

COMMONWEALTH OF PENNSYLVANIA



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November 10, 2025

**Via Electronic Filing**

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

Re: Pennsylvania Public Utility Commission  
v.  
The York Water Company

Docket Nos. R-2025-3053442 (W)  
R-2025-3053573 (WW)

Dear Secretary Homsher:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Brief in the above-referenced proceeding.

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

Respectively,

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Enclosures

cc: Administrative Law Judge John M. Coogan (jcoogan@pa.gov)  
Administrative Law Judge Emily A. Farren (efarren@pa.gov)  
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :  
 :  
 v. : Docket Nos. R-2025-3053442 (W)  
 : R-2025-3053573 (WW)  
 The York Water Company :  
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I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Reply Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 10<sup>th</sup> day of November, 2025.

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Dated: November 10, 2025

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2025-3053442 (Water)
	:	R-2025-3053573 (Wastewater)
York Water Company	:	
	:	

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REPLY BRIEF  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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## **I. INTRODUCTION**

In accordance with the procedural schedule established in this proceeding, before the Honorable Presiding Officers Judge John M. Coogan and Judge Emily A. Farren and the Pennsylvania Public Utility Commission (Commission), the Office of Consumer Advocate (OCA) now submits this Reply Brief in opposition to York Water Company's (York Water's or the Company's) proposed cost of service study (COSS) and revenue allocation in the above captioned rate proceeding.

### **A. Description of the Office of Consumer Advocate**

The Office of Consumer Advocate (OCA) is a statutory advocate with the authority and duty to represent the interest of consumers as a party before the Commission in public utility rate requests.<sup>1</sup> The OCA's interest in this case is to ensure that utility consumers - who ultimately pay the revenue requirement to the utility - are paying no more than is necessary to ensure that public utility service remains adequate, reliable, and safe while allowing the utility to have the opportunity to recover its prudently incurred costs and earn a fair rate of return on its investments.

### **B. Procedural History**

The OCA incorporates by reference the Procedural History section of its Main Brief and now addresses only procedural developments that extend beyond those already identified.<sup>2</sup> On October 29, 2025, the OCA, the Company, the Commission's Bureau of Investigation and Enforcement (I&E), and the Office of Small Business Advocate (OSBA) submitted the Joint Petition for Unanimous Partial Settlement and accompanying Statements in Support (Settlement). Also on October 29, 2025, the OCA, the Company, I&E, and the OSBA submitted Main Briefs in this proceeding. In this Reply Brief, the OCA responds to the arguments made by the Company

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<sup>1</sup> 71 P.S. § 309-4.

<sup>2</sup> OCA M.B. at 1-3.

regarding the allocation of the agreed-upon revenue increase for York Water's water division contained in the Settlement. The OCA also rebuts the argument raised by OSBA regarding its support for York Water's position.

**C. Legal Standards**

The OCA incorporates the Legal Standards portion of its Main Brief as if fully set forth herein.<sup>3</sup>

**II. SUMMARY OF REPLY ARGUMENT**

The Commission should adopt the OCA's recommended cost of service study (COSS) for the purposes of allocating the agreed-upon Partial Settlement revenue increase for York Water's water division. The COSS proposed by York Water in this rate proceeding is based off of old data that is not reflective of how customer classes utilize the system in the present day and therefore the Commission should give little weight to the Company's proposed COSS. If the agreed upon revenue requirement increase in the Partial Settlement were allocated in accordance with the results of York Water's COSS, the rates established would be unjust and unreasonable because the costs to serve each customer class would be inaccurate and imbalanced. The residential customer class would be subsidizing the commercial and industrial classes instead of moving towards its cost of service. In sum, York Water failed to meet its burden of proof that its revenue allocation proposal, which is based on its deficient COSS, would result in just and reasonable rates and, therefore, the Commission should give the Company's proposal little weight.

