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File #: 210634

October 29, 2025

***VIA ELECTRONIC FILING***

Matthew Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: PA Public Utility Commission, *et al.* v. The York Water Company - Water Division  
Docket Nos. R-2025-3053442, *et al.***

**PA Public Utility Commission, *et al.* v. The York Water Company - Wastewater  
Division  
Docket Nos. R-2025-3053573, *et al.***

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Dear Secretary Homsher:

Enclosed for filing is The York Water Company's Main Brief in the above-referenced proceeding.

Copies of this filing are being served as indicated on the Certificate of Service.

Respectfully submitted,

  
Devin Ryan

DR/bfc  
Enclosures

cc: The Honorable John M. Coogan (*via email; w/attachment*)  
The Honorable Emily A. Farren (*via email; w/attachment*)  
Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

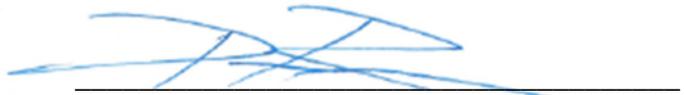
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Date: October 29, 2025



Devin T. Ryan

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Nos. R-2025-3053442
Office of Consumer Advocate	:	C-2025-3055746
Office of Small Business Advocate	:	C-2025-3055824

v.

The York Water Company – Water Division

Pennsylvania Public Utility Commission	:	Docket Nos. R-2025-3053573
Office of Consumer Advocate	:	C-2025-3055747
Office of Small Business Advocate	:	C-2025-3055827

v.

The York Water Company – Wastewater  
Division

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**MAIN BRIEF OF  
THE YORK WATER COMPANY**

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## **I. INTRODUCTION**

On May 30, 2025, York Water filed with the Commission Supplement No. 165 to its Tariff Water – Pa. P.U.C. No. 14 (“Supplement No. 165”) and Supplement No. 26 to Tariff Wastewater – Pa. P.U.C. No. 1 (“Supplement No. 26”), along with supporting information required by 52 Pa. Code §§ 53.52 and 53.53, to become effective August 1, 2025. In Supplement No. 165, York Water proposed a general increase in water rates of \$20,311,978 per year, and in Supplement No. 26, York Water proposed a general increase in wastewater rates of \$3,857,507 per year. By Order entered February 10, 2017, at Docket No. P-2017-2582839, York Water was granted permission to file a single case that combined water and wastewater revenue requirements. York Water did not propose to allocate a portion of the wastewater revenue requirement to water customers pursuant to 66 Pa. C.S. § 1311(c).

York Water, the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”), who are the only active parties in the proceeding, successfully reached a settlement of all but one of the issues in the case. The terms of that partial settlement will be set forth in the Joint Petition for Approval of Partial Settlement (“Partial Settlement”) that is being filed on October 29, 2025, along with Statements in Support from each of the active parties. The Partial Settlement provides for increases in rates designed to produce a total increase in annual base-rate operating revenues of \$18,850,000, which consists of an increase in base rate water revenues of \$16,000,000, and an increase in base rate wastewater revenues of \$2,850,000. The sole issue reserved for litigation is water revenue allocation among customer classes.

York Water respectfully submits its Main Brief addressing the issue of water revenue allocation that has been reserved for litigation. As set forth herein, the Company’s water revenue

allocation, as supported by York Water's Allocated Cost of Service Study ("ACOSS"), should be adopted and utilized by the Commission to support York Water's design of rates, with the exception of the fixed residential 5/8" customer charge of \$19.75 resolved by the Partial Settlement,<sup>1</sup> to recover the agreed-upon \$16,000,000 increase in base rate water revenues.

**A. DESCRIPTION OF YORK WATER**

York Water is the oldest investor-owned public utility in the country, having been formed in 1816.<sup>2</sup> The Company is engaged in the business of furnishing water and wastewater service to nearly 80,000 customers pursuant to certificates of public convenience and necessity issued by the Commission.<sup>3</sup> York Water provides direct water service in the City of York, in the Boroughs of East Prospect, Glen Rock, Hallam, Jacobus, Jefferson, Loganville, Manchester, Mount Wolf, New Freedom, New Salem, North York, Railroad, Seven Valleys, Shrewsbury, Spring Grove, West York, York Haven and Yorkana in York County, Pennsylvania, in the Townships of Codorus, Conewago, East Manchester, Hellam, Hopewell, Jackson, Lower Windsor, Manchester, Newberry, North Codorus, North Hopewell, Paradise, Shrewsbury, Springettsbury, Springfield, Spring Garden, Washington, West Manchester, West Manheim, Windsor and York in York County, Pennsylvania, in the Boroughs of Abbottstown and Carroll Valley in Adams County, Pennsylvania, in the Townships of Berwick, Cumberland, Oxford, Hamilton, Reading, Mount Pleasant, Union, and Straban in Adams County, Pennsylvania, in the Townships of Greene, Hamilton, and Letterkenny in Franklin County, Pennsylvania, and in the Townships of Salisbury and West Donegal in Lancaster County, Pennsylvania.<sup>4</sup> The Company also provides wholesale

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<sup>1</sup> The 5/8" meter is the predominant meter serving residential customers.

<sup>2</sup> York Water St. No. 1 at 3.

<sup>3</sup> *Id.* at 3-4.

<sup>4</sup> *Id.* at 4.

service to the Boroughs of Glen Rock, New Freedom, and Stewartstown and to Dover Township, all in York County.<sup>5</sup>

In addition, York Water provides wastewater service in the Boroughs of East Prospect, Felton, Jacobus, West York, and York Haven in York County, Pennsylvania, in the Townships of East Manchester, Lower Windsor, Monaghan, Newberry, Springfield, Shrewsbury, Washington, and West Manheim in York County, Pennsylvania, in the Townships of Greene, Hamilton, and Letterkenny in Franklin County, Pennsylvania, in the Township of Straban in Adams County, Pennsylvania, and in the Township of West Donegal in Lancaster County, Pennsylvania.<sup>6</sup>

## **B. PROCEDURAL HISTORY**

On May 30, 2025, York Water filed Supplement No. 165 and Supplement No. 26, along with supporting information required by 52 Pa. Code §§ 53.52 and 53.53, to become effective August 1, 2025.

On June 5, 2025, the Commission's Bureau of Investigation and Enforcement ("I&E") filed a Notice of Appearance.

On June 12, 2025, the Office of Small Business Advocate ("OSBA") filed a Notice of Appearance.

On June 11, 2025, the Office of Consumer Advocate ("OCA") filed a Notice of Appearance, Complaint, and Public Statement.

On June 18, 2025, OSBA filed a Complaint, Public Statement, and Verification.

