, assuring compliance with applicable pretreatment standards and discharge limitations, providing for user permitting, and assessing administrative and pollutant loading fees with respect to wastewaters that are not composed entirely of sanitary sewage.
- (b) The Company will cooperate with the treatment plant operator and the host municipality with respect to the implementation of the rules, regulations and requirements adopted by either or both of them by providing reasonable access to the Company's collection and conveyance facilities within the service territory for purposes of inspection and sampling.

2.2. Compliance with Section T of this Tariff

Users of wastewater collection and conveyance services provided by the Company in service territories where the Company does not provide wastewater treatment services shall be subject to and comply with all portions of Section T of this tariff relevant to the protection of the Company's collection and conveyance facilities, the Company's personnel, and the general public, including but not limited to requirements set forth in subsections 2 (General Sewer Use Requirements), 3 (Pretreatment of Wastewater), 8 (Compliance), 9 (Administrative Enforcement Remedies), and 10 (Judicial Enforcement Remedies). (The term "treatment works," as defined in Section A and used throughout Section T of this tariff, includes the Company's wastewater collection and conveyance facilities.)

2.3. Prohibited Discharges

No user shall introduce or cause to be introduced into the Company's collection and conveyance facilities any substance, pollutant or wastewater which may cause an obstruction to the flow in the sewer system, corrosion or other damage to the treatment works, interference or pass-through, or a hazard to the Company's personnel or the general public.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section W - Regulation of Waste Received from Other Jurisdictions

(C)

1. APPLICABILITY

This Section W sets forth uniform requirements applicable to the receipt of wastewater from a municipality or other entity on a bulk service basis.

2. REQUIREMENTS

2.1. Bulk Service Agreement

- (a) If the Company receives or intends to receive wastewater from a municipality or other entity on a bulk service basis, the Company shall enter into a bulk service agreement with the contributing municipality or entity, subject to the approval of the Commission.
- (b) Prior to entering into a bulk service agreement, as provided in paragraph (a), the Company shall request the following information from the contributing municipality or entity:
 - (i) A description of the quality and volume of wastewater discharged or to be discharged to the treatment works by the contributing municipality or entity, as well as the number of customers served;
 - (ii) An inventory of all industrial users located within the contributing area that are or will be discharging, directly or indirectly, to the treatment works, including the volume and nature of such discharges and existing permits and pretreatment control requirements; and
 - (iii) Such other information as the Company may deem necessary.
- (c) A bulk service agreement, as provided in paragraph (a), shall contain the following conditions:
 - (i) A requirement for the contributing municipality or entity to adopt a sewer use ordinance or rules which are at least as stringent as the requirements of Section T of this tariff and local limits at least as stringent as specified in the Company's IPP. The requirement shall specify that such ordinance or rules shall be revised as necessary to reflect changes made to Section T or local limits.
 - (ii) A requirement for the contributing municipality or entity to submit a revised user inventory on at least an annual basis.
 - (iii) A provision specifying which pretreatment implementation activities, including permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality or entity; which of these activities will be conducted by the Company; and which of these activities will be conducted jointly by the contributing municipality or entity and the Company.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section W - Regulation of Waste Received from Other Jurisdictions (cont'd)

(C)

- (iv) A requirement for the contributing municipality or entity to provide the Company with access to all information that the contributing municipality or entity obtains as part of its pretreatment activities.
- (v) Limits on the nature, quality, and volume of the contributing municipality's or entity's wastewater at the point where it discharges to the treatment works.
- (vi) Requirements for monitoring the discharge by the contributing municipality or entity.
- (vii) A provision ensuring the Company access to the facilities of users located within the jurisdictional boundaries of the contributing municipality or entity for the purpose of inspection, sampling, and any other duties deemed necessary by the Company.

A provision specifying remedies available for breach of the terms of the bulk service agreement.

2.2. Expansion of Service Territory

In circumstances where a bulk service agreement provides that the Company will implement its pretreatment program with respect to an industrial user contributing to the bulk service flow, the Company shall seek approval of the Commission to expand its service territory to include the industrial user facility. In such circumstances, the industrial user shall be subject to the requirements of this tariff and the Company's IPP to the same extent as an industrial user discharging directly to the Company's treatment works.

(C) means Change