

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2025-3055959
Office of Small Business Advocate	:	C-2025-3056767
Office of Consumer Advocate	:	C-2025-3056995
	:	
v.	:	
	:	
Energy Center Harrisburg, LLC	:	

**RECOMMENDED DECISION**

Before  
Steven K. Haas  
Charece Z. Collins  
Administrative Law Judges

## INTRODUCTION

On July 18, 2025, Energy Center Harrisburg, LLC (ECH or Company) filed Supplement No. 66 to its Tariff Steam – Pa. PUC No. 4 with the Pennsylvania Public Utility Commission (Commission) by which it sought to increase its annual steam service revenue by \$894,300. If the entire request was approved, the average monthly steam service bill for a typical residential customer using 8 Mlbs. of steam would increase from \$215.00 to \$243.00, or by approximately 13%. The average monthly steam service bill for a typical commercial customer using 40 Mlbs. of steam would increase from \$1,074.00 to \$1,217.00, or by approximately 13%.

The parties to this proceeding filed a Joint Petition for Approval of Unanimous Settlement of Rate Proceeding. This decision finds that the settlement terms are supported by substantial evidence and are in the public interest. Accordingly, we recommend that the Joint Petition be approved in its entirety without modification.

The end of the suspension period is April 16, 2026. The last reasonable Commission Public Meeting before the end of the suspension period is March 26, 2026.

## HISTORY OF THE PROCEEDING

On July 18, 2025, ECH filed Supplement No. 66 to Tariff Steam – PA PUC No. 4, containing proposed changes in rates, rules, and regulations; supporting information required by Section 53.52 of the Commission’s regulations, 52 Pa. Code § 53.52(a); supporting testimony and accompanying exhibits; customer notice; and a news release.

On August 7, 2025, Steven Gray, Esq. filed a Notice of Appearance on behalf of the Office of Small Business Advocate (OSBA). The OSBA filed its

Complaint, Public Statement, and Verification on August 8, 2025. This filing received Docket No. C-2025-3056767.

On August 11, 2025, Carrie B. Wright, Esq. filed a Notice of Appearance on behalf of the Commission's Bureau of Investigation and Enforcement (I&E).

On August 20, 2025, Christy Appleby, Esq. and Harrison W. Breitman, Esq. filed Notices of Appearance on behalf of the Office of Consumer Advocate (OCA). Also on August 20, 2025, the OCA filed its Complaint, Public Statement, and Verification. This filing received Docket No. C-2025-3056995.

On August 28, 2025, the Commission entered an Order instituting an investigation into the Company's base rate request. The Order suspended ECH's proposed Supplement No. 66 to Tariff Steam – PA PUC No. 4 (Original Tariff) until April 16, 2026, unless otherwise directed by Commission Order. ECH filed Supplement No. 67 to Tariff Steam – PA PUC No. 4 (Suspension Tariff) on August 29, 2025. The Commission also referred these matters to the Office of Administrative Law Judge (OALJ) for the scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision, and we were assigned this matter.

On September 29, 2025, the Commission issued an Initial Telephonic Prehearing Conference Notice, scheduling a prehearing conference for October 8, 2025. A Prehearing Conference Order was issued on October 1, 2025. The Joint Petitioners individually filed prehearing conference memoranda on October 7, 2025.

On September 30, 2025, ECH filed a Petition for Protective Order pursuant to Section 5.365 of the Commission's regulations, 52 Pa. Code § 5.365(a). In the Petition for Protective Order, ECH represented that it had consulted with the other Joint Petitioners (I&E, OCA, and OSBA), and that no other party objected to the granting of

the Petition for Protective Order. By Order issued on October 10, 2025, we granted the unopposed Petition for Protective Order.

The Initial Telephonic Prehearing Conference was held as scheduled on October 8, 2025. We issued a Prehearing Order on November 5, 2025. Among other things, this Order adopted a litigation schedule for this proceeding, including scheduling a public input hearing and evidentiary hearings.

On November 6, 2025, an in-person public input hearing was convened in Harrisburg, Pennsylvania. In advance of the public input hearing, ECH complied with our directive concerning notice of the public input hearing and ECH filed proof of publication of notice of the public input hearing with the Commission on November 5, 2025. No customers attended the public input hearing.

An evidentiary hearing was held as scheduled on November 13, 2025. In advance of the evidentiary hearing, the Joint Petitioners agreed to waive cross examination of all witnesses. The Joint Petitioners stipulated to the introduction of all written testimony and exhibits.

On November 26, 2025, we received notice from counsel for ECH that the Joint Petitioners had reached a full settlement and requested that the procedural schedule be suspended. We suspended the procedural schedule on December 1, 2025, and instructed the parties to file their Joint Settlement Petition with accompanying Statements in Support of the Settlement no later than December 23, 2025.

On December 23, 2025, the Joint Petitioners filed their Joint Petition, and all parties filed Statements in Support of the proposed settlement.

For the reasons discussed below, we recommend that the Commission approve the Joint Settlement, finding that it is supported by substantial evidence and is in the public interest.

