

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2025-3054393
Office of Consumer Advocate	:	C-2025-3055106
Office of Small Business Advocate	:	C-2025-3055189
	:	
v.	:	
	:	
Valley Energy, Inc.	:	

RECOMMENDED DECISION

Before
Mary D. Long
Administrative Law Judge

INTRODUCTION

This decision recommends approval of the Joint Petition for Settlement. The Joint Petition will permit Valley Energy, Inc. to increase its annual revenue by approximately \$1.1 million. Under the terms of the settlement an average residential bill including current supply charges for a customer using 76 Ccf/month will increase 12.2%, instead of 18% as the Company originally proposed. On the whole, the settlement is in the public interest and should be approved without modification.

The suspension deadline is January 29, 2026, and the last reasonable public meeting before the deadline is January 15, 2026.

HISTORY OF THE PROCEEDINGS

On April 30, 2025, Valley Energy, Inc. (Valley Energy or Company) filed proposed Supplement No. 69 to Tarriff Gas Pa. P.U.C. No. 2, containing proposed changes in rates, rules, and regulations calculated to produce \$1.6 million (19%) in additional annual revenues, an increase in residential customer's bills using 76 Ccf/month from \$66.81 to \$78.84/month (18%), to become effective June 29, 2025.

On May 7, 2025, the Bureau of Investigation and Enforcement (I&E) entered a Notice of Appearance.

On May 12, 2025, and May 14, 2025, the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA), respectively, filed Formal Complaints to the rate filing.

By order entered on May 22, 2025, the Commission suspended the proposed tariff until January 29, 2026, and directed an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the rate filing.

By notice dated May 22, 2025, this matter was assigned to me and scheduled for a prehearing conference on June 3, 2025. I served a prehearing conference order the same day, which directed the Parties wishing to actively participate in the litigation of the proceedings to file prehearing conference memoranda on or before June 2, 2025.

On June 2, 2025, Wellsboro Electric Company, along with Valley Energy, Inc. and Citizens' Electric Company of Lewisburg, PA moved to consolidate the proceedings with Valley Energy's¹ and Citizens'² 2025 Base Rate Filings.

The Prehearing Conference was convened as scheduled. Counsel for the Company, I&E, OCA, and OSBA appeared.

I granted the Company's request to consolidate the base rate cases of Citizens' Electric Company of Lewisburg, PA,³ Wellsboro Electric Company⁴ and Valley Energy for the purposes of discovery and litigation. However, I stated that each rate request must be supported by its own record.

At the Prehearing Conference, the Parties agreed to a schedule for the exchange of written testimony and for evidentiary hearings. I denied OCA's request for public input hearings.

The Company filed a Motion for a Protective Order on June 20, 2025. I granted the motion on July 1, 2025.

The evidentiary hearing was convened on September 4, 2025. Counsel for each of the Parties appeared. The Parties notified me that they had reached a settlement in principle and that all Parties had agreed to waive cross-examination of all witnesses. Each party offered written testimony and exhibits which were admitted into the record without objection.

¹ R-2025-4054393.

² R-2025-4054394.

³ R-2025-3054393.

⁴ R-2025-3054392.

On September 9, 2025, I issued an interim order which set forth the requirements for the filing of the petition for settlement and statements in support.

On October 17, 2025, the Parties filed a Joint Petition for Settlement and Statements in Support. In accordance with the September 9, 2025, Interim Order, the record closed on October 28, 2025.

PUBLIC INPUT HEARINGS

By letter dated July 17, 2025, the Chairman of the Commission directed the scheduling of public input hearings. Accordingly, by notice dated July 23, 2025, two telephone public input hearings were scheduled for August 19, 2025, and two in-person hearings were scheduled in Wellsboro, Pennsylvania on August 21, 2025. As instructed, the Company published notice of the hearings in a newspaper of general circulation, the *Daily Review* and the *Morning Times*, on August 7, and August 14, 2025.

No witnesses testified regarding the rate filing of Valley Energy.

LEGAL STANDARDS

The purpose of this investigation is to establish rates for Valley Energy's customers that are just and reasonable pursuant to Section 1301 of the Public Utility Code.⁵ Section 1301(a) of the Code requires “[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.”⁶ Pursuant to the just and reasonable standard, a utility may obtain a rate that allows it to recover those expenses that are

⁵ 66 Pa.C.S. § 1301.