Also on June 18, 2025, York Water was served with a Complaint filed by Cheryl Hoffman at Docket No. C-2025-3055800 regarding the Company's proposed wastewater rate increase at Docket No. R-2025-3053573.

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 4-5.

On July 2, 2025, York Water was served with a Complaint filed by Daniel O'Connor at Docket No. C-2025-3056049 regarding the Company's proposed wastewater rate increase at Docket No. R-2025-3053573, as well as a Complaint filed by Eric Conrad at Docket No. C-2025-3056050 regarding the Company's proposed wastewater rate increase at Docket No. R-2025-3053573.

On July 7, 2025, York Water was served with a Complaint filed by Sarah Flemming at Docket No. C-2025-3056115 regarding the Company's proposed wastewater rate increase at Docket No. R-2025-3053573.

On July 9, 2025, York Water was served with a Complaint filed by Edward Madalis at Docket No. C-2025-3056157 regarding the Company's proposed water rate increase at Docket No. R-2025-3053442, a Complaint filed by Amy Nichols at Docket No. C-2025-3056183 regarding the Company's proposed water rate increase at Docket No. R-2025-3053442, and a Complaint filed by Brad Bock at Docket No. C-2025-3056196 regarding the Company's proposed wastewater rate increase at Docket No. R-2025-3053573.

On July 10, 2025, the Commission entered separate Orders suspending Supplement No. 165 and Supplement No. 26 by operation of law until March 1, 2026, unless otherwise directed by Order of the Commission. Also, York Water was served with a Complaint filed by Russell Hudson at Docket No. C-2025-3056217 regarding the Company's proposed wastewater rate increase at Docket No. R-2025-3053573, as well as a Complaint filed by Sheri Stein at Docket No. C-2025-3056217 regarding the Company's proposed wastewater rate increase at Docket No. R-2025-3053573.

On July 14, 2025, a Telephonic Prehearing Conference Notice was issued, which scheduled a prehearing conference in the above-captioned matters for July 22, 2025, at 10:00 AM before the

ALJs. Also, the ALJs issued a Prehearing Conference Order, which, among other things, directed the parties to file Prehearing Memoranda by 4:00 PM on July 18, 2025. Further, York Water was served with a Complaint filed by George Bentzel, IV at Docket No. C-2025-3056272 regarding the Company's proposed wastewater rate increase at Docket No. R-2025-3053573.

On July 15, 2025, York Water was served with two Complaints filed by Michael and Debra D'Angelo: one at Docket No. C-2025-3056281 regarding the Company's proposed wastewater rate increase at Docket No. R-2025-3053573, and a second at Docket No. C-2025-3056282 regarding the Company's proposed water rate increase at Docket No. R-2025-3053442. Also, York Water was served with a Complaints filed by Elizabeth Tetter at Docket No. C-2025-3056284 regarding the Company's proposed wastewater rate increase at Docket No. R-2025-3053573.

On July 18, 2025, York Water, I&E, OCA, and OSBA filed their Prehearing Memoranda.

On July 21, 2025, York Water was served with a Complaint filed by Kris Robertson at Docket No. C-2025-3056377 regarding the Company's proposed water rate increase at Docket No. R-2025-3053442.

The prehearing conference was held as scheduled on July 22, 2025, before the ALJs.

On July 23, 2025, the ALJs issued Prehearing Order #1, which established the litigation schedule for the proceeding. York Water also was served with a Complaint filed by Katelyn Mooneyhan at Docket No. C-2025-3056403 regarding the Company's proposed water rate increase at Docket No. R-2025-3053442.

On July 28, 2025, the Commission issued a Notice scheduling in-person evidentiary hearings for October 14 and 15, 2025.

On July 31, 2025, the Commission issued a Notice scheduling in-person and telephonic public input hearings for August 26 and 27, 2025, respectively.

On August 11, 2025, York Water was served with a Complaint filed by Gary Freedman at Docket No. C-2025-3056782 regarding the Company's proposed water rate increase at Docket No. R-2025-3053442.

On August 22, 2025, I&E, OCA, and OSBA served their written direct testimony and exhibits.

On August 26, 2025, two in-person public input hearing sessions were held at the York County Office Building.

On August 27, 2025, two telephonic public input hearing sessions were held.

On September 9, 2025, OCA served supplemental direct testimony regarding the public input hearing testimony.

On September 19, 2025, York Water served its written rebuttal testimony and exhibits.

On October 6, 2025, I&E, OCA, and OSBA served their written surrebuttal testimony and exhibits.

On October 10, 2025, York Water served its written rejoinder testimony and exhibit. York Water also filed a Motion for Protective Order.

On October 14, 2025, the ALJs held an evidentiary hearing for the admission of testimony and exhibits. The parties waived cross-examination of all witnesses.

On October 15, 2025, the ALJs issued their Briefing and Settlement Order.

The Joint Petitioners held several settlement conferences in this proceeding. Through the Joint Petitioners' collective efforts, they were able to achieve a settlement in principle of all but one of the issues in the proceeding.

On October 23, 2025, the Joint Petitioners advised the ALJs of the settlement in principle of all but one of the issues in the case and of their intent to file a Joint Petition for Partial Settlement and Main Briefs by October 29, 2025. York Water also filed an Amended Motion for Protective Order.

On October 27, 2025, the ALJs issued an Order granting the Amended Motion for Protective Order.

### C. LEGAL STANDARDS

Under the Public Utility Code, a public utility's rates must be just and reasonable and cannot result in unreasonable rate discrimination.<sup>7</sup> 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.<sup>8</sup> "It is well-established that the evidence adduced by a utility to meet this burden must be substantial."<sup>9</sup>

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.<sup>10</sup>

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

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<sup>7</sup> 66 Pa. C.S. §§ 315(a), 1301, and 1304.

<sup>8</sup> 66 Pa. C.S. § 315(a); *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00038805, 236 PUR 4th 218, 2004 Pa. PUC LEXIS 39 (Order entered Aug. 5, 2004) ("*Aqua 2004 Order*").

<sup>9</sup> *Lower Frederick Twp. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).