### LEGAL STANDARDS

The Commission applies certain principles in deciding any general rate increase case brought pursuant to Section 1308 of the Public Utility Code (Code), 66 Pa.C.S. § 1308(d). A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of its property dedicated to public service. *Pa. Gas & Water Co. v. Pa. Pub. Util. Comm'n*, 341 A.2d 239 (Pa. Cmwlth. 1975). In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in *Bluefield Water Works & Improvement Co. v. Pub. Service Comm'n of West Virginia*, 262 U.S. 679 (1923) and *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944). In *Bluefield* the United States Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too

low by changes affecting opportunities for investment, the money market and business conditions generally.

*Bluefield* at 692-93.

Section 1301(a) of the Code mandates that “[e]very rate made, demanded, or received by any public utility ... shall be just and reasonable, and in conformity with [the] regulations or orders of the [C]ommission.” 66 Pa.C.S. § 1301(a). “In determining just and reasonable rates, the [Commission] has discretion to determine the proper balance between the interests of ratepayers and utilities.” *Popowsky v. Pa. Pub. Util. Comm’n*, 665 A.2d 808, 812 (Pa. 1995). The term “just and reasonable” is not intended to confine the ambit of regulatory discretion to an absolute or mathematical formula; rather, the Commission is granted the power to balance the prices charged to utility customers and returns on capital to utility investors. *Pa. Pub. Util. Comm’n v. Pa. Gas & Water Co.*, 424 A.2d 1213, 1219 (Pa. 1980).

The 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, as set forth in the statute at Section 315(a):

**Reasonableness of rates.** –In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceeding upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

66 Pa.C.S. § 315(a).

In a general rate increase proceeding, the burden of proof does not shift to parties challenging a requested rate increase. The utility has the burden of establishing the justness and reasonableness of every component of its rate request throughout the rate

proceeding. Other parties to the proceeding do not have the burden of proof to justify an adjustment to the public utility's filing. In this regard, the Pennsylvania Supreme Court stated:

[T]he appellants did not have the burden of proving that the plant additions were improper, unnecessary or too costly; on the contrary, that burden is, by statute, on the utility to demonstrate the reasonable necessity and cost of the installations.

*Berner v. Pa. Pub. Util. Comm'n*, 116 A.2d 738, 744 (Pa. 1955).

However, a public utility, in proving that its proposed rates are just and reasonable, does not have the burden to affirmatively defend claims it has made in its filing that no other party has questioned. In this regard, the Pennsylvania Commonwealth Court stated:

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 Associates v. Pa. Pub. Util. Comm'n*, 570 A.2d 149, 153 (Pa. Cmwlth. 1990). In analyzing a proposed general rate increase, the Commission also determines a rate of return to be applied to a rate base, measured by the aggregate value of all the utility's property used, and useful, in the public service. In determining a proper rate of return, the Commission calculates the utility's capital structure and the cost of the different types of capital during the period in issue. The Commission has wide discretion, because of its administrative expertise, in determining the cost of capital. *Equitable Gas Co. v. Pa. Pub. Util. Comm'n*, 405 A.2d 1055 (Pa. Cmwlth. 1979).

In this general rate increase case, ECH, OCA, OSBA and I&E have reached a full settlement. Commission policy promotes settlements. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at

the same time conserve precious administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.

In order to approve a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C S Water & Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).

In this case, the Joint Petitioners have reached what is referred to as a “black box” settlement where the settlement provides for an increase in the utility’s revenues but does not indicate how the parties calculated the increase. The Commission has permitted “black box” settlements as a means of promoting settlements in contentious base rate proceedings. *Pa. Pub. Util. Comm'n v. Wellsboro Elec. Co.*, Docket No. R-2010-2172662 (Order entered Jan. 13, 2011); *Pa. Pub. Util. Comm'n v. Citizens' Elec. Co. of Lewisburg*, Docket No. R-2010-2172665 (Order entered Jan. 13, 2011). The Commission has observed that determining a utility’s revenue requirement is a calculation that involves many complex and interrelated adjustments affecting expenses, depreciation, rate base, taxes and the utility’s cost of capital. Reaching an agreement among the parties on each component can be difficult and impractical. As a result of this complexity, the Commission supports the use of “black box” settlements. *Pa. Pub. Util. Comm'n v. Peoples TWP LLC*, Docket No. R-2013-2355886 (Opinion and Order entered Dec. 19, 2013); *Pa. Pub. Util. Comm'n v. Columbia Water Co.*, Docket No. R-2017-2598203 (Opinion and Order entered Mar. 1, 2018).

Lastly, the decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be

established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Pa. Dept. of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

### FINDINGS OF FACT

1. ECH is a certificated public utility regulated by the Commission with a principal place of business at 900 Walnut Street, Harrisburg, Pennsylvania 17101. ECH Statement No. 1 at 1.

2. ECH provides steam service to approximately 100 buildings in a one-square-mile area in the central business district of Harrisburg, Pennsylvania.

3. ECH's customers include: the Capitol Complex; federal, state, and municipal office buildings and court houses; commercial office buildings; a hospital complex; a museum; hotels; an educational institution; residential high- and low-rise buildings; churches; retail businesses; and industrial facilities. ECH Statement No. 1 at 1.

4. ECH's steam system consists primarily of a steam generation plant located at 10<sup>th</sup> and Walnut Streets and six miles of high pressure and lower pressure distribution lines located in the streets of Harrisburg. The generating unit is a dual fuel facility, using natural gas and No. 6 fuel oil. ECH Statement No. 1 at 3; ECH Exhibit No. MS-1.