⁶ 66 Pa.C.S. § 1301(a).

reasonably necessary to provide service to its customers, as well as a reasonable rate of return on its investment.⁷ There is no single way to arrive at just and reasonable rates. The Commission has broad discretion in determining whether rates are reasonable and to decide what factors it will consider in setting or evaluating a utility's rates.⁸

The Commission encourages parties in contested on-the-record proceedings to settle cases.⁹ The Commission has explained that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest.¹⁰ To approve a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest.¹¹ The Commission has concluded that settlements eliminate the time, effort, and expense of litigating a matter to its ultimate conclusion, which may entail review of the Commission's decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails. For a unanimous settlement, the Joint Petitioners share the burden of proving that the terms and conditions of the Settlement are supported by substantial evidence and are in the public interest.¹²

⁷ *City of Lancaster Sewer Fund v. Pa. Pub. Util. Comm'n*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002).

⁸ *Pa. Pub. Util. Comm'n v. City of Bethlehem - Water Dep't*, Docket No. R-2020-3020256 (Opinion and Order entered Apr. 15, 2021) (*City of Bethlehem*) (citing *Popowsky v. Pa. Pub. Util. Comm'n*, 683 A.2d 958 (Pa. Cmwlth. 1996); *see also Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d 808 (Pa. 1995) (The Commission possesses a great deal of flexibility in its ratemaking function.).

⁹ *See* 52 Pa. Code § 5.231.

¹⁰ *Pa. Pub. Util. Comm'n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013).

¹¹ *Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Gas Div.*, Docket No. R-2015-2518438 (Opinion and Order entered Oct. 14, 2016); *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).

¹² *City of Bethlehem*, at 13.

This Settlement is a “black box” settlement. This means that the Settlement does not specifically address each of the adjustments to rate base, revenue, expenses, or rate of return, nor does the Settlement resolve all of the disputes related to those items. The Commission has approved “black box” settlements in contentious base rate proceedings:

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.^[13]

According to the Parties, the Joint Petition for Settlement meets the legal standards for the approval of a settlement in this base rate proceeding.

DESCRIPTION OF THE SETTLEMENT

All Parties support the Settlement as a whole. Not every Party addressed every element of the Settlement in their Statements in Support. Nor did every Party

¹³ *Pa. Pub. Util. Comm’n v. Peoples TWP, LLC*, Docket No. R-2013-2355886 (Opinion and Order entered Dec. 19, 2013).

provide a specific reason for supporting each settlement term. To the extent a Party provided a specific reason for supporting the settlement, those reasons are discussed below.¹⁴

The Joint Petition for Settlement (Joint Petition or Settlement) includes the terms and conditions agreed to by Valley Energy, I&E, OCA and OSBA. The Joint Petition also includes an inventory of all testimony and exhibits that were admitted into the record. Attached to the Joint Petition are Table A (Summary of Rates – Present, Originally Proposed and Proposed Settlement); Appendix A (Summary of Proposed Increase to Distribution Revenue); Appendix B (Summary of Present and Proposed Rates); Appendix B1 (Bill Comparisons (including GCR¹⁵ present rate) and Appendix B2 (Bill Comparisons (excluding GCR)). The Parties Statements in Support are attached to the Joint Petition as Appendices C through F.

SETTLEMENT TERMS

The Parties have agreed to the settlement terms as set forth below. These terms are stated verbatim and for ease of reference retain the same paragraph numbers as they appear in the Settlement.

14. The Parties agree to a stipulated increase in the Company's annual revenue requirement of \$1,105,000, which is an approximately 17% increase in the Company's distribution revenues at present rates, using a FPFTY ending December 31, 2026. The rate increases may be implemented by the Company via a compliance tariff effective on one day's notice that is in compliance with the Commission's final order entered in this proceeding. Table A includes the current,

¹⁴ Paragraphs 19 and 26 of the Joint Petition are not discussed because those terms speak for the themselves and, in my view, do not significantly contribute to the value of the Settlement.

¹⁵ Gas Cost Rate.

originally proposed, and stipulated rates that result from this settlement.

15. The Company will normalize rate case expense over three years. No unamortized rate case expense will be claimed in rate base in the settlement rates.