<sup>10</sup> *Allegheny Center Assocs. v. Pa. PUC*, 570 A.2d 149, 153 (Pa. Cmwlth. 1990).

some evidence or analysis tending to demonstrate the reasonableness of the adjustment.<sup>11</sup> In addition, tariff provisions previously approved by the Commission are deemed just and reasonable, so a party challenging a previously-approved tariff provision bears the burden to demonstrate that the Commission's prior approval is no longer justified.<sup>12</sup>

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. For example, in *Pa. PUC v. Metropolitan Edison Co.*, Docket Nos. R-00061366, *et al.*, 2007 Pa. PUC LEXIS 5 (Order entered Jan.11, 2007), a party offered proposals to have the companies incur expenses not included in their filings. The ALJ held that, as the proponent of a Commission order with respect to its proposals, the party bears the burden of proof as to proposals that are not included in the companies' filings. The Commission agreed and adopted the ALJ's conclusion that Section 315(a) of the Public Utility 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.<sup>13</sup>

Additionally, any finding of fact necessary to support an adjudication of the Commission must be based on substantial evidence.<sup>14</sup> Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.<sup>15</sup> Although substantial evidence must be "more than a scintilla and must do more than create a suspicion of the existence

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<sup>11</sup> See, e.g., *Pa. PUC v. Phila. Elec. Co.*, Docket Nos. R-891364, *et al.*, 1990 Pa. PUC LEXIS 155 (Order dated May 16, 1990); *Pa. PUC v. Breezewood Telephone Co.*, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (Order dated Jan. 31, 1991).

<sup>12</sup> See, e.g., *Pa. PUC v. Philadelphia Gas Works*, Docket Nos. R-00061931, *et al.*, 2007 Pa. PUC LEXIS 45, at \*165-68 (Order entered Sept. 28, 2007) (adopting the ALJ's discussion on burden of proof).

<sup>13</sup> *Id.* at \*111-12.

<sup>14</sup> *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa. C.S. § 704).

<sup>15</sup> *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm'n*, 942 A.2d 274, 281 n.9 (Pa. Cmwlth. 2008).

of the fact to be established,”<sup>16</sup> the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.”<sup>17</sup>

## **II. SUMMARY OF ARGUMENT**

The ALJs and the Commission should adopt and utilize York Water’s water revenue allocation in this base rate case. Through multiple rounds of written testimony, York Water demonstrated that its Water Cost of Service Allocation Study (“Water COSS”) is reasonable and founded upon sound ratemaking principles. Indeed, the Company’s Water COSS uses the base-extra capacity method, which is a recognized method that allocates the cost of providing water service to customer classifications in proportion to the classification’s use of commodity, facilities, and services. Using that method, the Company’s Water COSS presents a revenue allocation that moves all customer classes toward their cost of service, as shown in Schedules B and C of the Water COSS.

The OCA is the only party to dispute York Water’s water revenue allocation in this proceeding.<sup>18</sup> In particular, OCA argues that the Company’s Water COSS relies on “outdated” data for its systemwide and customer specific demand factors and proposes to use lower demand factors. However, the Company’s historic systemwide peaks for maximum day ratio and maximum hour ratio of 1.52 in 2010 and 1.86 in 2006, respectively, should be used, as opposed to the 10-year lookback suggested by OCA.<sup>19</sup> Unlike OCA’s approach, York Water’s reliance on the historic systemwide peaks reflects how the water system is designed to provide water during peak

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<sup>16</sup> *Kyu Son Yi v. State Bd. of Vet. Med.*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted).

<sup>17</sup> *Allied Mechanical and Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

<sup>18</sup> I&E witness Cline recommended that the Company correct the discrepancy in present rate revenue shown in the Company’s original Water COSS. (See I&E St. No. 3 at 5.) After York Water corrected that minor issue in its rebuttal testimony (see York Water Exhibit FVIII-R), Mr. Cline stated that he “ha[d] no further comments on this issue.” (I&E St. No. 3-SR at 2.)

<sup>19</sup> OCA St. 4SR at 1-2.

periods over many years, not just the peak period over the past 10 years. Furthermore, the OCA's approach for determining the customer specific demand factors is critically flawed. York Water already has a customer class demand study and has utilized that study to develop its customer specific demand factors in this proceeding. Yet, OCA presents its own customer specific demand factors, which OCA developed by using the alternative approach in Appendix A of the American Water Works Association's ("AWWA") M1 Manual. OCA fails to recognize that the alternative approach should only be used when a demand study is not available. Moreover, while York Water agrees that an updated demand study could be beneficial, no parties responded to the Company's feasibility studies for a new demand study in past proceedings, nor have they supported forcing York Water to incur the cost for a new demand study. Given the lack of any response to the feasibility studies, York Water could only assume that the parties were not interested in the Company conducting the study, that the parties did not consider that the cost was worthwhile, or that the extra capacity factors used by the Company were sufficient.

In addition, while OSBA agrees with the Company's Water COSS and the water revenue allocation presented therein, OSBA recommends that York Water be required to conduct and file an updated demand study within six months. This recommendation lacks merit and should be rejected. A demand study is a significant time commitment for the Company to undertake and cannot be completed within the timeframe prescribed by Mr. Cathcart, considering the significant amount of time needed to conduct a feasibility study first and then conduct the demand study.

For these reasons, and as further explained herein, the ALJs and Commission should adopt York Water's proposed water revenue allocation and reject the arguments and recommendations raised in opposition when determining how the agreed-upon \$16.0 million increase in water revenues should be allocated among the Company's rate classes.

### **III. ARGUMENT**

#### **A. OVERALL POSITION ON RATE INCREASE**

Under the Partial Settlement, York Water will be permitted to file revised tariff supplements to become effective March 1, 2026, that are designed to produce \$18.85 million in additional annual base rate operating revenue, which consists of \$16.0 million in additional water base revenues and \$2.85 million in additional wastewater base revenues, based upon the pro forma level of operations for the 12 months ended February 28, 2027.<sup>20</sup> The settlement as to revenue requirement shall be a “black box” settlement, except for the items set forth in the Partial Settlement.<sup>21</sup>

As explained in the Company’s Statement in Support of the Partial Settlement, the agreed-upon increases in York Water’s water and wastewater base revenues reflect a reasonable compromise of the parties’ positions in this proceeding. Therefore, the Commission should approve the Partial Settlement in its entirety, including the increases in the Company’s water and wastewater base revenues.

#### **B. REVENUE ALLOCATION**

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

After determining the amount of a proposed revenue increase, that amount must be allocated to the various customer classes from which such revenues will be recovered. The purpose of a cost of service study is to allocate the total cost of service to the several customer classes.<sup>22</sup> That allocation is based on the cost of service study results, which indicate the relative cost responsibilities of each class of customer class.<sup>23</sup> Using that information, one can determine how

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<sup>20</sup> Partial Settlement ¶ 34.

<sup>21</sup> *Id.*

<sup>22</sup> York Water St. No. 107 at 4.