5. ECH has approximately 100 customer accounts in Harrisburg. Of those, about 17 large customers represent approximately 75% of the Company's steam output. The Pennsylvania Department of General Services is the Company's largest

customer. The Capitol Complex represents approximately 45% of the Company's load. ECH Statement No. 1 at 3.

6. ECH currently serves only nine residential customers. ECH Statement No. R-2 at 7-8.

7. When the Company first began operations in 1987, it had 400 customers and approximately 400,000 Mlbs. of annual sales. In 2013, the Company had approximately 143 customer accounts. The customer count is currently approximately 100, and the expected sales level is below 300,000 Mlbs. ECH Statement No. 2 at 5-6; ECH Statement No. R-2 at 5-6.

8. In ECH's last base rate proceeding in 2013, at Docket No. R-2013-2350265, the Commission approved an increase of the Company's base rate for its steam service by \$875,000. *Pa. Pub. Util. Comm'n v. NRG Energy Center Harrisburg LLC*, Docket No. R-2013-2350265 (Order entered Dec. 5, 2013).

9. In this proceeding, ECH requested an increase of \$894,300, but claimed that an annual increase of \$1,775,157 was supportable. ECH Statement No. 2 at 7-8.

10. ECH's responses to the minimum filing requirements reflect the higher, supportable amount and not the lower, claimed amount. ECH Statement No. 1 at 9; ECH Statement No. 2 at 8.

11. In the Joint Petition, the Joint Petitioners compromised at a revenue requirement that is projected to produce \$894,300 in additional annual distribution base rate operating revenue, with an exception for residential customers, whose rates are

designed using an assumed annual increase in distribution base rate operating revenue of only \$720,000. Joint Petition ¶ II.B.15-16.

12. In its original filing, ECH proposed a change to its rate design and structure to implement a fixed capacity charge in recognition of ECH's small customer base, the competitive environment and alternatives for customers to service from ECH, the declining number of customers and sales in Mlbs., and the Company's need for consistency in annual revenue. ECH Statement No. 1 at 11-12.

13. Under the Settlement, ECH's tariff will add a usage-based charge for steam distribution service to the rate design originally proposed. Settlement ¶ II.C.17.

14. Under the Settlement, the Company's nine residential customers will continue to be charged under the current volumetric charge rate design and the fixed capacity charge will not apply to residential customers. Settlement ¶ II.C.18.

15. ECH offers budget billing to any customer who seeks to stabilize its monthly non-fuel and SCR charges, so long as the Company is ultimately able to true-up any cost variances. Settlement ¶ II.C.21.

16. ECH will implement a formal program for payment arrangements for commercial and industrial customers, including eligibility and payment terms. Settlement ¶ II.D.22.

### TERMS OF THE SETTLEMENT

The terms of the Settlement are set forth in Section II of the Joint Petition and are recited verbatim below, with the same numbering and lettering as they appear in the Joint Petition.

**A. Approval of Tariff**

12. The Joint Petitioners agree that the steam tariff attached as **Appendix A** should be approved.

13. The Joint Petitioners agree that the steam tariff shall take effect on May 28, 2026, and the effective date of May 28, 2026, is reflected in **Appendix A**.

14. The Joint Petitioners agree that the new steam tariff clarifies permissible customer payment methods by specifying that bills may be paid by ACH wire transfer or by mail to Energy Center Harrisburg LLC, P.O. Box 223889, Pittsburgh, PA 19521-2889.

**B. Revenue Requirement**

15. The Joint Petitioners agree that, except as provided in Paragraph 16 below, the settlement rates are designed to produce \$894,300 in additional annual distribution base rate operating revenue. ECH shall be permitted to file a compliance tariff supplement, on one day's notice effective May 28, 2026, containing rates designed to produce an additional \$894,300 (as modified by Paragraph 16 below) in annual distribution base rate operating revenue.

16. The Joint Petitioners further agree that in recognition of the unique position of residential customers on ECH's steam distribution system, which is primarily designed to serve commercial and industrial customers in downtown Harrisburg, the settlement rates for residential customers are designed as if the Commission approved an annual revenue increase of only \$720,000. ECH's tariff contains a separate rate that is specific to residential customers (the "Residential Rate"). The Residential Rate is set forth as a separate rate from the existing rates but it is functionally the same as the currently-effective volumetric rate with the increase described herein. The difference between the Residential Rate and the residential rate that would have been produced using \$894,300 as

the annual revenue increase shall not be recoverable from other ECH customers and shall not be recovered by ECH in any future rate case. Within 60 days of Commission approval of this Settlement, ECH shall inform its residential customers by written bill insert of the change in rates following this rate case and the availability of Transition Service under ECH’s tariff. ECH shall consult with OCA on the wording of the bill insert and provide a copy of the final bill insert to OCA upon mailing of the bill insert to residential customers.

**C. Rate Design/Capacity Charge**

17. The Joint Petitioners agree that for all customers except the Company’s residential customers, ECH’s tariff (as set forth in **Appendix A**) includes a rate design that adds a usage-based charge for steam distribution service to the rate design originally proposed by ECH. The filed tariff is based on all non-fuel revenues being collected through a capacity charge calculated using the equivalent maximum hour pounds of steam (“EMP”) for continuous 12-months service customers and the equivalent cubic feet (“ECF”) for seasonal customers, with unique values of EMP or ECF for each customer. The Settlement provides that non-fuel revenue will be partially collected using metered Mlbs. The attached proof of revenue Excel file, tab “RevenueRC,” presents the amount of revenue collected from a fixed capacity charge plus the amount based on \$3.00 per Mlb. *See Appendix B (Confidential)*. This achieves roughly the same amount of apportioning 80% of ECH’s revenue requirement through fixed charges and 20% through variable charges. Below is a summary of the different revenue (\$000) options.