16. The Parties agree that the Pennsylvania Corporate Net Income ("CNI") Tax rate in this proceeding will be set at 7.49%. The Company will reflect the actual CNI tax rates for the post-2026 tax years through the State Tax Adjustment Surcharge and via future base rate proceedings.

17. The Company's revenue requirement does not include costs for one-time credit card payments, which will continue to be the responsibility of the customers who use this bill payment option.

18. The Company's Utility Plant balances for the FPFTY and FTY are accepted as filed for purposes of the post-test year reporting agreed to in Paragraph 25 and any subsequent request to implement a Distribution System Improvement Charge ("DSIC").

19. Except as provided above, the revisions to the proposed revenue requirement shall not otherwise be ascribed to any specific proposed adjustment or position of any Party.

20. The Company's revenue requirement increase will be allocated among the Company's rate classes in accordance with the allocation methodology set forth in Appendix A to this Settlement. The distribution rates and bill comparisons for each class are set forth in Appendices B, B1, and B2.

21. The Company will implement a Residential ("Rate R") Customer Charge of \$13.80 per month, approximately a 12% increase from the existing \$12.35 monthly charge. The Company will also implement a Commercial Rate ("Rate C") Customer Charge of \$25.00 per month, approximately a 14% increase from the existing \$21.95 monthly charge.

22. The Company will memorialize written internal operating procedures that provide applicants with the ability

to explore, in conjunction with the request for the deposit, whether the applicant may qualify for a waiver due to the household income and train its customer service representative employees based on the written procedures.

23. The Company will establish tracking of payment plans that includes the following possible resolutions of the payment arrangements: Completed—by Customer; Completed—Third-party Payment; Renegotiated—Change in Income; Renegotiated—Other (including voluntary company renegotiation); Abandoned by Customer (e.g., moved out of territory, etc.); and Not Completed—Termination Pursued.

24. The Company will establish written internal operating procedures addressing how Federal Poverty Income Guideline ("FPIG") ranges are used, what verification is needed for low-income verification, and how payments and terms are calculated.

25. The Company will provide OCA, I&E, and OSBA an update to Company Exhibit __ (HSG-1), Schedule C3 no later than April 1, 2026, which should include actual plant additions and retirements by month for the year ending December 31, 2025. An additional update will be provided for actual plant additions and retirements through December 31, 2026, no later than April 1, 2027. These updates will be filed under the docket number of this proceeding.

26. The Company will include the following information about OSBA.

a. Information about OSBA will be included in a newsletter or bill insert at least once per year, with the first communication occurring by June 1, 2026.

b. Information about the OSBA will be added to the Company website with a hyperlink.

The Settlement also included the following terms and conditions:

27. This Settlement is conditioned upon the Commission's approval of terms and conditions contained herein without modification. If the Commission modifies the Settlement, any Party may elect to withdraw from this Settlement and may proceed with litigation, and, in such event, this Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon the other Parties within five (5) business days after the entry of an order modifying the Settlement.

28. The Settlement is proposed by the Parties to settle all issues in the instant proceeding and is made without any admission against, or prejudice to, any position that any Party may adopt during any subsequent litigation of this proceeding or any other proceeding.

29. If the ALJ adopts the Settlement without modification, the Parties waive their rights to file exceptions and reply to exceptions.

30. If the Commission does not approve the Settlement, and the proceeding continues to further hearings, the Parties reserve their respective rights to present testimony and to conduct full cross-examination, briefing, and argument.

31. The Commission's approval of this Settlement shall not be construed to represent approval of any Party's position on any issue.

32. It is understood and agreed among the Parties that this Settlement is the result of compromises and does not necessarily represent the position(s) that would be advanced by any Party if this proceeding were fully litigated.

DISCUSSION OF THE SETTLEMENT

All of the Parties support the Settlement as a whole. Not every Party addressed every element of the Settlement in their Statements in Support. The discussion below includes a summary of the Parties' position, to the extent there is any specific reason for supporting a settlement term in the Party's Statement in Support.

