



COMMONWEALTH OF PENNSYLVANIA

October 29, 2025

**E-FILED**

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

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

Dear Secretary Homsher:

Enclosed please find the Main Brief, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceedings.

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

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

Sincerely,

*/s/ Steven C. Gray*

Steven C. Gray  
Senior Attorney  
Assistant Small Business Advocate  
Attorney ID No. 77538

*Enclosures*

cc: Jason Hails  
Roger Cathcart  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**MAIN BRIEF  
ON BEHALF OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE**

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**Steven C. Gray**  
**Senior Attorney**  
**Assistant Small Business Advocate**  
**Attorney I.D. No. 77538**

**For:**  
**NazAarah Sabree**  
**Small Business Advocate**

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

**Date: October 29, 2025**

## **I. INTRODUCTION**

### **A. Description of the Office of Small Business Advocate**

The Office of Small Business Advocate (“OSBA”) is authorized to represent the interests of small business consumers of utility services before the Pennsylvania Public Utility Commission (“Commission”) pursuant to the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50 (“the Act”).

### **B. Procedural History**

On May 30, 2025, the York Water Company, and the York Water Company – Wastewater Division (“York Water” or the “Company”) filed Supplement No. 165 to Tariff Water-Pa. P.U.C. No. 14 and Supplement No. 26 to Tariff Wastewater-Pa. P.U.C. No. 1. York Water originally proposed an annual increase in water service rates of approximately \$20.3 million and proposed an annual increase in wastewater rates of approximately \$3.8 million.

On June 18, 2025, the OSBA filed a complaint in response to the York Water filings.

On July 22, 2025, a telephonic prehearing conference was held before Administrative Law Judge (“ALJ”) John M. Coogan and ALJ Emily A. Farren.

On July 23, 2025, ALJ Coogan and ALJ Farren issued their Prehearing Order #1.

On August 22, 2025, the OSBA served the Direct Testimony of Jason Hails. Also on August 22, 2025, the OSBA served the Direct Testimony of Roger Cathcart.

On October 6, 2025, the OSBA served the Surrebuttal Testimony of Mr. Hails. Also on October 6, 2025, the OSBA served the Surrebuttal Testimony of Mr. Cathcart.

On October 14, 2025, ALJ Coogan and ALJ Farren conducted an evidentiary hearing.

On October 15, 2025, ALJ Coogan and ALJ Farren issued their Briefing and Settlement Order.

The OSBA submits this Main Brief in accordance with the ALJs' October 15<sup>th</sup> Briefing and Settlement Order.

**C. Legal Standards**

Section 1301 of the Public Utility Code<sup>1</sup> provides that “every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.”

The burden of proof to establish the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility.<sup>2</sup> “It is well-established that the evidence adduced by a utility to meet this burden must be substantial.”<sup>3</sup>

Although the burden of proof remains with the public utility throughout the rate proceeding, when a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment.<sup>4</sup> “Section 315(a) of the Code, 66 Pa. C.S. § 315(a), applies since this is a proceeding on Commission Motion. However, after the utility establishes a prima facie case, the burden of going forward or the burden of persuasion shifts to the other parties to rebut the prima facie case.”<sup>5</sup>

Furthermore, Section 523 of the Public Utility Code<sup>6</sup> requires the Commission to “consider . . . the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates.” In exchange for customers paying rates for service, which include the cost of utility plant in service and a rate of return, a public utility is obligated to

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<sup>1</sup> 66 Pa. C.S. § 1301.

<sup>2</sup> 66 Pa. C.S. § 315(a).

<sup>3</sup> *Lower Frederick Township. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).

<sup>4</sup> *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Order entered July 17, 2008).

<sup>5</sup> *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-00061931 (Order entered September 28, 2007), at 12.

<sup>6</sup> 66 Pa. C.S. § 523.

provide safe, adequate, and reasonable service. “[I]n exchange for the utility’s provision of safe, adequate, and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes, and a fair rate of return for the utility’s investors . . . In return for providing safe and adequate service, the utility is entitled to recover, through rates, these enumerated costs.”<sup>7</sup> As a result, the legislature has given the Commission discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds “that the service rendered by the public utility is inadequate.”<sup>8</sup>

## **II. SUMMARY OF ARGUMENT**

The ALJs and the Commission should adopt York Water’s water cost of service study.