	Volumetric	Capacity	Total
Existing Tariff	5,272	0	5,272
Filed Tariff	0	5,272	5,272
Settlement Option	846	4,426	5,272

Each customer’s EMP or ECF is recalculated to reflect the lower number. This is shown in **Appendix B (Confidential)**.

18. The Company's residential customers, under the Residential Rate, will continue to be charged under the current volumetric charge rate design.

19. The Joint Petitioners acknowledge that customers charged will continue to be encouraged to conserve through ECH's Steam Cost Rate ("SCR"), which is a dollar-for-dollar passthrough of the Company's fuel and other variable costs. The SCR is charged on a usage basis measured in Mlbs. of steam.

20. The Joint Petitioners acknowledge that the proposed usage-based charge for all customers excluding the residential customers is just and reasonable for ECH based on its unique circumstances, including ECH's small size, ECH's limited customer base and opportunities for growth, the competitive nature of the district steam energy industry, and ECH's need to stay financially viable, particularly as a result of reduced consumption due to climate warming, customer conservation, and increased costs due to inflation. The Joint Petitioners reserve their right to contend in other proceedings before the Commission that a fixed monthly capacity charge would not be just and reasonable for larger, more financially capable public utilities.

21. ECH will continue to offer budget billing to any customer who seeks to stabilize its monthly non-fuel and SCR charges, so long as the Company is ultimately able to true-up any cost variances.

**D. Payment Arrangement for Commercial and Industrial Customers**

22. Within 90 days following entry of the Commission's final order approving this Settlement in these proceedings, ECH shall implement a formal program for payment arrangements for commercial customers, including eligibility and payment terms.

**E. Stay Out**

23. Absent exigent financial or operational circumstances that jeopardize ECH's continuing viability as a steam service provider, ECH will not file with the Commission a tariff or tariff supplement proposing a general increase in base rates that take effect earlier than two years following the entry of a Commission final order approving this Settlement.

DISCUSSION

As more fully explained below, we find that the terms of the Joint Petition are just and reasonable and necessary for ECH to provide safe and adequate steam service to its customers. Therefore, we conclude that the terms are in the public interest.

**A. APPROVAL OF TARRIF (Joint Petition ¶¶ 12-14)**

ECH provides steam distribution service to approximately 100 residential, commercial and industrial customers in Dauphin County, Pennsylvania, including nine residential customers. In Supplement No. 66, ECH proposed an increase in annual steam operating revenues of \$894,300. Pursuant to the Joint Petition, as more fully discussed below, ECH will be permitted its requested increase in annual steam operating revenues of \$894,300. Joint Petition ¶¶ 1, 4. The Joint Petition represents a "black box" approach to the revenue requirement.

ECH states that the effective date of the tariff is May 28, 2026. ECH explains that the agreed-upon effective date will allow rates to remain consistent throughout the heating season and particularly for ECH's seasonal customers. ECH also clarified that bills may be paid by ACH wire transfer or by mail. This will make clear to customers what payment methods are permissible. ECH noted that no Petitioner objected

to its proposed tariff modifications, so they have been included in the Settlement. ECH Statement in Support at 4.

OCA agrees that the proposed steam tariff is in the public interest and should be approved based on the terms of the settlement. OCA did not address the requested clarification of the customer payment methods in its testimony, but it finds that this clarity is important for customers to understand the methods by which bills may be paid. OCA submits that the proposed tariff provisions, including the specification regarding bill payment methods, are reasonable and in the public interest. OCA Statement in Support at 5-6.

OSBA finds the terms in the Joint Petition concerning the revenue requirement increase to be reasonable and in the public interest. OSBA Statement in Support at 2.

I&E finds the terms in the Joint Petition concerning the revenue requirement increase to be reasonable and in the public interest. I&E Statement in Support at 4.

We find the proposed tariff as reflected in Appendix A to the Joint Petition to be reasonable and in the public interest and recommend that it be approved.

## **B. REVENUE REQUIREMENT (Joint Petition ¶¶ 15-16)**

In Supplement No. 66, ECH proposed an increase in annual steam revenues of \$894,300. Pursuant to the Joint Petition, ECH will be permitted its requested increase in annual steam revenues of \$894,300 with an exception for residential customers

explained below. Joint Petition ¶¶ 1, 4. The Joint Petition represents a “black box” approach to the revenue requirement.

ECH explained that the revenue requirement agreed upon in the Settlement is projected to produce \$894,300 in additional annual distribution base rate operating revenue, with an exception for residential customers, whose rates are designed using an assumed annual increase in distribution base rate operating revenue of only \$720,000. ECH stated that the agreed upon revenue requirement of \$894,300 is lower than the amount of 1,775,157, the amount that it claimed was actually supportable. ECH further noted that the increase for residential customers of \$720,000 is between the amount ECH requested (\$894,300) and the amount OCA proposed in response (\$651,163). OCA Statement No. 1 at 7; Exhibit LKM-1. ECH stated that it has not raised rates since its last base rate proceeding in 2013, and that over the past 12 years, the company has experienced losses in sales and customers, as well as increased operating expenses and costs due to inflation. ECH explained that it requested a lower amount than the claimed supportable amount of 1,775,157 because the steam business is very competitive, and it seeks to maintain relationships with existing customers by demonstrating that its services are efficient and cost-effective.