By contrast, OCA witness Mierzwa's recommended modifications to the Company's COSS would accurately represent the customer classes' true cost for utilizing its system by measuring each customer classes' usage based off of recent data and usage patterns instead of the

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<sup>3</sup> OCA M.B. at 3-9.

stale data relied upon by York Water. The Commission should utilize the OCA's recommended modifications to the Company's COSS for the purposes of revenue allocation because no other COSS or revenue allocation proposal would result in just and reasonable rates. The OCA respectfully requests the Commission also approve the Joint Petition for Partial Settlement and adopt the Joint Petition for Partial Settlement without modification. The Settlement is the result of significant compromise among the OCA, OSBA, I&E, and the Company, is within the range of reasonable results which the parties could expect from litigation, is in the public interest, and would result in just and reasonable rates.

### **III. ARGUMENT**

#### **A. Overall Position on Rate Increase**

The OCA incorporates the Overall Position on Rate Increase portion of its Main Brief as if fully set forth herein.<sup>4</sup>

#### **B. Revenue Allocation**

##### **1. Introduction**

As fully explained by the OCA in its Main Brief, York Water did not meet its burden of proof to support the adoption of its cost of service study (COSS) or revenue allocation proposal.<sup>5</sup>

The following issues are disputed by the parties:

- Whether the OCA's system wide maximum day and maximum hour demand factors should be utilized in York Water's COSS because the OCA's demand factors are the only figures based off of the Company's recent customer usage, unlike the Company's demand factors which are based on usage data from 15 to 20 years ago;
- Whether the customer specific maximum day and maximum demand factors developed by the OCA's expert witness utilizing recent customer usage data and a method proscribed by an industry recognized manual are appropriate for this proceeding.

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<sup>4</sup> OCA M.B. at 3-9.

<sup>5</sup> OCA M.B. at 13-31.

The OCA respectfully requests that the Commission answer both issue statements in the affirmative. The importance of an accurate COSS cannot be understated because the accuracy of a COSS will determine whether the allocation of costs to delineated among the customer classes reflect their cost causation.<sup>6</sup> The COSS put forth by the Company does not use recent data and utilizes demand factors for its customer classes that were developed from a demand study from the 1970s.<sup>7</sup> The Company's use of stale data means that its proposed COSS cannot be relied on to properly determine the indicated cost of service for the various customer classes.

## **2. Water Class Cost of Service Study**

### **a. York Water described criteria for a quality COSS in its Main Brief, but failed to meet its own standard.**

In its Main Brief, the Company requested that the Commission accept the base-extra capacity method as a reasonable COSS methodology.<sup>8</sup> No party contested the use of the base-extra capacity method.<sup>9</sup> However, the inputs to the Company's proposed base-extra capacity COSS are the subject of dispute. Namely, the Company's use of stale and unrepresentative data to calculate class-specific and systemwide maximum day and maximum hour demand factors makes the results of its proposed COSS – regardless of the usage of the base-extra capacity method – unreasonable.

As explained in more detail *infra*<sup>10</sup>, the Company's narrow focus on the methodology employed in the COSS does not explain its use of unrepresentative data and does not make its

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<sup>6</sup> OCA St. 4 at 16 (Citing Principles of Public Utility Rates, Second Edition, James C. Bonbright, Albert L. Danielsen, David R. Kamerschen; Public Utility Reports, Inc., 1988, pages 383-384.); Lloyd v. Pa. PUC, 904 A. 2d 1010, 1020 (Pa. Cmwlth. 2006).

<sup>7</sup> OCA St. 4 at 10-11.

<sup>8</sup> York Water M.B. at 15.

<sup>9</sup> *Id.*

<sup>10</sup> While in the OCA's Main Brief, the OCA addressed the necessary modifications to the Company's COSS in Section III.B.2, the Company addressed all aspects of its COSS other than the use of base-extra capacity method in Section III.B.3 of its Main Brief and, as a result, the OCA addresses the contested data inputs to the Company's proposed COSS below.

proposed COSS *per se* reasonable for the purposes of revenue allocation. Rather, the OCA's proposed modifications to the Company's COSS are necessary to ensure that the base-extra capacity methodology employed by York Water is applied correctly with accurate and up-to-date demand data as the methodology alone is insufficient for use in revenue allocation. In its Main Brief, the Company claimed to comply with the principles of cost causation using the base-extra capacity method, but compliance cannot be met if the quality of the data is unreliable.<sup>11</sup> Therefore, the Commission should grant little weight to the Company's proposed COSS which includes inaccurate data for the effective rate period and, instead, adopt the OCA's proposed modifications to York Water's COSS.