REVENUE REQUIREMENT

A. Revenue Increase

The Parties agree to a stipulated increase in the Company's annual revenue requirement of \$1,105,000, effective on one day's notice. Valley Energy's original filing requested an increase of approximately \$1,626,000 per year and its Rebuttal filing requested an increase of approximately \$1,286,000 per year. For a Residential customer using 76 Ccf/month, the proposed original, rebuttal and settlement rates represented increases in distribution bills (excluding GCR) of 29.66%, 23.44%, and 20.14% respectively. The corresponding total distribution bill increases (including GCR) are 18.0%, 14.22%, and 12.22%. The corresponding monthly distribution bill increase amounts are \$17.62, \$9.50 and \$8.16.¹⁶

The Company explains that since Valley Energy's last base rate increase in January 2023, Valley Energy has continued to systematically replace its aging distribution infrastructure. These projects include replacing troubled vintage plastic pipelines and service lines, installing relief stations to reduce over-pressurization on portions of the territory served by low-pressure systems, and undertaking normal maintenance and repair actions on the system.¹⁷ Additionally, Valley Energy has completely eliminated cast iron and bare steel mains from its system, which increases safety and reliability. Valley Energy is completing the replacement of troubled Aldyl-A vintage plastic pipelines and service lines, and projects to fully replace these within three to five years.¹⁸ By the end of 2026, the Company will have invested over \$5 million in

¹⁶ See Valley Energy St. 1, Exhibit (HSG-1), Schedules B5-1, B5-2; Valley Energy St. 1-R, Exhibit (HSG-1R), Schedules B5-1, B5-2; Appendices B1, B2.

¹⁷ See Statement of Reasons at 3; Valley Energy St. 4 at 4-5; Valley Energy St. 1, Exhibit (HSG-1), Schedules C1-6, WP2_B.

¹⁸ See Valley Energy St. 4 at 5.

new utility facilities and replacements in comparison to the investment that is reflected in current rates.¹⁹ Valley Energy also prepares periodic Distribution Management Integrity Plans ("DIMPs") which provide a systematic approach for maintaining the reliability of the system and inform the Company's annual capital plans.²⁰ Finally, Valley Energy's Operations and Maintenance ("O&M") costs are over \$450,000 higher for the FPFTY when compared to the last rate case.²¹

Accordingly, Valley Energy supports the proposed distribution rates because they will promote the continued provision of safe and reliable service by ensuring that Valley Energy will have an opportunity to earn a fair and reasonable return on the resources invested in the distribution system. Valley Energy will be able to continue its capital investment in system improvements, as well as the current maintenance and replacement policies that have resulted in very safe, adequate, and reliable service for customers.²² The new rates will also enhance Valley Energy's ability to obtain capital, when necessary, to fund major system improvement projects that may be necessary in the future.

According to Valley Energy, this amount will permit the Company, in the short term, to cope with the enhanced business and financial risks discussed by witness Dylan D'Ascendis that exist due to the Company's size, operational characteristics, and

¹⁹ See St. of Reasons at 4.

²⁰ See Valley Energy St. 4 at 4-5.

²¹ See St. of Reasons at 4.

²² See Valley Energy St. 4 at 7-11. Witness Rogers discusses multiple factors that contribute to high company performance, including a low number of customer complaints, favorable customer feedback, high responsiveness to emergency calls, successful grant funding for an expansion project in East Athens, low lost and unaccounted for gas, new technology adoption, and completing replacement of all cast iron and bare-steel mains, and most vintage plastic mains, without assessing a Distribution System Improvement Charge.

credit obligations.²³ Although Valley Energy believes that, if this proceeding were fully litigated, the Commission would find that the Company is entitled to all or a substantial portion of the fully requested rate increase as calculated and supported by witness Howard Gorman in his Rebuttal Testimony, in the interest of avoiding the expense and uncertainty of continued litigation in this matter, Valley Energy has agreed to accept an annual revenue increase in the amount of \$1,105,000. The compromise will also moderate the impact of the revenue increase upon the rates charged to Valley Energy customers.

I&E concurs. In her direct testimony, I&E witness Christine Wilson recommended a rate increase of \$1,212,076 based on adjustments made to Valley Energy's operating and maintenance (O&M) expense, cash working capital, rate base, and rate of return claims.⁵ In her surrebuttal testimony, she recommended a rate increase of \$1,085,803, based on the Company's updated request presented in rebuttal testimony.⁶ The \$1.105 million rate increase represents a compromise among the Joint Petitioners' proposals and I&E submits the Settlement is in the public interest.