ECH supports the agreed-upon revenue requirement, stating that the increase permitted pursuant to the Joint Petition, while less than what the Company could have supported, will allow the Company to continue to provide safe, adequate and reasonable service to customers. The Settlement will also allow ECH to maintain costs of operations and recover those expenses that are reasonably necessary to provide service to its customers. ECH Statement in Support at 5-7.

OCA’s primary concern regarding the revenue requirement was the impact of the proposed rate increase on the small number of ECH’s residential customers. OCA points out that ECH proposed to impose a capacity charge on residential customers.

OCA Statement in Support at 7. No other party to the proceeding submitted revenue requirement testimony. OCA maintains that the Settlement represents a reasonable compromise of the OCA's proposal regarding the impact on residential customers and the ECH's proposal. OCA Statement in Support at 7.

OCA noted that in its initial filing, ECH proposed to increase its total annual operating revenues by \$894,300 in additional annual distribution base rate operating revenue at present rates for commercial and industrial customers. OCA proposed a revenue requirement of \$651,163. OCA Statement in Support at 8; OCA St. 1 at 7. OSBA and I&E did not oppose the proposed revenue requirement presented by ECH for the commercial and industrial customers, and they did not address OCA's proposed revenue requirement. OCA Statement in Support at 8. As OCA explains, given the unique position of residential customers within the service territory, under the Settlement, rates for residential customers will be designed as if the Commission approved an annual increase of only \$720,000. The difference in the two rates will not be recoverable by the Company in any future rate case or from other customers. OCA Statement in Support at 7; Settlement ¶ 16. The Settlement also provides that residential customers will be provided with a written bill insert following the rate case explaining the change in rates. Further, ECH will consult with OCA about the wording of the insert. OCA Statement in Support at 7; Settlement ¶ 16.

The OCA submits that the Settlement revenue increase provides sufficient income to maintain the Company's distribution system in an adequate, efficient, safe and reasonable manner while avoiding the harsh rate impact that an increase at the full request would have caused residential customers. OCA further highlights that the new rates will go into effect on May 28, 2026, following the steam heating season. OCA Statement in Support at 8.

OCA additionally addresses the advantages of a “black box” settlement with respect to required revenue, stating that “black box” settlements avoid the need for protracted disputes over the merits of individual revenue requirement adjustments and avoid the need for a diverse group of stakeholders to attempt to reach a consensus on each of the disputed accounting and ratemaking issues raised in this matter. OCA Statement in Support at 8. Lastly, OCA is satisfied that it will work with ECH on the language to explain the proposed increase to its residential customers. OCA Statement in Support at 9.

OSBA explains that its witness, Kevin Higgins, reviewed ECH’s expenses, investment and revenues, and concluded that ECH’s requested revenue requirement is just and reasonable. OSBA took into consideration the fact that ECH has not had a base rate increase since 2013, and that its requested revenue requirement is only a rate of return of 3.28%, which is well below what can be justified under conventional regulatory treatment. OSBA Statement in Support at 2.

I&E did not challenge ECH’s proposed revenue requirement in testimony. However, I&E noted that it supports the reduced revenue requirement for residential customers contained in the Settlement as it provides sufficient revenues to allow the Company to provide safe and reliable service while mitigating the impact on those customers. I&E Statement in Support at 4-5.

We find the terms in the Joint Petition concerning the revenue requirement increase for ECH’s steam service to be reasonable and in the public interest.

Here, as previously indicated, the Settlement is a “black box” agreement, which means that it does not reflect a specific resolution of every element of the revenue requirement but rather represents the Joint Petitioners’ agreed upon final revenue increase amount based on their respective analyses of the various revenue and expense items. The

fact that the Settlement is a “black box” agreement does not diminish the analysis performed by the Joint Petitioners in coming to the agreed-upon revenue requirement. The Joint Petitioners engaged in extensive discovery and other litigation-related efforts and negotiated the Joint Petition, including the revenue requirement agreed to therein which they profess to be in the public interest. Further, as noted, the Commission supports the use of “black box” settlements due to the complexity in determining a company’s revenue requirement. As such, use of a “black box” approach with respect to the revenue requirement in this matter is consistent with Commission precedent.

The advantages of achieving a “black box” settlement with respect to the revenue requirement in this matter are apparent. Due to the complexity in determining a company’s revenue requirement, a settlement might not have been reached in this proceeding if the Joint Petitioners had to reach a consensus with respect to every element of the Company’s revenue requirement. Further litigation of this matter would have resulted in the expenditure of additional time, resources, and monies; the costs of which might have been ultimately passed on to ECH ratepayers in a future base rate proceeding. Further supporting the use of a “black box” approach here to avoid further litigation is the fact that, based on the revenue requirement litigation positions of OCA, I&E, and OSBA, the agreed-upon revenue requirement increase appears to fall squarely within the range of likely outcomes that would have resulted from a fully litigated proceeding.