**b. York Water does not defend its use of stale data in its COSS and resulting unreasonable revenue allocation.**

York Water describes the difference between it and the OCA's position on the demand factors required to complete a COSS for its system, but does not offer an underlying foundation to support its position regarding the use of old data, particularly in light of the OCA's data which uses recent system usage patterns.<sup>12</sup> In its Main Brief regarding the maximum day and maximum hour ratios, York writes:

Regarding the systemwide extra capacity factors, York Water used the maximum day ratio of 1.52 experienced during 2010. This is the highest ratio recorded on the system as well as the highest peak day usage on the system. While Mr. Mierzwa proposes to use system maximum day data from the last 10 years or the ratio of 1.43 (experienced in 2024), he *erroneously assumes that because the historic maximum peak used by the Company is older than the one that he proposes that it should not be used*. Similarly, Mr. Mierzwa proposes to use the system maximum hour data from 2016 or 2017 of 1.65, ignoring the maximum hour ratio from 2006 of 1.84 used by York Water (emphasis added).<sup>13</sup>

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<sup>11</sup> York Water M.B. at 15.

<sup>12</sup> York Water M.B. at 16-19; OCA St. 4 at 11.

<sup>13</sup> York Water M.B. at 18.

The Company states Mr. Mierzwa's position is an "erroneous assumption," but does not point to evidence of error. Furthermore, what the Company describes as an "erroneous assumption" is, in actuality, a validated outcome from an industry-recognized method for developing demand factors for a water utility.<sup>14</sup> The error lies in the Company's reliance on unrepresentative data.

While the Company described how the system is designed to provide water during peak periods over many years, not just the peak period over the past 10 years., York Water confuses the issue before the Commission.<sup>15</sup> What is at issue is that the Company is requesting the Commission allocate revenue in this proceeding based off of snapshots that occurred 15, 20 and 50 years ago, without any justification.<sup>16</sup> The OCA on the other hand, used recent data from customers' current usage, to determine representative peaking factors.<sup>17</sup> In its Main Brief, OSBA wrote that its witness, Roger Cathcart, testified that a fully updated demand study is necessary for preserving the accuracy of a COSS using the base-extra capacity method and customer class revenue allocation.<sup>18</sup> I&E does not dispute the validity of the OCA's proposal, as it does not support or oppose the use of the OCA's COSS.<sup>19</sup> The Company is the only party actively arguing that because these peak periods occurred one time, those events are determinative for the system's use for all time without underlying support.<sup>20</sup> Mr. Mierzwa demonstrated in his Direct Testimony that even when all parties agree on the use of the base-extra method for developing a COSS, the results can be starkly different if incorrect data is used in the study.<sup>21</sup>

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<sup>14</sup> See OCA St. 4 at 10-14.

<sup>15</sup> York Water M.B. at 19.

<sup>16</sup> OCA St. 4SR at 1-2.

<sup>17</sup> *Id.*

<sup>18</sup> OSBA M.B. at 5.

<sup>19</sup> I&E M.B. at 5-6.

<sup>20</sup> York Water M.B. at 19.

<sup>21</sup> OCA St. 4 at 15, Table 3; *Id.* at 17, Table 4.