The ALJs and the Commission should adopt York Water’s water customer class revenue allocation.

The ALJs and the Commission should reject the demand factor changes proposed by the Office of Consumer Advocate.

## **III. ARGUMENT**

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

The OSBA is not briefing this section.

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

#### **1. Introduction**

The remaining issue in this proceeding, the subject of this litigation, is whether the ALJs and the Commission should select the Company’s water cost of service study, as filed, or to

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<sup>7</sup> *Pa. PUC v. Pennsylvania Gas & Water Co.*, 61 Pa. PUC 409 (1986), at 415-16. *See also* 66 Pa. C.S. § 1501.

<sup>8</sup> 66 Pa. C.S. § 526(a).

accept the modifications to that water cost of service study advocated by the Office of Consumer Advocate (“OCA”).

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

In this proceeding, York Water employed the base-extra capacity methodology in preparing the Company’s water cost of service study (“WCOSS”).<sup>9</sup> Office of Consumer Advocate (“OCA”) witness Jerome D. Mierzwa explained the Company’s WCOSS methodology, as follows:

Under the base-extra capacity method, investment and costs are first classified into four primary functional cost categories: base or average capacity, extra capacity, customer, and fire protection. Once investment and costs are classified to these functional categories, they are allocated to the various customer classes.

OCA Statement No. 4, at 5. Mr. Mierzwa continued, as follows:

I generally agree with York’s use of the base-extra capacity methodology.

OCA Statement No. 4, at 6.

OSBA witness Roger Cathcart also reviewed York Water’s WCOSS.<sup>10</sup> Mr. Cathcart found no methodological or numerical errors in the Company’s WCOSS, and made the following recommendation to the Commission:

Adopt York’s proposed revenue allocation for water service, as it aligns all rate classes with their respective cost-based revenue levels.

OSBA Statement No. 2, at 3.

However, OCA witness Mr. Mierzwa did contest certain metrics employed by York Water in the Company’s WCOSS:

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<sup>9</sup> OCA Statement No. 4, at 5.

<sup>10</sup> OSBA Statement No. 2, at 4-6.

I believe that modifications to the systemwide and customer class specific maximum day and maximum hour extra capacity factors utilized to allocate functionalized costs to the various customer classifications are necessary.

OCA Statement No. 4, at 7.

Specifically, Mr. Mierzwa recommended that the maximum day demand (“MDD”), expressed as a ratio to the average daily demand (“ADD”), and which indicates the highest single-day water usage, be changed.<sup>11</sup> Mr. Mierzwa also recommended that maximum hour demand (“MHD”), also expressed as a ratio to the ADD, and which measures the peak hourly demand, be changed.<sup>12</sup>

To update his MDD and MHD demand factors, Mr. Mierzwa selected a recent three-year period of data provided by York Water. In that three-year period, Mr. Mierzwa selected the June 2024 to May 2025 period, as it had the highest MDD ratio.<sup>13</sup>

### **3. Revenue Allocation**

The resulting revenue allocation, as set forth in Mr. Mierzwa’s Table 2, indicates that the residential class is currently overpaying its cost of service, while small businesses are currently under-paying.<sup>14</sup>

OSBA witness Mr. Cathcart testified that a fully updated and recent demand study is necessary for preserving the accuracy of a base-extra capacity methodology COSS, as well as the resulting customer class revenue allocation.<sup>15</sup>

However, the OSBA respectfully submits that selective reliance on one year of data, that noticeably benefits the residential class, is not a just, reasonable, or sound COSS methodology.

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<sup>11</sup> OSBA Statement No. 2-R, at 2.

<sup>12</sup> OSBA Statement No. 2-R, at 2.

<sup>13</sup> OCA Statement No. 4, at 12.

<sup>14</sup> OCA Statement No. 4, at 14.

<sup>15</sup> OSBA Statement No. 2-R, at 2.

York Water's WCOSS, which has been tested and previously litigated, should not be discarded for untested model changes that have been subject to limited scrutiny. Instead, the OSBA recommends that York Water prepare a current demand study. Such an updated demand study would satisfy the issues raised by both the OCA and the OSBA in this proceeding.

#### **IV. CONCLUSION**

Wherefore, the OSBA respectfully requests that the ALJs and the Commission adopt York Water's water cost of service study, as prepared by the Company, without any demand factor changes proposed by the OCA.