<sup>23</sup> *See, e.g.*, York Water Exhibit No. FVIII, Schedules B and C.

the proposed rate increase should be allocated among the rate classes, with the overall goal being to move each rate class towards their cost of service.<sup>24</sup> This can be accomplished by assigning a greater than system average increase to classes paying less than their cost of service and by assigning a less than average increase to classes paying more than their cost of service.<sup>25</sup>

The Commonwealth Court has concluded that the class cost of service is the “polestar” of utility ratemaking.<sup>26</sup> Consistent with the Commonwealth Court’s directive in *Lloyd*, a proposed revenue allocation will be found to be reasonable where it moves distribution rates for each class closer to the full cost of providing service.<sup>27</sup> Even prior to *Lloyd*, however, the importance of properly allocating a proposed revenue increase among a utility’s rate classes was recognized by Pennsylvania appellate courts. In *Philadelphia Suburban Water Co. v. Pa. PUC*, the Commonwealth Court stated:

[I]n order for a rate differential to survive a challenge brought under Section 1304 of the Public Utility Code [bar against rate discrimination], the utility must show that the differential [different rates among the classes] can be justified by the difference in costs required to deliver service to each class. The rate cannot be illegally high for one class and illegally low for another.

808 A.2d 1044, 1060 (Pa. Cmwlth. 2002). Therefore, any significant departure from the results of a cost of service study requires the proponent to fully justify the deviation.

Despite its heightened importance in the ratemaking process, cost allocation remains an inexact science, and there is no single “correct” cost allocation methodology. Indeed, it is well-settled that the establishment of a rate structure is an administrative function peculiarly within the

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<sup>24</sup> See York Water St. No. 107 at 4.

<sup>25</sup> See York Water Exhibit No. FVIII, Schedules B and C.

<sup>26</sup> *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006), *appeal denied*, 916 A.2d 1104 (Pa. 2007) (“*Lloyd*”).

<sup>27</sup> See, e.g., *Pa. PUC v. PPL Electric Utilities Corp.*, Docket Nos. R-00049255, *et al.*, 2007 Pa. PUC LEXIS 55 (Order on Remand entered July 25, 2007).

expertise of the Commission,<sup>28</sup> and Pennsylvania courts have continually recognized that the findings of the Commission, if supported by competent evidence, will not be disturbed.<sup>29</sup> In fact, in *Peoples Natural Gas Co. v. Pa. PUC*, 409 A.2d 446 (Pa. Cmwlth. 1979), the Commonwealth Court specifically declared that “there is no set formula for determining proper ratios among the rates of different customer classes” and that “[w]hat is reasonable under the circumstances, the proper difference among rate classes, is an administrative question for the Commission to decide.”<sup>30</sup>

However, there are two fundamental principles for revenue allocation—cost causation and consistency.<sup>31</sup> Cost causation means that costs should be allocated based on what causes a cost to be incurred or what causes a cost to vary.<sup>32</sup> Consistency means that once a reasonable cost allocation methodology is established, it should not be changed without a compelling reason.<sup>33</sup> As explained below, the Company’s proposed water revenue allocation is reasonable and based on well-established principles and, therefore, should be approved.

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

York Water retained Gannett Fleming Valuation and Rate Consultants, LLC (“Gannett Fleming”) to prepare a Water COSS to allocate among the water customer classes the entire revenue requirement of the Company’s water operations.<sup>34</sup> The study provides a basis for determining the extent to which the revenues to be derived from each customer classification are aligned with the cost of serving that classification.<sup>35</sup> The Water COSS “sets forth the results of

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<sup>28</sup> *Pittsburgh v. Pa. PUC*, 78 A.2d 35 (Pa. Super. 1951).

<sup>29</sup> *United States Steel Corp. v. Pa. PUC*, 390 A.2d 865 (Pa. Cmwlth. 1978); *Philadelphia Suburban Transp. Co. v. Pa. PUC*, 281 A.2d 179, 185 (Pa. Cmwlth. 1971).

<sup>30</sup> *Id.* at 456 (internal citation omitted).

<sup>31</sup> *Pa. PUC v. Columbia Water Co.*, 2024 Pa. PUC LEXIS 23, at \*74, 76 (Order entered Jan. 18, 2024).

<sup>32</sup> *Id.*

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

<sup>34</sup> See York Water St. No. 107 at 3-4; York Water Exhibit No. FVIII.

<sup>35</sup> See York Water St. No. 107 at 4; York Water Exhibit No. FVIII, Part I, at 3-4.

the study based on the estimated conditions during the twelve months ended February 28, 2027.”<sup>36</sup> The study also “includes a description of the methods used in the study, the allocation of cost of service, and the factors on which the allocations were based.”<sup>37</sup>

The Company’s Water COSS uses the base-extra capacity method, as described in the 2017 and prior editions of the Water Rates Manual published by AWWA, to allocate the costs.<sup>38</sup> The base-extra capacity method is “a recognized method which allocates the cost of providing water service to customer classifications in proportion to the classification’s use of commodity, facilities, and services.”<sup>39</sup> Moreover, the method is “generally accepted as a sound method for cost allocation and has been accepted by this Commission, including in the Commission’s Final Order in Aqua Pennsylvania, Inc’s 2021 base rate case, which was entered on May 16, 2022, at Docket Nos. R-2021-3027385, *et al.*”<sup>40</sup>

York Water witness Mr. Gregory R. Herbert described the procedure followed in the Company’s Water COSS as follows:

The allocation of costs to customer classifications is presented in Schedule D, pages 10 through 13 of Exhibit No. FVIII. The items of cost, which include operating expenses, depreciation expenses, taxes and income available for return, are identified in column 1 of Schedule D. The cost of each item, shown in column 3, is allocated to the several customer classifications based on the allocation factor referenced in column 2. The development of the allocation factors is presented in Schedule E.<sup>41</sup>

Mr. Herbert further provided examples using larger cost items to illustrate the principles and considerations of the base-extra capacity methodology.<sup>42</sup> For example,

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<sup>36</sup> York Water St. No. 107 at 3.

<sup>37</sup> *Id.*

<sup>38</sup> *See id.* at 4.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> York Water St. No. 107 at 5.

<sup>42</sup> *Id.* at 5-6.

Referring to some of the larger cost items, purchased electric power and treatment chemicals were allocated to customer classifications on the basis of average daily consumption because they tend to vary with the amount of water consumed. Pumping and water treatment costs were allocated partly on the basis of average consumption and partly on the basis of maximum day extra demand (i.e., the difference between maximum day and average day demand), inasmuch as the function of the associated facilities is generally to meet maximum day requirements. Transmission mains and maximum day booster pumping stations are allocated on the basis of average consumption, maximum day extra demand, and fire protection demands. Costs associated with distribution mains and storage facilities were allocated partly on the basis of average consumption, partly on the basis of maximum hour extra demand, and partly on the demand for fire protection service because these facilities are designed to meet maximum hour and fire demand requirements. Fire demand costs were allocated between public and private fire service in proportion to the relative potential demands on the system by hydrants and fire services for each classification. The basis for the allocation of fire demand costs between public and private fire service is presented in Schedule G in Exhibit No. FVIII.<sup>43</sup>

In this regard, the Company has fully supported the use of the base-extra capacity method used in its cost allocation study.