OCA also contends that the Settlement is in the public interest. Specifically, OCA notes that pursuant to the Settlement, Valley Energy will be permitted to increase annual operating revenues by \$1.1 million, an approximately 17% increase over annual distribution revenues at present rates.²⁴ The agreed-upon rate increase is \$521,122 less than Valley Energy's as-filed request. OCA submits that the Settlement revenue requirement increase provides sufficient funds for Valley Energy to provide and maintain adequate, efficient, safe, and reasonable service and facilities while ensuring that customers pay no more than is necessary for the same. Based on OCA's analysis of Valley Energy's filing, discovery responses received, testimony filed, and the other terms

²³ See Joint St. 2 at 10–13, 47-51.

²⁴ Settlement ¶ 14.

contained in the Settlement, the revenue increase under the Settlement represents a result that is within the range of likely outcomes in the event of full litigation of the case. As a result, this provision of the Settlement is supported by substantial evidence in the record and consistent with the requirement that rates be just and reasonable.

OCA notes that when viewed as a whole, the Settlement includes important customer service enhancements explained herein that might not otherwise be achieved through litigating this case. The revenue requirement increase in the Settlement, when accompanied by other important conditions in the Settlement, yields a result that serves the public interest. Thus, the Commission should approve it without modification.

B. Rate Case Expense

The Company will normalize rate case expense over three years. No unamortized rate case expense will be claimed in rate base in the settlement rates. This settlement provision balances concerns raised by I&E concerning amortized rate case expense while preserving an opportunity for Valley Energy to recover its actual rate case expense over time.²⁵

I&E witness Wilson, based on the result of Valley Energy's 2019 rate case, accepted the Company's proposed 36-month (3-year) period but recommended that rate case expense be normalized rather than amortized. Wilson's recommendation is reasonable due to rate case expense being an ongoing expense that recurs at irregular intervals and is well supported by Commission precedent.⁸ As such, I&E supports this term as being in the public interest.

²⁵ See I&E St. 1 at 7-9.

OCA witness Mr. Meyer supported I&E witness Ms. Wilson’s argument to normalize the rate case expense, rather than amortizing it as Valley Energy had initially proposed.²⁶ But unlike Ms. Wilson, who proposed a 60-month normalization period, Mr. Meyer supported a three-year period based on Valley Energy’s two recent rate case filings.²⁷ Mr. Meyer noted that equal recovery over a multi-year period reflects the proper ratemaking principle, and he posited that the multi-year period in this case should be three years.²⁸

Valley Energy also initially requested rate base treatment for the unamortized rate case expense balance.²⁹ Ms. Wilson proposed excluding the unamortized rate case expense from the rate base, due to its nature as an operating expense.³⁰ Mr. Meyer emphasized Ms. Wilson’s testimony, underscoring that the rate case expense constitutes one of a utility’s normal operating expenses.³¹ Because the rate case expense is an operating expense, Mr. Meyer noted that its inclusion in the rate base would allow Valley Energy’s shareholders to profit unjustly from this standard, recurring expense.³² Thus, this settlement provision reasonably serves the public interest, and the Commission should approve it without modification.

C. Income Tax Payments

Based on the Pennsylvania General Assembly’s enactment of a phased reduction of CNI Tax in 2022, the CNI Tax rate decreases by 0.5% each year.³³ The

²⁶ OCA St. 1-R at 5-6; I&E St. 1 at 8-9.

²⁷ OCA St. 1-R at 6.

²⁸ OCA St. 1-R.

²⁹ OCA St. 1-R.

³⁰ I&E St. 1 at 13.

³¹ *See* OCA St. 1-R at 6.

³² *See* OCA St. 1-R at 6.

³³ OSBA St. 1 at 5.

Company initially used a 9.99% CNI Tax rate, even though the rate will have decreased to 7.49% throughout 2026.³⁴ OCA witness Mr. Meyer agreed with I&E and OSBA's testimony regarding the statutorily defined tax rate, and he incorporated the correct 7.49% rate into his revenue requirement calculation.³⁵ Paragraph 16 reflects the accurate 7.49% rate. Thus, this settlement provision reasonably serves the public interest, and the Commission should approve it without modification.