The OSBA also respectfully requests that the ALJs and the Commission adopt the water customer class revenue allocation resulting from the Company's water cost of service study, again without any demand factor changes proposed by the OCA.

Respectfully submitted,

*/s/ Steven C. Gray*

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Dated: October 29, 2025

# APPENDIX A

Proposed Findings of Fact

**Findings of Fact**

- 1) On May 30, 2025, the York Water Company and the York Water Company – Wastewater Division (“York Water” or the “Company”) filed Supplement No. 165 to Tariff Water-Pa. P.U.C. No. 14 and Supplement No. 26 to Tariff Wastewater-Pa. P.U.C. No. 1. York Water originally proposed an annual increase in water service rates of approximately \$20.3 million and proposed an annual increase in wastewater rates of approximately \$3.8 million.
- 2) On June 18, 2025, the Office of Small Business Advocate (“OSBA”) filed a complaint in response to the York Water filings.
- 3) On August 22, 2025, the OSBA served the Direct Testimony of Jason Hails.
- 4) On August 22, 2025, the OSBA served the Direct Testimony of Roger Cathcart.
- 5) On October 6, 2025, the OSBA served the Surrebuttal Testimony of Mr. Hails.
- 6) On October 6, 2025, the OSBA served the Surrebuttal Testimony of Mr. Cathcart.
- 7) In this proceeding, York Water employed the base-extra capacity methodology in preparing the Company’s water cost of service study. OCA Statement No. 4, at 5.
- 8) The Office of Consumer Advocate (“OCA”) agreed with York Water’s use of the base-extra capacity methodology. OCA Statement No. 4, at 6.
- 9) The OCA proposed changes to two demand factors, both of which are used in a base-extra capacity methodology cost of service study. OCA Statement No. 4, at 7.
- 10) For the proposed changes to the two demand factors, the OCA selected Company data from June 2024 to May 2025. OCA Statement No. 4, at 12.
- 11) The OCA’s proposed revenue allocation, caused by the changes to the two demand factors, claimed to show that the residential class is currently overpaying its cost of service, while small businesses are currently underpaying their cost of service. OCA Statement No. 4, at 14.

# APPENDIX B

Proposed Conclusions of Law

### Conclusions of Law

- 1) Section 1301 of the Public Utility Code, 66 Pa. C.S. § 1301, provides that “every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.”
- 2) The burden of proof to establish the justness and reasonableness of every element of the utility’s rate increase rests solely upon the public utility. 66 Pa. C.S. § 315(a). “It is well-established that the evidence adduced by a utility to meet this burden must be substantial.” *Lower Frederick Township. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).
- 3) Although the burden of proof remains with the public utility throughout the rate proceeding, when a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Order entered July 17, 2008). “Section 315(a) of the Code, 66 Pa. C.S. § 315(a), applies since this is a proceeding on Commission Motion. However, after the utility establishes a prima facie case, the burden of going forward or the burden of persuasion shifts to the other parties to rebut the prima facie case.” *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-00061931 (Order entered September 28, 2007), at 12.
- 4) Furthermore, Section 523 of the Public Utility Code, 66 Pa. C.S. § 523, requires the Commission to “consider . . . the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates.” In exchange for customers paying rates for service, which include the cost of utility plant in service and a rate of return, a public utility is obligated to provide safe, adequate, and reasonable service. “[I]n exchange for the utility’s provision of safe, adequate and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return for the utility’s investors . . . . In return for providing safe and adequate service, the utility is entitled to recover, through rates, these enumerated costs.” *Pa. PUC v. Pennsylvania Gas & Water Co.*, 61 Pa. PUC 409 (1986), at 415-16. *See also* 66 Pa. C.S. § 1501. As a result, the legislature has given the Commission discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds “that the service rendered by the public utility is inadequate.” 66 Pa. C.S. § 526(a).

# APPENDIX C

Proposed Ordering Paragraphs

**Proposed Ordering Paragraphs**

- 1) The Office of Consumer Advocates' proposed changes to the MDD and MHD demand factors are rejected.
- 2) York Water's water cost of service study is hereby adopted for purposes of this proceeding.
- 3) York Water's water customer class revenue allocation is hereby adopted for purposes of this proceeding.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**CERTIFICATE OF SERVICE**

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

The Honorable John Coogan  
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Date: October 29, 2025

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