Lastly, the agreed-upon revenue increase represents a significant reduction from the amount the Company arguably could have supported. As such, ECH customers benefit not only from having their economic burden reduced, but also from the fact that the agreed-upon revenue increase affords the Company with revenue sufficient to cover its expenses and to continue to invest in its facilities as necessary to provide safe, effective, and reliable steam service to them as Energy Center Harrisburg customers.

Consequently, we recommend that the Commission approve these Settlement terms without modification.

**C. RATE DESIGN AND STRUCTURE (Joint Petition ¶¶ 17-21; Joint Petition Appendices A, B)**

The Joint Petitioners in the Joint Petition agreed to a comprehensive rate design as set forth in **Appendix A** to the Settlement.

ECH proposed a change to its rate design and structure to implement a fixed capacity charge. This proposed charge would move from a distribution rate based on a minimum monthly charge plus a monthly usage charge, to a fixed monthly capacity charge based on the Equivalent Cubic Footage (ECF) of a customer's building for seasonal customers and the Equivalent Maximum Pounds of steam (EMP) for continuous or full-year customers. Each individual customer's ECF or EMP would be back calculated to match exactly the per Mlb. increase that would have been charged under the existing rate structure to allow the Company to recover its revenue requirement in this proceeding. ECH Statement in Support at 7-8; ECH Statement No. 2 at 3. ECH explained that it has a small customer base that shares very limited and defined assets, including the operational costs associated with an over 100-year-old plant and distribution system. ECH further explained that Mlb. sales are decreasing and the Company has experienced customer attrition as a result of climate warming, customer conservation and viable alternatives for customers to steam service from ECH. ECH Statement in Support at 7-8; ECH Statement No. 1 at 11-12; ECH Statement No. 2 at 12-13; ECH Statement No. R-2 at 4-5, 9-12.

The Joint Petitioners compromised and agreed, with the exception of residential customers, to add a usage-based charge for steam distribution service, so that non-fuel revenue will be partially collected using metered Mlbs. and partially collected

using a fixed capacity charge. Each individual customer's EMP or ECF will reflect a lower number than originally proposed by the Company to account for the addition of a variable amount of \$3.00 per Mlb. collected based on usage by metered Mlbs. This achieves roughly the same amount as apportioning 80% of ECH's revenue requirement through fixed charges (EMP/ECF, the capacity charge) and 20% through variable costs (\$3.00 per Mlb., the usage charge). ECH Statement in Support at 8-9; Settlement ¶ II.C.17. The Joint Petitioners further agreed that residential customers will continue to be charged under the current volumetric charge rate design and the fixed capacity charge will not apply to residential customers. Settlement ¶ II.C.18. The Steam Cost Rate (SCR) will remain unaffected by this proceeding. ECH Statement in Support at 8-9; ECH Statement No. 2 at 3; Settlement ¶ II.C.19.

ECH noted that the rate design provisions of the Settlement reflect a compromise of the Joint Petitioners' positions on ECH's proposed rate design and structure. The compromise of collecting 80% of revenue through a capacity charge for non-residential customers is between what ECH originally requested and what I&E and OCA proposed in response. ECH maintains that the 20% usage-based charge, in addition to the SCR that will remain uncharged, will encourage customers to conserve. ECH further maintains that the compromise in rate design and structure will benefit customers and the public utility in providing a measure of certainty and supporting the financial viability of the Company. ECH's residential customers are responsible for providing for the recovery of a *de minimus* amount of its proposed cost of service. ECH Statement in Support at 9-10; ECH Statement No. R-2 at 3; I&E Statement No. 1 at 6.

OCA supports the rate design, stating that this portion of the Joint Petition is in the public interest. OCA Statement in Support at 11. ECH initially proposed moving its residential customers from the current volumetric to a capacity charge. OCA was concerned about this proposal, and OCA witness Mierzwa testified that the transition to capacity charge could violate the principles of rate design stability and predictability

for the Company's nine residential customers. OCA Statement in Support at 9; OCA St. 2 at 5 (Public). Consistent with Mr. Mierzwa's testimony, under the Settlement, the Company's residential customers, under the residential rate, will continue to be charged under the current volumetric charge rate design. OCA Statement in Support at 9; Settlement ¶ 18. Moreover, the customer charges will continue to encourage conservation through the Steam Cost Rate and that budget billing will be offered to any customer who seeks to stabilize its charges. OCA Statement in Support at 9; Settlement ¶ 19. For all other customers (excluding residential customers), the rate design will add a usage-based charge for steam distribution service to the rate design proposed by the Company. Settlement ¶ 17.

OSBA witness Higgins conducted detailed discovery on ECH's proposed rate design and concluded that the revenue allocation across the individual customers was reasonable. Witness Higgins concluded that smaller commercial customers were not disadvantaged relative to larger customers. OSBA Statement in Support at 3.

I&E supports the revenue allocation and rate design settlement terms as set forth in the Joint Petition and in **Appendix A** attached to the Joint Petition as a full and fair compromise that provides ECH, the Joint Petitioners, ratepayers, and the Commission with regulatory certainty and resolution of the rate design and revenue allocation, all of which is in the public interest. I&E witness Cline noted a concern that the Company's proposal in its filing to change the minimum bill and usage charge to a fixed monthly capacity charge will not result in just and reasonable rates for customers. Witness Cline explained that rate certainty could be achieved through methods that would not sacrifice cost causation or conservation principles. I&E states that the rate design in the Settlement achieves this goal. I&E Statement in Support at 5; I&E St. No. 1 at 3, 7.