Importantly, no parties disputed the Company's use of the base-extra capacity method for purposes of its Water COSS. With respect to the principle of consistency noted above, the Company's study utilizes the well-established base-extra capacity method, which has been previously utilized by the Commission in water base rate cases.<sup>44</sup> Relatedly, the Company's methodology complies with the principle of cost causation because the base-extra capacity method allocates costs based on what causes a cost to be incurred or what causes a cost to vary among the various customer classifications.<sup>45</sup> Therefore, the ALJ and the Commission should accept the methodology used in the Company's Water COSS as reasonable.

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<sup>43</sup> *Id.*

<sup>44</sup> *See Pa. PUC v. Aqua Pa., Inc.*, Docket Nos. R-2021-3027385, *et al.* (Order entered May 16, 2022).

<sup>45</sup> *See York Water St. No. 107* at 4.

### 3. Revenue Allocation

The Company's proposed revenue allocation for water operations is presented in Schedule A of York Water Exhibit No. FVIII. In presenting the results of the Water COSS, the study provides the following:

The data summarized in Schedule A, "Comparison of Pro Forma Cost of Service with Revenues Under Present and Proposed Rates for the Twelve Months Ended February 28, 2027," constitute the principal results of the allocation study.

The cost of service by customer classification, shown in column 2 of Schedule A, is developed in Schedule D, "Cost of Service as of February 28, 2027, at Proposed Revenue Level Allocated to Residential, Commercial, Industrial and Fire Protection Customer Classifications". The allocation of the total cost of service to the several customer classifications was performed by applying the allocation factors referenced in column 2 to the cost of service by account in column 3. The bases of the allocation factors are presented in Schedule E.

Schedule F, "Summary of Average Daily Send-Out and Maximum Daily and Hourly Usage for the Years 2000-2024," presents the experienced maximum day and hour ratios for the overall system. Schedule G, "Basis for Allocation of Demand-Related Costs of Fire Service to Private and Public Fire Protection," presents the calculation of the total relative demand of fire hydrants and fire service lines.<sup>46</sup>

The Company's calculation of the rate of return and relative rate of return for each class under present and proposed rates were initially set forth in York Water Exhibit No. FVIII, Schedule B (present rates) and Schedule C (proposed rates). As shown in Schedules B and C of York Water Exhibit No. FVIII, the Company's proposed revenue allocation would move all water customer classifications toward the system average rate of return.<sup>47</sup> Thus, York Water's proposed allocation

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<sup>46</sup> York Water Exhibit No. VIII, Part I, pp. 4-5.

<sup>47</sup> The Company provided an updated Water COSS in York Water Exhibit VIII-R as a part of its rebuttal case, which: (1) corrected a \$489 understatement of present rate revenues in the original study; and (2) incorporated the billing determinants of one flat rate commercial water customer into the study, whose additional revenue overstated the revenues under proposed rates to the as-filed total cost of service by \$856.

methodology for the revenue requirement among water customer classifications is reasonable and should be adopted.

Nevertheless, OCA has opposed the Company's water revenue allocation. Although OCA witness Jerome D. Mierzwa generally agreed with York Water's use of the base-extra capacity methodology, he argued 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."<sup>48</sup> Specifically, Mr. Mierzwa contended that "the systemwide and customer specific demand factors used by the Company" are "outdated."<sup>49</sup> Instead of the Company's systemwide maximum day extra capacity factor of 1.52<sup>50</sup> and systemwide maximum hour extra capacity factor of 1.84,<sup>51</sup> Mr. Mierzwa developed his own factors of 1.43 and 1.65, respectively, based on the system demand data and customer billing records for the past 10 years.<sup>52</sup> According to Mr. Mierzwa, his factors should be used because "[e]ach of these factors reflect[s] the highest systemwide factor experience on the York Water System over the last 10 years,"<sup>53</sup> and the AWWA M1 Manual "indicates that demand data 'over a representative number of recent years' should be utilized."<sup>54</sup>

As for the customer class specific maximum day and maximum hour demand factors, Mr. Mierzwa used "Appendix A of the AWWA Manual, which "presents a procedure that can be used to develop customer demand factors from system demand data and customer billing records."<sup>55</sup> Mr. Mierzwa explained that he "elected to utilize the demand factors calculated for the most recent

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<sup>48</sup> OCA St. No. 4 at 7.

<sup>49</sup> *Id.* at 10.

<sup>50</sup> York Water Exhibit No. FVIII, Schedule E, p. 5.

<sup>51</sup> *Id.*, Schedule E, p. 8.

<sup>52</sup> OCA St. 4 at 11.

<sup>53</sup> *Id.* at 11.

<sup>54</sup> OCA St. 4SR at 2.

<sup>55</sup> OCA St. 4 at 10-12.

annual period (June 2024 – May 2025) because the AWWA Manual prescribes that the year with the highest ratio of system maximum day to system average day demand for a representative number of recent years should be used in this analysis.”<sup>56</sup> As alleged support for his approach, Mr. Mierzwa compared the Company’s estimated maximum day demands for Residential customers to the 2024 maximum day and maximum hour volumes and asserted that “the maximum hour demand of Residential customers would exceed the actual total maximum hour demand experienced on the total York [Water] water system.”<sup>57</sup> Further, Mr. Mierzwa contended that York Water witness Herbert has used the methodology in Appendix A of the AWWA M1 Manual in a proceeding for Veolia Water Rhode Island, Inc. (“Veolia Rhode Island”).<sup>58</sup> Therefore, Mr. Mierzwa used his approach and concluded that under the Company’s proposed water revenue increase, the Residential class would be paying more than its cost of service, while the Commercial, Industrial, and Private Fire classes would be paying less than their cost of service.<sup>59</sup> Thus, Mr. Mierzwa proposed that the water revenue increase be allocated based on his analysis, with a proportional scaleback for each customer class if the Company were awarded less than its full requested increase.<sup>60</sup>

The OCA’s proposed water revenue allocation should be rejected. Regarding the systemwide extra capacity factors, York Water used the maximum day ratio of 1.52 experienced during 2010.<sup>61</sup> This is the highest ratio recorded on the system as well as the highest peak day usage on the system.<sup>62</sup> 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

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<sup>56</sup> *Id.* at 12.

<sup>57</sup> OCA St. 4SR at 5.

<sup>58</sup> *Id.* at 6.

<sup>59</sup> OCA St. 4 at 14.

<sup>60</sup> *Id.* at 16-17.

<sup>61</sup> York Water St. No. 107-R at 5.