D. Credit Card Payment Fees

OCA Witness LeeAnn Wise recommended that the Company remove the \$3.95 fee associated with making online payments through the web-based application called SmartHub and instead absorb the fees as an administrative expense.³⁶ Valley Energy does not assess a fee for customers who pay using checks, money orders, or bank transfers—only for customers who pay by credit or debit cards through SmartHub.³⁷ Ms. Wise testified that punishing a normal payment method unreasonably burdens that payment method and thereby harms customers, especially low-income customers.³⁸

In Rebuttal testimony, Valley Energy witness Edward Rogers responded that customers have many free payment options, some customers receive rewards for using their credit cards, and other household services sometimes require credit card payment fees. Additionally, Mr. Rogers commented that at Valley Energy's office and three strategically located banks, customers can pay with cash. To illustrate the possible consequences of eliminating the fee, Mr. Rogers used the example of a New York gas utility that eliminated credit card fees, which led to a 53% increase in credit card

³⁴ *Id.* (citing Valley Energy St. 1 at 15).

³⁵ *Id.*

³⁶ OCA St. 4 at 4-7.

³⁷ *Id.* at 5.

³⁸ *Id.* at 5-6.

payments. He testified that Valley Energy’s costs from credit card payments would increase due to fee elimination, and would exceed OCA’s adjustment based on fee collection.³⁹

Ms. Wise countered that the fee-free payment options Mr. Rogers relied on also carry administrative and operational costs—but the Company absorbs those. This results in an unfair disadvantage for users of a convenient, modern payment option, she emphasized. Furthermore, she noted several examples of Pennsylvania utilities that had eliminated various card payment fees. While she acknowledged that eliminating the fee would likely increase usage, she highlighted that the Company had not provided any evidence that the costs from this increased usage would outweigh the benefits to customers—including vulnerable, low-income customers.⁴⁰

Although Ms. Wise made cogent arguments against the fee, the Settling Parties recognized that Valley Energy was not ready to eliminate the fee in this particular rate case. Viewing the settlement as a whole, OCA agrees that this provision reasonably serves the public interest in this rate case, and the Commission should approve it without modification.

While the Parties all support the Settlement as a whole, OCA is the only Party that explained its support for this settlement term.

E. Utility Plant Balance

In this proceeding, OCA’s expert witnesses did not dispute or adjust downward the Company’s Utility Plant balances for the FPFTY and FTY. This provision

³⁹ Valley Energy St. 4-R at 12.

⁴⁰ OCA St. 4-SR at 5-7.

establishes the base level of plant investment that must be realized before any incremental expenditures can be recovered through the DSIC. OCA submits that this provision provides clarity with regard to the implementation of a DSIC and affords protection for ratepayers that the DSIC will not begin until after the FPPTY and the plant investment noted in the settlement are reached.

REVENUE ALLOCATION AND RATE DESIGN

A. Customer Charges

Valley Energy proposed to increase residential customer charges from \$12.35 to \$14.00 and commercial customer charges from \$21.95 to \$25.00 per monthly bill.⁴¹ In the Settlement, the Parties agreed to a residential customer charge of \$12.35 and a commercial customer charge of \$25.00 per month. The Company asserts that the Settlement customer charges balance the affordability concerns raised by OCA with the cost-of-service positions raised by the Company.⁴²

I&E notes that no cost-of-service study was provided in this case, but I&E views the Settlement to be within the range of reasonable outcomes that would result from full litigation of this case. Ultimately, the customer charges demonstrate a compromise of the interests of the parties, and this term is thus supported by I&E as being in the public interest.

OCA supports the residential customer charge. Initially, OCA witness Deupree recommended that the Commission reject Valley Energy's proposed increase in customer charges because Valley Energy had no cost basis for the proposed charge. Mr.

⁴¹ Valley Energy St. 1 at 25, 30.

⁴² See I&E St.3 at 9; OCA St. 3 at 3-10; *see also* Valley Energy St. 1-R at 8-9.