**c. York Water relied on evidence not relevant to this proceeding further proving that it does not have facts or evidence to demonstrate its COSS and revenue allocation is just and reasonable.**

In its Main Brief, York Water confronts the fact that using outdated class specific maximum day and maximum demand factors is not ideal by stating that the reason the Company does not have more recent data “is not the Company’s fault.”<sup>22</sup> This position further demonstrates the evidence in the record offered by the Company falls short of meeting its burden of proof to show that its COSS and revenue allocation are just and reasonable. Furthermore, whether or not it is “the Company’s fault” is not relevant to the adequacy of York Water’s proposed COSS. The Company claims that, following rate cases in the early 90s and mid 2000s, no parties were interested in the Company performing a new demand study, and, therefore, it opted to continue relying on its demand study from the 1970s.<sup>23</sup> Even if the Company performed demand studies in connection with the two rate proceedings it references, those results would be approximately 20 to 30 years old and outdated for this rate proceeding.<sup>24</sup>

In its Main Brief, the Company misrepresented OCA witness Mierzwa’s disagreement with the Company’s class-specific demand factors.<sup>25</sup> In its Main Brief, the OCA pointed out that by using the maximum day extra capacity factor of 2.5 for the residential class, the maximum day demands of the commercial and industrial customer classes would be out of balance.<sup>26</sup> Specifically, if the Company’s maximum day factor for Residential customers is accepted, then the commercial and industrial customer classes’ maximum day demand would be less than the average demand.<sup>27</sup> The Company erroneously said this comparison means that, “the total flow using noncoincident

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<sup>22</sup> York Water M.B. 19-20.

<sup>23</sup> *Id.* at 20.

<sup>24</sup> OCA St. 4SR at 3.

<sup>25</sup> York Water M.B. at 20.

<sup>26</sup> OCA M.B. at 20-21; OCA St. 4SR at 5.

<sup>27</sup> *Id.*; OCA St. 4SR at 5.

demand factors, by definition, would be higher than the coincident maximum day and maximum hour system-wide flow.”<sup>28</sup> Mr. Mierzwa’s conclusion is not pointing to the total demand, but the total demand of the Commercial and Industrial Classes; it is unlikely that the maximum day demands would be less than the average demands for York Water’s commercial and industrial customer classes.<sup>29</sup>

In its Main Brief, the Company argues that Mr. Mierzwa is comparing “apples and oranges” by comparing residential maximum day and maximum hour flows from 2024 to its historic peak from 2010 and 2006.<sup>30</sup> The Company restates the formula for developing its maximum day and maximum hour demand factors, followed by another conclusory statement calling the OCA’s method flawed.<sup>31</sup> But the Company fails to justify using stale demand factors based on historic usage rather than recent usage patterns and system averages, like the OCA.

In accordance with the American Water Works Association’s Manual, M1, Principles of Water Rates, Fees, and Charges (“AWWA Manual”), development of demand factors should be based off a “representative number of recent years.”<sup>32</sup> Mr. Mierzwa developed his recommended modifications to the Company’s COSS utilizing data from the past 10 years, a period of time which meets that definition.<sup>33</sup> The Company’s use of 15- to 20-year-old data in its COSS to calculate systemwide maximum day and maximum hour extra capacity factors does not reflect usage within a representative number of years.<sup>34</sup> The systemwide maximum day ratio recommended by Mr. Mierzwa, by contrast, occurred in 2024 and the systemwide maximum hour ratio occurred in

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<sup>28</sup> York Water M.B. at 20.

<sup>29</sup> OCA M.B. at 20-21; OCA St. SR at 5.

<sup>30</sup> York Water M.B. at 21.

<sup>31</sup> *Id.*

<sup>32</sup> OCA M.B. at 18.; OCA St. 4SR at 2

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

2017.<sup>35</sup> Cost of service is a forward-looking exercise; over-reliance on stale data diminishes the accuracy of a COSS and inaccurately reflects cost causation on York Water's system.<sup>36</sup>

**d. The OCA used an industry recognized standard to develop its class-specific and systemwide demand factors, the Company did not and relied on stale data.**

Residential customers would be paying more than their cost of service under class-specific maximum day and maximum hour demand factors developed by York Water using outdated information, according to OCA witness Mierzwa's analysis.<sup>37</sup> To develop class-specific maximum day and maximum hour demand figures that reflect current usage of York Water's system, Mr. Mierzwa utilized the method in Appendix A of the AWWA Manual to calculate his recommended demand factors.<sup>38</sup> York Water attempted to diminish the method that Mr. Mierzwa to develop his COSS by saying it should only be used when a formal demand study is not available.<sup>39</sup> There is no evidence to conclude that the AWWA Manual's Appendix A method is not consistent with standard industry practice – if it were not, it would not be in the manual – even if it isn't consistent with Mr. Herbert's preference.<sup>40</sup> Additionally, it is the same AWWA Manual that describes and is relied upon for the base-extra capacity method in York Water's proposed COSS<sup>41</sup> and as-filed customer charge.<sup>42</sup>

OCA witness Mierzwa pointed out in his testimony that Mr. Herbert was the cost allocation and rate design company witness for a recent Veolia Water Rhode Island, Inc. rate proceeding.<sup>43</sup> In that case, Mr. Herbert used the AWWA Manual's Appendix A to determine the maximum day

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<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> OCA St. 4 at 14.

<sup>38</sup> *Id.* at 11-12.

<sup>39</sup> York Water M.B. at 19.

<sup>40</sup> York Water St. 107-R at 7.

<sup>41</sup> York Water M.B. at 15.

<sup>42</sup> York Water St. 107-R at 10.

<sup>43</sup> OCA St. 4SR at 6.

and maximum hour extra capacity demand factors.<sup>44</sup> If the AWWA Manual Appendix A were not a legitimate method for developing customer specific and system wide demand factors, then York Water's witness would not have used them in a recent case. While Mr. Herbert testified that he used the AWWA Manual method because a formal demand study was not available,<sup>45</sup> using a demand study from nearly half a century ago in this proceeding diminishes the reliability of such a report that it one might as well not exist at all.

Mr. Mierzwa also used the AWWA Manual to develop systemwide maximum day and maximum hour demand factors by examining the highest systemwide factor experienced over the past decade. According to Mr. Mierzwa, "[T]he AWWA Manual presents a procedure that can be used to develop customer demand factors from system demand data and customer billing records . . . This will provide for the development of customer demand factors which are based on recent data and the current usage characteristics of York's customers."<sup>46</sup> Based on the results of Mr. Mierzwa's analysis, he recommends that York Water's COSS be modified to use a maximum day demand factor of 1.43 and a maximum hour demand factor of 1.65.<sup>47</sup>

In sum, York Water embraced the AWWA M1 Manual when it developed its cost of service study, revenue allocation, and rate design when the results produced an outcome acceptable to the Company, but argued it is improper to use the same manual when it produced results that it disagreed with.

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<sup>44</sup> *Id.*

<sup>45</sup> York Water M.B. at 19.

<sup>46</sup> OCA St. 4 at 11.

<sup>47</sup> *Id.*

### C. Revenue Allocation

#### a. OSBA and I&E do not put forward any arguments in favor of York Water utilizing old data further demonstrating the Company should use the OCA's modified COSS

In its Main Brief, I&E submitted that it does not support or oppose the OCA's proposed COSS and recommended a proportional scale back of rates based on the COSS ultimately approved by the Commission.<sup>48</sup> OCA respectfully requests that the Commission set aside this position on the grounds this "either or" approach erroneously flattens the arguments put forth by OCA and York Water. OCA witness Mierzwa said in rebuttal testimony that the OCA's COSS should be used in this proceeding and that the Company's is fundamentally flawed:

[T]he water rates proposed by York in this proceeding are based on a cost of service study that is outdated and not reflective of the current usage characteristics of York's customers. Therefore, the costs of service study submitted by York should not be used to determine class revenue allocations in this proceeding.<sup>49</sup>

I&E made no definitive statement that the Company's class-specific and systemwide demand factors are reasonable; rather, they merely proposed no modifications to the Company's COSS due to the lack of data with which to replace the Company's outdated demand factors. Despite I&E's ambivalence, the Company has not met its burden of proof demonstrating that its COSS and proposed allocation is just and reasonable whereas the OCA not only has demonstrated that York Water has not met its burden, the OCA provided an alternative COSS molded after the Company's but includes accurate data.

In its Main Brief, the OSBA proposed that the Commission adopt the Company's revenue allocation utilizing the Company's COSS. However, the OSBA also advocated for a Commission Order directing York Water to perform a new demand study. This middle-of-the-road approach

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<sup>48</sup> I&E M.B. at 5-6.

<sup>49</sup> OCA St. 4R at 7.

does not work because the OSBA’s brief affirms the OCA’s position that York Water’s reliance on an outdated demand study lacks credibility. The OSBA advocacy for a Commission Order directing York Water to conduct a new demand study undercuts its own argument for why the Commission should adopt the Company’s COSS and revenue allocation.<sup>50</sup> OSBA included a statement in its brief that OCA’s witness developed its demand factors on one year of data that benefits the residential class.<sup>51</sup> This characterization is not accurate. Mr. Mierzwa explained in his direct testimony that the AWWA Manual Appendix A method prescribes that users utilize the highest ratio of system maximum day to system average day demand for a representative number of recent years.<sup>52</sup> To develop the class specific demand factors accordingly, Mr. Mierzwa examined annual system demand and monthly customer billing records for the most recent three year period for which data was available provided by York and developed customer demand factors for each of those years.<sup>53</sup> The AWWA Manual advises that users should use the year with the highest ratio of system maximum day to system average day demand for a representative number of recent years.<sup>54</sup> Mr. Mierzwa made note that the specific customer demand factors would not be much different if any three years within the past 10 years was used in this analysis.<sup>55</sup> Therefore, for Mr. Mierzwa to arrive at his class specific demand factors, he relied on several models. Furthermore, OSBA emphasizing that one of the results from the OCA’s COSS “benefits” the residential class draws attention to the fact using York Water’s COSS will carry negative implications for residential ratepayers by moving its customer class away from its cost of service, contrary to law.<sup>56</sup> The OCA’s method for developing system-wide and class specific demand

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<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> OCA St. 4 at 12.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Lloyd v. Pa. PUC*, 904 A. 2d 1010, 1020 (Pa. Cmwlth. 2006).

factors eliminates class cross-subsidization by analyzing more recent data and therefore should be adopted and the OSBA's statement disregarded.

**D. Summary and Alternatives**

Nothing offered in the Company's Main Brief leads to the conclusion that York Water met its burden of proof regarding the adoption of its COSS or revenue allocation, therefore the Commission should adopt the Company's proposal. In contrast, the OCA advocates for the adoption of its alternative COSS that modifies the Company's study in a way that will result in just and reasonable rates. The OCA's COSS accurately reflect York Water's customers' system utilization by using customer-specific and systemwide demand data from a more representative period of time – the past decade – to calculate the indicated cost of service. The Company in its main brief did not provide evidence that justified using data that is 15-, 20-, and 50-year-old to determine customers' indicated cost of service. Instead, the Company offered conclusory statements and arguments not relevant to the issues at hand, which is not supportive evidence that demonstrates that York Water met its burden of proof to support adoption of its COSS or proposed revenue allocation. The OCA's recommendation should be adopted because it would result in just and reasonable rates.

#### IV. CONCLUSION

For the reasons set forth in the OCA's Main Brief and in this Reply Brief, York Water has not met its burden of demonstrating its COSS and revenue allocation are just and reasonable. The OCA respectfully requests that the Commission reject the Company's cost of service study, approve the OCA's modified cost of service study, and allocate the Settlement increase in revenues for the Company's water operations among its customer classes in accordance with the OCA's recommendation based on its modifications to the Company's cost of service study. In addition to adoption of the OCA's COSS and revenue allocation, the OCA respectfully requests the Commission approve the Joint Petition for Partial Settlement and adopt the Joint Petition for Partial Settlement without modification. The Settlement is the result of significant compromise among the OCA, OSBA, I&E, and the Company, is within the range of reasonable results which the parties could expect from litigation, is in the public interest, and would result in just and reasonable rates.

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Respectfully Submitted,

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