<sup>62</sup> *Id.*

historic maximum peak used by the Company is older than the one that he proposes that it should not be used.<sup>63</sup> 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.<sup>64</sup> However, the OCA fails to recognize that a water system is designed to provide water during peak periods over many years, not just the peak period over the past 10 years.<sup>65</sup> As such, the historic peak should be used, not a more recent historic peak that is more limited in time.<sup>66</sup>

In addition, Mr. Mierzwa's reliance on Appendix A of the AWWA M1 Manual to develop class extra capacity factors is flawed. As York Water witness Herbert testified, "[t]he AWWA Manual M1 (Manual) offers an alternative approach for determining class extra capacity factors if a formal demand study is not available."<sup>67</sup> Mr. Mierzwa's approach "is not the preferred method for calculating extra capacity factors"; it is simply "a method to use when no other data is available."<sup>68</sup> Here, the Company has data from a customer class demand study conducted in the late 1970's; therefore, the alternative approach should not be used.<sup>69</sup> In fact, the lack of a "formal demand study or class-specific demand data" was precisely why Mr. Herbert used the alternative approach in the Veolia Rhode Island proceeding.<sup>70</sup> "Had a formal demand study been available," Mr. Herbert "would not have used the methodology Mr. Mierzwa [has] applied in the York Water rate proceeding."<sup>71</sup>

Also, although the Company's customer class demand study has not been updated since

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<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 7 (emphasis added).

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 8.

<sup>70</sup> York Water St. No. 107-RJ at 8-9.

<sup>71</sup> *Id.* at 9.

the 1970's, the lack of more updated data is not the Company's fault.<sup>72</sup> In fact, the Company has submitted multiple feasibility studies, one in April 1993 and another in April 2007, about conducting a customer class demand study.<sup>73</sup> No party proposed that the Company undertake a demand study in response to the Company's feasibility studies.<sup>74</sup> The Company did not conduct the customer class demand study because it would be inappropriate and potentially imprudent to spend significant costs on preparing that study without the other parties approving the scope and cost of the study and without assurance of cost recovery.<sup>75</sup> Given the lack of any response to the feasibility studies, York Water "could only assume that the parties were not interested in the Company conducting the study, that the parties did not consider that the cost was worthwhile, or that the extra capacity factors used by the Company were sufficient."<sup>76</sup>

Additionally, the Company explained that Mr. Mierzwa inappropriately compares the Company's estimated maximum day demands of Residential customers to the 2024 maximum day and maximum hour volumes.<sup>77</sup> First, the maximum day and maximum hour demand factors by class used in the cost of service study and demand study represent noncoincident demand factors.<sup>78</sup> Noncoincident demand factors represent the peak demand of each customer class without consideration of peak demand occurrence of other classes.<sup>79</sup> Therefore, "the total flow using noncoincident demand factors, by definition, would be higher than the coincident maximum day and maximum hour system-wide flow."<sup>80</sup> Second, Mr. Mierzwa compared the residential

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<sup>72</sup> See York Water St. No. 107-R at 8.

<sup>73</sup> See *id.* at 6.

<sup>74</sup> See *id.*

<sup>75</sup> *Id.* at 7.

<sup>76</sup> *Id.*

<sup>77</sup> See York Water St. No. 107-RJ at 7.

<sup>78</sup> See *id.*

<sup>79</sup> See OCA St. 4 at 8. Noncoincident peaks are used because they represent the highest potential usage of each class. See *id.*

<sup>80</sup> York Water St. No. 107-RJ at 7.

maximum day and maximum hour flows to the peak flow in 2024, which was not a historic peak for the Company's water system.<sup>81</sup> Accordingly, Mr. Mierzwa is comparing "apples and oranges."<sup>82</sup> This becomes plainly evident when using the Company's historic peaks for allocating maximum day and maximum hour costs. As explained by Mr. Herbert:

- "The historic peak used in allocating maximum day costs in the cost of service study is 1.52 (experienced in 2010)," and that "peak multiplied by the Company's 2024 average daily sendout is 341,099 100 gallons, which is higher than the residential projected maximum day usage of 282,108 100 gallons."<sup>83</sup>
- "The historic peak used in allocating maximum hour costs in the cost of service study is 1.84 (experienced in 2006)," and that "peak multiplied by the Company's 2024 average daily sendout is 411,750 100 gallons, not the amount of 350,000 claimed by Mr. Mierzwa."<sup>84</sup>

Thus, Mr. Mierzwa's comparison is inherently flawed and should be disregarded, and for all these reasons, the ALJs and Commission should reject the OCA's arguments and adopt the Company's position on water revenue allocation.

As for the OSBA's position on water revenue allocation, OSBA witness Roger Cathcart recommended that the Commission adopt York Water's proposed water revenue allocation, as it aligns all rate classes with their respective cost-based revenue levels.<sup>85</sup> However, in surrebuttal, Mr. Cathcart advocated for an updated demand study to be performed, so that prior data could be analyzed and, "if necessary," normalized "to account for any anomalies that may affect the results and are not representative of current and future conditions."<sup>86</sup> That updated study "could then be tested in a future rate proceeding."<sup>87</sup> Consequently, Mr. Cathcart recommended that "the Commission direct York Water to conduct and file an updated demand study within six months,

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<sup>81</sup> *See id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 7-8.

<sup>84</sup> *Id.* at 8.

<sup>85</sup> *See* OSBA St. No. 2 at 3.

<sup>86</sup> OSBA St. No. 2-SR at 3.

<sup>87</sup> *Id.*

incorporating recent metering data, load profiles, and scenario modeling for” maximum day demand and maximum hour demand.”<sup>88</sup>

The ALJs and Commission should deny Mr. Cathcart’s recommendation. A demand study is a significant time commitment for the Company to undertake and cannot be completed within the timeframe prescribed by Mr. Cathcart.<sup>89</sup> First, a feasibility study must be conducted to estimate the costs of the demand study and filed with the Commission, and then the Company would receive approval from the Commission and interested parties to conduct a demand study.<sup>90</sup> The Company must take other steps, such as selecting its sample group of customers to monitor or installing smart meters to compile hourly and daily reads for ideally several years.<sup>91</sup> Thus, the six-month timeline that Mr. Cathcart suggests to complete the demand study cannot provide valid results for cost of service purposes.<sup>92</sup>

Based on the foregoing, the Company’s proposed water revenue allocation is founded upon well-established principles and data, and other parties’ criticisms or recommendations in opposition to York Water’s position should be rejected.

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<sup>88</sup> *Id.* at 3-4.

<sup>89</sup> *Id.* at 4.

<sup>90</sup> *Id.*

<sup>91</sup> *See id.*

<sup>92</sup> *See id.* at 4-5.

**IV. CONCLUSION**

WHEREFORE, The York Water Company respectfully requests that Administrative Law Judges John M. Coogan and Emily A. Farren and the Pennsylvania Public Utility Commission adopt and utilize the Company's water revenue allocation proposal to support York Water's design of water rates, with the exception of the fixed residential customer charge of \$19.75 resolved by the Joint Petition for Approval of Partial Settlement, to recover the agreed-upon \$16,000,000 increase in base rate water revenues.

Respectfully submitted,



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Date: October 29, 2025

*Counsel for The York Water Company*

# Appendix A

## APPENDIX A

### PROPOSED FINDINGS OF FACT

1. The purpose of a cost of service study is to allocate the total cost of service to the several customer classes. (York Water St. No. 107 at 4.)

2. That allocation is based on the cost of service study results, which indicate the relative cost responsibilities of each class of customer class. (*See, e.g.*, York Water Exhibit No. FVIII, Schedules B and C.)

3. Using that information, one can determine how the proposed rate increase should be allocated among the rate classes, with the overall goal being to move each rate class towards their cost of service. (*See* York Water St. No. 107 at 4.)

4. This can be accomplished by assigning a greater than system average increase to classes paying less than their cost of service and by assigning a less than average increase to classes paying more than their cost of service. (*See* York Water Exhibit No. FVIII, Schedules B and C.)

5. York Water retained Gannett Fleming Valuation and Rate Consultants, LLC (“Gannett Fleming”) to prepare a Water COSS to allocate among the water customer classes the entire revenue requirement of the Company’s water operations. (*See* York Water St. No. 107 at 3-4; York Water Exhibit No. FVIII.)

6. The study provides a basis for determining the extent to which the revenues to be derived from each customer classification are aligned with the cost of serving that classification. (*See* York Water St. No. 107 at 4; York Water Exhibit No. FVIII, Part I, at 3-4.)

7. The Water COSS “sets forth the results of the study based on the estimated conditions during the twelve months ended February 28, 2027.” (York Water St. No. 107 at 3.)

8. The study also “includes a description of the methods used in the study, the allocation of cost of service, and the factors on which the allocations were based.” (York Water St. No. 107 at 3.)

9. The Company’s Water COSS uses the base-extra capacity method, as described in the 2017 and prior editions of the Water Rates Manual published by AWWA, to allocate the costs. (York Water St. No. 107 at 4.)

10. The base-extra capacity method is “a recognized method which allocates the cost of providing water service to customer classifications in proportion to the classification’s use of commodity, facilities, and services.” (York Water St. No. 107 at 4.)

11. York Water has fully supported the use of the base-extra capacity method used in its cost allocation study. (York Water St. No. 107 at 4.)

12. The Company’s proposed revenue allocation for water operations is presented in Schedule A of York Water Exhibit No. FVIII. (York Water Exhibit No. FVIII, Schedule A.)

13. The Company’s calculation of the rate of return and relative rate of return for each class under present and proposed rates were initially set forth in York Water Exhibit No. FVIII, Schedule B (present rates) and Schedule C (proposed rates). (York Water Exhibit No. FVIII, Schedules B and C.)

14. As shown in Schedules B and C of York Water Exhibit No. FVIII, the Company’s proposed revenue allocation would move all water customer classifications toward the system average rate of return. (York Water Exhibit No. FVIII, Schedules B and C.)

15. The Company provided an updated Water COSS in York Water Exhibit VIII-R as a part of its rebuttal case, which: (1) corrected a \$489 understatement of present rate revenues in the original study; and (2) incorporated the billing determinants of one flat rate commercial water

customer into the study, whose additional revenue overstated the revenues under proposed rates to the as-filed total cost of service by \$856. (York Water Exhibit FVIII-R.)

16. Regarding the systemwide extra capacity factors, York Water used the maximum day ratio of 1.52 experienced during 2010. (York Water St. No. 107-R at 5.)

17. This is the highest ratio recorded on the system as well as the highest peak day usage on the system. (York Water St. No. 107-R at 5.)

18. Although OCA witness 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. (York Water St. No. 107-R at 5.)

19. While Mr. Mierzwa proposes to use the system maximum hour data from 2016 or 2017 of 1.65, he ignores the maximum hour ratio from 2006 of 1.84 used by York Water and fails to recognize that a water system is designed to provide water during peak periods over many years, not just the peak period over the past 10 years. (York Water St. No. 107-R at 5.)

20. The Company's historic peak should be used, not a more recent historic peak that is more limited in time. (York Water St. No. 107-R at 5.)

21. OCA witness Mierzwa's reliance on Appendix A of the AWWA M1 Manual to develop class extra capacity factors is flawed. (York Water St. No. 107-R at 7.)

22. As York Water witness Herbert testified, "[t]he AWWA Manual M1 (Manual) offers an alternative approach for determining class extra capacity factors if a formal demand study is not available." (York Water St. No. 107-R at 7.)

23. Mr. Mierzwa's approach is not the preferred method for calculating extra capacity factors; it is simply a method to use when no other data is available. (York Water St. No. 107-R at 7.)

24. The Company has data from a customer class demand study conducted in the late 1970's; therefore, the alternative approach should not be used. (York Water St. No. 107-R at 8.)

25. Although the Company's customer class demand study has not been updated since the 1970's, the lack of more updated data is not the Company's fault. (*See* York Water St. No. 107-R at 8.)

26. The Company has submitted multiple feasibility studies, one in April 1993 and another in April 2007, about conducting a customer class demand study. (York Water St. No. 107-R at 6.)

27. No party proposed that the Company undertake a demand study in response to the Company's feasibility studies. (York Water St. No. 107-R at 6.)

28. The Company did not conduct the customer class demand study because it would be inappropriate and potentially imprudent to spend significant costs on preparing that study without the other parties approving the scope and cost of the study and without assurance of cost recovery. (York Water St. No. 107-R at 7.)

29. Given the lack of any response to the feasibility studies, York Water "could only assume that the parties were not interested in the Company conducting the study, that the parties did not consider that the cost was worthwhile, or that the extra capacity factors used by the Company were sufficient." (York Water St. No. 107-R at 7.)

30. OCA witness Mierzwa inappropriately compares the Company's estimated maximum day demands of Residential customers to the 2024 maximum day and maximum hour volumes. (York Water St. No. 107-RJ at 7.)

31. The maximum day and maximum hour demand factors by class used in the cost of service study and demand study represent noncoincident demand factors. (York Water St. No. 107-RJ at 7.)

32. Noncoincident demand factors represent the peak demand of each customer class without consideration of peak demand occurrence of other classes. (OCA St. 4 at 8.)

33. Therefore, "the total flow using noncoincident demand factors, by definition, would be higher than the coincident maximum day and maximum hour system-wide flow." (York Water St. No. 107-RJ at 7.)

34. Mr. Mierzwa also compared the residential maximum day and maximum hour flows to the peak flow in 2024, which was not a historic peak for the Company's water system. (York Water St. No. 107-RJ at 7.)

35. Accordingly, Mr. Mierzwa is comparing "apples and oranges." (York Water St. No. 107-RJ at 7-8.)

36. A demand study is a significant time commitment for the Company to undertake and cannot be completed within the timeframe prescribed by OSBA witness Cathcart. (York Water St. No. 107-RJ at 4.)

37. First, a feasibility study must be conducted to estimate the costs of the demand study and filed with the Commission, and then the Company would receive approval from the Commission and interested parties to conduct a demand study. (York Water St. No. 107-RJ at 4.)

38. The Company must take other steps, such as selecting its sample group of customers to monitor or installing smart meters to compile hourly and daily reads for ideally several years. (York Water St. No. 107-RJ at 4.)

39. Thus, the six-month timeline that Mr. Cathcart suggests to complete the demand study cannot provide valid results for cost of service purposes. (York Water St. No. 107-RJ at 4-5.)

# Appendix B

## APPENDIX B

### PROPOSED CONCLUSIONS OF LAW

1. Under the Public Utility Code, a public utility's rates must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa. C.S. §§ 315(a), 1301 and 1304.

2. 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. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00038805, 236 PUR 4th 218, 2004 Pa. PUC LEXIS 39 (Order entered Aug. 5, 2004) ("*Aqua 2004 Order*").

3. "It is well-established that the evidence adduced by a utility to meet this burden must be substantial." *Lower Frederick Twp. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).

4. 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 Center Assocs. v. Pa. PUC*, 570 A.2d 149, 153 (Pa. Cmwlth. 1990).

5. 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. PUC v. Phila. Elec. Co.*, Docket Nos. R-891364, *et al.*, 1990 Pa. PUC LEXIS 155 (Order dated May 16, 1990); *Pa. PUC v. Breezewood Telephone Co.*, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (Order dated Jan. 31, 1991).

6. In addition, tariff provisions previously approved by the Commission are deemed just and reasonable, so a party challenging a previously-approved tariff provision bears the burden to demonstrate that the Commission's prior approval is no longer justified. *See, e.g., Pa. PUC v. Philadelphia Gas Works*, Docket Nos. R-00061931, *et al.*, 2007 Pa. PUC LEXIS 45, at \*165-68 (Order entered Sept. 28, 2007) (adopting the ALJ's discussion on burden of proof).

7. 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. *See Pa. PUC v. Metropolitan Edison Co.*, Docket Nos. R-00061366, *et al.*, 2007 Pa. PUC LEXIS 5 (Order entered Jan.11, 2007).

8. 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. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa. C.S. § 704).

9. 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, 281 (Pa. Cmwlth. 2008).

10. Although 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,"<sup>1</sup> the "presence of conflicting evidence in the record does not mean that substantial evidence is lacking."<sup>2</sup>

11. The Commonwealth Court has concluded that the class cost of service is the "polestar" of utility ratemaking. *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006), *appeal denied*, 916 A.2d 1104 (Pa. 2007) ("*Lloyd*").

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<sup>1</sup> *Kyu Son Yi v. State Bd. of Vet. Med.*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted),

<sup>2</sup> *Allied Mechanical and Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

12. Consistent with the Commonwealth Court’s directive in *Lloyd*, a proposed revenue allocation will be found to be reasonable where it moves distribution rates for each class closer to the full cost of providing service. *See, e.g., Pa. PUC, et al. v. PPL Electric Utilities Corp.*, Docket Nos. R-00049255, et al., 2007 Pa. PUC LEXIS 55 (Order on Remand entered July 25, 2007).

13. It is well-settled that the establishment of a rate structure is an administrative function peculiarly within the expertise of the Commission,<sup>3</sup> and Pennsylvania courts have continually recognized that the findings of the Commission, if supported by competent evidence, will not be disturbed.<sup>4</sup>

14. There are two fundamental principles for revenue allocation—cost causation and consistency. *Pa. PUC v. Columbia Water Co.*, 2024 Pa. PUC LEXIS 23, at \*74, 76 (Order entered Jan. 18, 2024).

15. Cost causation means that costs should be allocated based on what causes a cost to be incurred or what causes a cost to vary. *Id.*

16. Consistency means that once a reasonable cost allocation methodology is established, it should not be changed without a compelling reason. *Id.*

17. With respect to the principle of consistency noted above, the Company’s study utilizes the well-established base-extra capacity method, which has been previously utilized by the Commission in water base rate cases. *See Pa. PUC v. Aqua Pa., Inc.*, Docket Nos. R-2021-3027385, et al. (Order entered May 16, 2022).

18. Relatedly, the Company’s methodology complies with the principle of cost causation because the base-extra capacity method allocates costs based on what causes a cost to

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<sup>3</sup> *Pittsburgh v. Pa. PUC*, 78 A.2d 35 (Pa. Super. 1951).

<sup>4</sup> *United States Steel Corp. v. Pa. PUC*, 390 A.2d 865 (Pa. Cmwlth. 1978); *Philadelphia Suburban Transportation Co. v. Pa. PUC*, 281 A.2d 179, 185 (Pa. Cmwlth.1971).

be incurred or what causes a cost to vary among the various customer classifications. (*See York Water St. No. 107 at 4.*)

19. The base-extra capacity method is generally accepted as a sound method for cost allocation and has been accepted by this Commission, including in the Commission's Final Order in Aqua Pennsylvania, Inc's 2021 base rate case, which was entered on May 16, 2022, at Docket Nos. R-2021-3027385, *et al.*

20. The Company's methodology used in the Water COSS is supported by substantial evidence and is just and reasonable.

21. York Water has met its burden of proof to demonstrate that its proposed water revenue allocation is just and reasonable and should be utilized to support York Water's design of water rates, with the exception of the fixed residential customer charge of \$19.75 resolved by the Partial Settlement, to recover the \$16.00 million increase in base rate water revenues provided under the Partial Settlement.

# Appendix C

**APPENDIX C**

**PROPOSED ORDERING PARAGRAPHS**

1. That the Pennsylvania Public Utility Commission adopt and utilize the Company's water revenue allocation proposal to support York Water's design of water rates, with the exception of the fixed residential customer charge of \$19.75 resolved by the Joint Petition for Approval of Partial Settlement, to recover the approved \$16,000,000 increase in base rate water revenues;

2. That York Water is authorized to file, on at least one day's notice, a tariff supplement to become effective on or after March 1, 2026, containing water rates designed to recover the \$16,000,000 increase in annual base rate water revenues consistent with Ordering Paragraph 1; and

3. That York Water file detailed calculations with its tariff filing, which shall demonstrate to the Commission's satisfaction that the filed tariff adjustments comply with the provisions of this final Opinion and Order.