Deupree also recommended that if the Commission accepted the customer charges, it should cap them at no more than the overall system average increase.⁴³ In rebuttal testimony, Valley Energy witness Mr. Gorman disputed Mr. Deupree's contention that Valley Energy's proposed residential and commercial customer charges exceeded averages among a peer group of regional utilities, including a \$13.79 regional average for residential customers and a \$22.65 average for commercial customers. Mr. Gorman claimed that the higher rates accounted for future rate uncertainty and are consistent with a peer group of Pennsylvania utilities.⁴⁴

Mr. Deupree maintained his conclusions and recommendations in his surrebuttal testimony.⁴⁵ The settlement reflects the \$13.79 average from Mr. Deupree's testimony because it proposes a customer charge of \$13.80, which is an increase of around 12%. The increase to the commercial charge reflects a similar percentage increase of around 12%. According to the Company, these increases are reasonable and in the public interest because they reflect the average customer charges of a peer group of regional gas utilities, thereby balancing the need of customers for affordable service and control over high bills, with Valley Energy's interest in increasing rates and mitigating price risk.⁴⁶

B. Revenue Allocation

In the Settlement, the Parties agreed that the Company's revenue requirement increase will be allocated among the Company's rate classes in accordance

⁴³ OCA St. 3 at 11.

⁴⁴ Valley Energy St. 1-R at 5, 8-9.

⁴⁵ OCA St. 3-SR at 1-3.

⁴⁶ *See* OCA St. 3 at 4-5.

with the allocation methodology set forth in Appendix A to the Joint Petition. The distribution rates for each class are set forth in Appendix B to the Joint Petition.

In his direct testimony, Valley Energy witness Mr. Gorman proposed a proportionate distribution increase across rate classes.⁴⁷ OCA witness Mr. Deupree reviewed and accepted as reasonable Valley Energy's proposed allocation, considering Valley Energy's lack of a cost basis in this or prior proceedings.⁴⁸

I&E states that the agreed upon rate structure and rate design represents a compromise among the Joint Petitioners' proposals and is supported by I&E as being in the public interest. OCA also takes the position that this proportionate distribution ensures that no one customer class bears an overly burdensome proportion of Valley Energy's rate increase.⁴⁹ Thus, according to the Parties, the proposed revenue allocation reasonably furthers the public interest and should be approved without modification.

CUSTOMER ISSUES

A. Security Deposit

OCA witness LeeAnn Wise recognized that Valley Energy does verify income prior to charging a security deposit, and that it uses Federal Poverty Level guidelines to determine income levels. Ms. Wise stated that Valley Energy, however, did not show that it has formal written procedures to support income verification prior to charging a security deposit, where a low-income customer may qualify for a waiver.

⁴⁷ See Valley Energy St. 1 at 4, 159.

⁴⁸ OCA St. 3 at 3.

⁴⁹ *Id.*

Thus, Ms. Wise recommended that Valley Energy implement performance metrics and documented policies, as well as improved communications with low-income customers.⁵⁰

Valley Energy witness Jamie Beale responded that Valley Energy did not think that it needed such policies and procedures. Valley Energy's existing training and informal management of its customer service representative team sufficiently addressed its customer service problems, in its view.⁵¹ In response, Ms. Wise reiterated the importance of formal, written procedures to ensure clarity, uniformity, and consistency. She also emphasized the importance of performance metrics in achieving equity, accountability, and transparency for customers facing financial hardships.⁵²

The Parties agreed that the Company would memorialize internal operating procedures in writing. According to OCA, the Settlement effectuates Ms. Wise's testimony because it requires written procedures and training for Valley Energy's customer representatives. The procedures and training ensure that eligible customers facing financial hardships have the opportunity and necessary information to seek a deposit waiver. This outcome promotes justice by ensuring that those most in need have access to relief that helps them to avoid financial hardship.

B. Payment Arrangements

OCA witness Wise recognized Valley Energy's existing payment plans based on Federal Poverty Income guidelines, but she identified areas for improvement in those plans. Ms. Wise commented that Valley Energy does not track the success of its payment arrangements in terms of customer outcomes, and instead merely monitors for customer compliance and sends notification of upcoming payments. Performance

⁵⁰ OCA St. 4 at 8-9.

⁵¹ Valley Energy St. 5R at 7-8.