We agree with the Joint Petitioners that the rate design terms in the Joint Petition are reasonable and in the public interest. These terms offer a fair and reasonable

balance between the company's desire, in light of significant competitive pressures, for a more stable and predictable revenue stream with customers' ability to maintain some control over their bills through their consumption patterns.

Consequently, we recommend that the Commission approve these Settlement terms without modification.

**D. BUDGET BILLING AND PAYMENT ARRANGEMENT FOR COMMERCIAL AND INDUSTRIAL CUSTOMERS (Joint Petition ¶ 22).**

ECH agrees to continue to offer budget billing to any customer who seeks to stabilize its monthly non-fuel and SCR charges, so long as the Company is ultimately able to true-up any cost variances. ECH Statement in Support at 10; Settlement ¶ II.C.21. ECH has also agreed that within 90 days following the Commission's final Order approving this Settlement, it will implement a formal program for payment arrangements for commercial customers, including eligibility and payment terms. ECH Statement in Support at 10; Settlement ¶ II.C.22. ECH maintains that this provision in the Settlement balances the interests of the public utility and its customers, most of whom are commercial and industrial customers. ECH Statement in Support at 10.

OCA did not present evidence regarding this issue. However, OCA supports this settlement term and states that it is in the public interest, when considered in the context of the Settlement. OCA Statement in Support at 12.

OSBA commented that a program for payment arrangements for commercial and industrial customers can provide a means for customers experiencing financial difficulties to pay their utility bills under reasonable terms. OSBA Statement in Support at 3.

I&E took no position on this issue in testimony but supports this term as a part of the overall Settlement. I&E Statement in Support at 5.

We agree with the Joint Petitioners that this settlement term is reasonable and in the public interest. ECH's payment arrangement program for commercial and industrial customers will provide payment-troubled customers a pathway to paying their monthly bills on time and in full which will, in turn, reduce ECH's uncollectible expense.<sup>1</sup> Thus, it is in the public interest that eligible ECH customers take advantage of the program.

Consequently, we recommend that the Commission approve these Settlement terms without modification.

#### **E. STAY OUT (Joint Petition ¶ 23)**

In the Settlement, ECH agreed to a "stay out" provision that provides, absent exigent financial or operational circumstances that jeopardize its continuing viability as a steam service provider, that it will not file for a general increase pursuant to 66 Pa.C.S. § 1308(d) to its steam base rates earlier than two years following the entry of a Commission final Order approving the Settlement. ECH Statement in Support at 10-11; Joint Petition ¶ 23.

ECH contends that the "stay out" provision is in the public interest because it benefits customers with rate stability and benefits the Joint Petitioners and the Commission in that the time and expense of litigating another rate case will be avoided for two years. ECH Statement in Support at 10-11.

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<sup>1</sup> Unpaid bills are included in the utility's uncollectible expenses, which its remaining customers must pay. *Bolt v. Duquesne Light Co.*, Docket No. Z-08721758 (Order entered Apr. 8, 1988).

OCA supports the “stay out” provision as in the public interest stating that the provision ensures stability in the customers’ newly established rates. OCA Statement in Support at 12. OCA also notes that, if this case were fully litigated, ECH could potentially file for another general rate increase at any time. *Id.*

OSBA supports the “stay out” provision, stating that it provides rate stability for ECH customers. OSBA Statement in Support at 3.

I&E supports the “stay out” provision, stating that it provides the ratepayers with regulatory certainty and a resolution which is in the public interest. I&E Statement in Support at 5-6.

We find that the “stay out” provision term in the Joint Petition is reasonable and in the public interest. We agree with the Joint Petitioners that the “stay out” provision provides ECH customers with a level of rate stability for a period of time. Further, the statutory advocates (OCA and OSBA), as well as the Commission itself, benefit from the “stay out” provision by not having to spend resources litigating a general rate increase case for that same time period.

In addition, it is important to note that there is no requirement for a settlement agreement in a base rate proceeding to contain any “stay out” provision. *See Pa. Pub. Util. Comm’n v. Community Utils. of Pa. Inc. – Water and Wastewater Div.*, Docket No. R-2021-3025206 (Opinion and Order entered Jan. 13, 2022) (“*CUPA 2021*”) at 48. The Code only prevents a public utility from filing for a general rate increase prior to final Commission action on its previous general rate increase request. *See* 66 Pa.C.S. § 1308(d.1). As such, the “stay out” provision in this case was voluntarily agreed to by ECH as part of the negotiations between the Joint Petitioners and is one of the several benefits achieved through the Joint Petitioners reaching a settlement of this matter. The

level of rate stability provided by the “stay out” provision would not be available to ECH customers if this proceeding were fully litigated.

Consequently, we recommend that the Commission approve this Settlement term without modification.

### CONDITIONS OF SETTLEMENT

The Joint Petition contains standard conditions that are routinely included in settlement petitions presented to the Commission. Joint Petition ¶¶ 24-30. These conditions provide, among other things, that Commission approval of the Settlement does not constitute approval of any Joint Petitioner’s position on any issue but, rather, the Settlement represents a compromise of competing positions, that the Settlement does not necessarily represent the position(s) that would be advanced in this or any other proceeding, and that it cannot be cited as precedent in any future proceeding except to the extent required to implement or enforce any Settlement Term. Joint Petition ¶¶ 26-27.

The Settlement is further conditioned upon its approval by the Commission without modification, and that if the Commission should disapprove the Settlement or modify any of its terms or conditions, any Joint Petitioner can withdraw upon written notice to the Commission and active Parties within five business days of the entry of the Commission’s order and in that case, the Settlement will be of no force or effect and each Party reserves its right to fully litigate the case. The Joint Petitioners agreed to waive the filing of exceptions in the event we recommended that the Commission adopt the settlement without modification, but reserved the right to file exceptions and reply exceptions should we modify or reject the Settlement agreement. Joint Petition ¶¶ 26-27.

We find that these standard provisions in the Joint Petition are a reasonable part of a comprehensive settlement and are in the public interest.

## PUBLIC INPUT HEARING

As noted above, an in-person public input hearing was scheduled for November 6, 2025, in Harrisburg, Pennsylvania. However, no one appeared for the hearing to present testimony or otherwise comment on the proposed rate increase.

## CONCLUSION

After considering the terms and conditions of the settlement, and the record evidence, we find that it produces rates that are just and reasonable and addresses other issues raised by the parties during the course of this proceeding. The active parties presented expert testimony in support of the various elements of the rate filing. The active parties engaged in discovery and thoroughly reviewed and evaluated the filing. The active parties also engaged in extensive settlement negotiations and made compromises, which the Commission has stated “fosters and promotes the public interest.”<sup>2</sup> The unanimous agreement of the Joint Petitioners resulted in reasonable settlement terms.

We find that the settlement is supported by substantial evidence, is in the public interest, and is consistent with the requirements of 66 Pa.C.S. § 1308. Accordingly, we recommend that the Commission approve the proposed settlement without modification and that ECH file tariff a supplement reflecting the rates set forth in its proposed compliance tariff attached to the Joint Petition as **Appendix A**, to become effective as of May 28, 2026.

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<sup>2</sup> *Pa. Pub. Util. Comm’n v. C S Water & Sewer Assocs.*, 74 Pa.P.U.C. 767, 771 (1991).

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa.C.S. §§ 1301, 1308(d).

2. Under Section 1301 of the Public Utility Code, a public utility's rates must be just and reasonable. 66 Pa.C.S. § 1301.

3. In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceeding upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. 66 Pa.C.S. § 315(a).

4. In determining just and reasonable rates, the Commission has discretion to determine the proper balance between the interests of ratepayers and utilities. *Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d 808 (Pa. 1995).

5. The term "just and reasonable" is not intended to confine the ambit of regulatory discretion to an absolute or mathematical formula; rather, the Commission is granted the power to balance the prices charged to utility customers and returns on capital to utility investors. *Pa. Pub. Util. Comm'n v. Pa. Gas & Water Co.*, 424 A.2d 1213, 1219 (Pa. 1980).

6. Commission policy promotes settlements. Settlements lessen the time and expense the parties must spend litigating a case and at the same time conserve administrative resources. 52 Pa. Code § 5.231.

7. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.

8. The Commission supports the use of “black box” settlements. *Pa. Pub. Util. Comm’n v. Peoples TWP LLC*, Docket No. R-2013-2355886 (Opinion and Order entered Dec. 19, 2013); *Pa. Pub. Util. Comm’n v. Columbia Water Co.*, Docket No. R-2017-2598203 (Opinion and Order entered Mar. 1, 2018).

9. In order to approve a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm’n v. C S Water & Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).

10. The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

11. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm’n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Pa. Dept. of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

12. The rates and terms of service set forth in the Joint Petition are supported by substantial evidence and are in the public interest.

## ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Approval of Unanimous Settlement of Rate Proceeding filed on December 23, 2025, by Energy Center Harrisburg, LLC, the Bureau of Investigation and Enforcement, the Pennsylvania Office of Consumer Advocate, and the Pennsylvania Office of Small Business Advocate be approved, and the Settlement be thereby adopted, in full, without modification or correction.

2. That Energy Center Harrisburg, LLC be authorized to file a steam tariff supplement containing revised rates, rules, and regulations, as shown in **Appendix A** to the Settlement. The revised rates are designed to produce \$894,300 in additional annual distribution base rate operating revenue, with an exception for residential customers, given their unique position on ECH's steam distribution system, whose rates are designed using an assumed annual increase in distribution base rate operating revenue of only \$720,000.

3. That the Commission authorize the tariff supplement described in Paragraph 2 to be filed on at least one (1) days' notice, to become effective for service rendered on and after May 28, 2026, pursuant to the entry of the Commission's Opinion and Order.

4. That the formal complaint of the Pennsylvania Office of Consumer Advocate at Docket No. C-2025-3056995 be deemed satisfied and marked closed.

5. That the formal complaint of the Pennsylvania Office of Small Business Advocate Docket No. C-2025-3056767 be deemed satisfied and marked closed.

6. That, upon Commission approval of the tariff supplement filed by Energy Center Harrisburg LLC in compliance with the Commission's Opinion and Order in this matter, the investigation at Docket No. R-2025-3055959 shall be marked closed.

Date: January 26, 2026

\_\_\_\_\_/s/  
Steven K. Haas  
Administrative Law Judge

\_\_\_\_\_/s/  
Charece Z. Collins  
Administrative Law Judge