⁵² OCA St. 4SR at 1-3.

metrics and ongoing analysis, by contrast, would allow Valley Energy to determine whether the plans are achieving their intended goals effectively. Therefore, Ms. Wise recommended that Valley Energy implement written plan policies with internal controls, separated by income levels. She also recommended ongoing evaluation of payment agreement outcomes to improve program success.⁵³

In response, Valley Energy witness Ms. Beale testified that their small customer service team effectively addresses payment plan issues through informal training and processes. Additionally, she mentioned that Valley Energy follows Commission Chapter 14 guidelines that are no longer legally required, and that Valley Energy is proud of its efforts to try to connect customers to available resources to ensure that their service remains active.⁵⁴

In the Settlement, Valley Energy also agreed to implement tracking protocols and to establish written procedures for payment arrangements. OCA takes the position that the Settlement effectuates Ms. Wise's testimony because it requires written policies that track performance based on defined processes and outcomes. This outcome promotes justice by ensuring that Valley Energy appropriately tracks and improves its payment plan processes to ensure that the plans effectuate their purpose to help customers in need.

POST-CASE REPORTING

In the Settlement, Valley Energy agreed to provide the statutory advocates with reports updating the Company's plant additions and retirements. I&E supports this provision, which is consistent with the recommendation of I&E witness Sakaya,⁵⁵ as

⁵³ OCA St. 4 at 9-11.

⁵⁴ Valley Energy St. 5-R at 8.

⁵⁵ I&E St. 3-SR at 2-3.

being in the public interest because this data will allow the Commission and the parties to better gauge the accuracy of Valley Energy's projected investments in future proceedings. OCA agrees, observing that the settlement term provides accountability and transparency regarding the implementation of Valley Energy's projected investments to ensure their alignment with actual investments that enter service.

RECOMMENDATION

I agree with the Parties that the Joint Petition for Settlement is a reasonable resolution of the Parties' disputes regarding Valley Energy's initial rate filing. The Settlement represents just and fair compromises of the serious issues raised in this proceeding. After substantial investigation and discovery, the parties have achieved a reasoned accord on a broad array of issues resulting in just and reasonable rates for service rendered by Valley Energy.

Specifically, the reduction in proposed revenue requirement increase, and the reduction in the proposed residential customer charge, along with all of the other terms and conditions of the Settlement together represent a fair and reasonable settlement of this proceeding. Resolution of this proceeding by negotiated settlement removes the uncertainties of litigation. In addition, all Parties obviously benefit by the reduction in rate case expense and the conservation of resources made possible by adoption of the proposed Settlement in lieu of litigation. Acceptance of the Settlement will negate the need for the filing of additional testimony by all parties, participation at in-person hearings, the filing of main and reply briefs, exceptions and reply exceptions, and potential appeals. This savings in rate case expense serves the interests of Valley Energy and its ratepayers, as well as the parties themselves.

Also of note, the Settlement finds support from a range of parties with diverse interests. Each party represents a variety of interests. The Company advocates

on behalf of its corporate interests and shareholders. The Office of Consumer Advocate is tasked with advocacy on behalf of consumers in matters before the Commission.⁵⁶ The Small Business Advocate represents the interests of the Commonwealth's small businesses.⁵⁷ The Bureau of Investigation and Enforcement is tasked with balancing these various interests and concerns on behalf of the general public interest. In their Statements in Support, each of these public advocates assure the Commission that the interests of their respective constituencies have been adequately protected and they assert that the terms of the Settlement are in the public interest.

I therefore recommend approval of the Joint Petition for Settlement without modification.

CONCLUSIONS OF LAW

1. Valley Energy's rates must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301, 1304.

2. 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. Pub. Util. Comm'n*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002).

⁵⁶ Section 904-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 309-4.

⁵⁷ Section 399.45 of the Small Business Advocate Act, Act of December 21, 1988, P.L. 1871, 73 P.S. § 399.45.

3. Utilities have the burden of proving that each element of the rate increase request is just and reasonable. *Univ. of Pa. v. Pa. Pub. Util. Comm'n*, 485 A.2d 1217, 1226 (Pa. Cmwlth. 1984).

4. It is the policy of the Commission to encourage settlements. 52 Pa. Code § 5.231(a).

5. In the Commission's judgment, the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.

6. In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. Windstream Pa., LLC*, Docket No. M-2012-2227108 (Opinion and Order entered Sept. 27, 2012); *Pa. Pub. Util. Comm'n v. C S Water & Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).

7. The rates, terms and conditions of the Joint Petition are just reasonable and in the public interest and satisfy all of the Commission's criteria for approval of a settlement.

ORDER

THEREFORE,

IT IS RECOMMENDED:

