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April 6, 2026

Via Electronic Filing

Matthew L. Homsher, Secretary
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v. Pennsylvania-American Water Company,
Docket Nos. R-2025-3057983 and R-2025-3058051

Dear Secretary Homsher:

Enclosed for electronic filing please find Victory Brewing Company's Main Brief with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

A handwritten signature in black ink that reads "Lauren M. Burge". The signature is written in a cursive, flowing style.

Lauren M. Burge

Enclosure

cc: Hon. Jeffrey A. Watson w/enc.
Hon. Emily I. DeVoe w/enc.
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the enclosed **Main Brief** upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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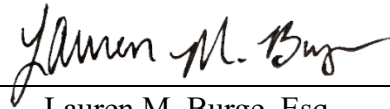
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Dated: April 6, 2026

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Lauren M. Burge, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|----------------------------|
| Pennsylvania Public Utility Commission | : | Docket Nos. R-2025-3057983 |
| | : | R-2025-3058051 |
| v. | : | |
| | : | |
| Pennsylvania-American Water Company | : | |

**MAIN BRIEF OF
VICTORY BREWING COMPANY**

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I. INTRODUCTION

Victory Brewing Company (“Victory Brewing” or “VBC”) is a large industrial customer that receives water and wastewater services from Pennsylvania-American Water Company (“PAWC” or the “Company”) in Rate Zone 1. Victory Brewing is also subject to payment of Pollutant Removal Costs under Section U of PAWC’s wastewater tariff. Victory Brewing has been an active participant in this proceeding and hereby submits this Main Brief in support of its positions.

A. Procedural History

On November 14, 2025, PAWC filed Supplement No. 58 to Tariff Water-PA P.U.C. No. 5 (“Supplement No. 58”) with the Pennsylvania Public Utility Commission (“Commission” or “PUC”) to become effective January 13, 2026. Supplement No. 58 proposes to increase PAWC’s total annual operating revenues for water service by approximately \$152.4 million, or 16.1%. On the same date, PAWC filed Supplement No. 61 to Tariff Wastewater PA P.U.C. No. 16 (“Supplement No. 61”) with the Commission to become effective January 13, 2026. Supplement No. 61 proposes to increase PAWC’s total operating revenues for wastewater service by approximately \$16.3 million, or 7.8%.

By Orders entered on December 4, 2025, the Commission suspended the rate increases proposed by Supplement Nos. 58 and 61 for further investigation until August 13, 2026, unless permitted by Commission Order to become effective at an earlier date.

A prehearing conference was convened on December 12, 2025. On December 17, 2025, Administrative Law Judges Emily I. DeVoe and Jeffrey A. Watson (the “ALJs”)

issued a Prehearing Order setting forth the procedural matters addressed during the prehearing conference, including the litigation schedule.

On December 19, 2025, Victory Brewing filed its Petition to Intervene. On January 7, 2026, a Further Prehearing Conference was held to discuss various items. Victory Brewing's intervention was granted during the Further Prehearing Conference, and VBC has actively participated as an intervenor in this proceeding.

Following the submission of testimony by various parties, an in-person evidentiary hearing was convened on March 23, 2026. Victory Brewing attended the evidentiary hearing and its rebuttal testimony was admitted to the record.

Victory Brewing now submits this Main Brief consistent with the Interim Order dated March 17, 2026 and the ALJs' instructions during the evidentiary hearing. Victory Brewing followed the common briefing outline established by the parties. However, since Victory Brewing is not taking a position on the overall amount of rate relief, no Excel tables are attached to this Main Brief.

B. Legal Standards (Burden of Proof)

As the party requesting the rate increase, PAWC has the burden of proving that its proposed rates are just and reasonable.¹ This burden of establishing the justness and reasonableness of every component of its rate request is an affirmative one, which remains

¹ 66 Pa. C.S. § 315(a). *See Allegheny Center Assocs. v. Pa. Pub. Util. Comm'n*, 570 A.2d 149, 153 (Pa. Commw. Ct. 1990) (citation omitted); *see also Pa. Pub. Util. Comm'n v. Equitable Gas Co.*, Docket No. R-901595 (Opinion and Order entered Nov. 21, 1990).

with the public utility throughout the course of the rate proceeding.² The public utility must satisfy its burden of proof by a preponderance of the evidence, which “means only that one party has presented evidence that is more convincing, by even the smallest amount, than the evidence presented by the other party.”³ However, a party proposing an adjustment to a ratemaking claim bears the burden of going forward with evidence to respond to the reasonableness of its proposed rates.⁴

PAWC’s rates must meet the constitutional and statutory standard of being “just and reasonable.”⁵ Section 1301 of the Public Utility Code requires that “[e]very rate made, demanded, or received by any public utility . . . shall be just and reasonable, and in conformity with regulations or orders of the commission.”⁶ The Commission must set the rate *within* the zone of reasonableness to be “just and reasonable.”⁷

² *Pa. Pub. Util. Comm’n v. Appalachian Utils., Inc.*, Docket No. R-2015-2478098 *et al.* (Opinion and Order entered Mar. 10, 2016), at 19 (adopting the Recommended Decision dated February 19, 2016).

³ *NRG Energy, Inc. v. Pa. Pub. Util. Comm’n*, 233 A.3d 936, 949 (Pa. Commw. Ct. 2020) (citing *Energy Conservation Council of Pa. v. Pa. Pub. Util. Comm’n*, 995 A.2d 465, 478 (Pa. Commw. 2010)).

⁴ *See, e.g., Pa. Pub. Util. Comm’n v. PECO*, Docket No. R-891364, *et al.* (Opinion and Order entered May 16, 1990); *Pa. Pub. Util. Comm’n v. Breezewood Telephone Co.*, Docket No. R-901666 (Opinion and Order entered Jan. 31, 1991).

⁵ 40 Pa. B. at 2672 (May 22, 2010); 52 Pa. Code § 69.2702(b); *Pa. Pub. Util. Comm’n v. PGW*, Docket No. R-00006042 (Order entered Oct. 4, 2001), at 25 (*aff’d by City of Philadelphia v. Pa. Pub. Util. Comm’n*, 829 A.2d 1241 (Pa. Commw. Ct. 2003)) (holding that the “just and reasonable” standard in Section 1301 is coextensive with the federal constitutional standard for determining utility rates).

⁶ 66 Pa. C.S. § 1301.

⁷ *See FPC v. Conway*, 426 U.S. 271, 278 (1976) (“[T]here is no single cost-recovering rate, but a zone of reasonableness.”).

II. SUMMARY OF ARGUMENT

Victory Brewing respectfully urges the Commission to carefully consider the evidence submitted by the Commission's Bureau of Investigation and Enforcement ("I&E") and the Office of Consumer Advocate ("OCA"), as well as other parties, regarding the amount of the proposed rate increase and to moderate that amount consistent with the public interest. Particularly since the proposed increase would be the fourth significant rate increase since 2020 alone, it is critical for the PUC to take into consideration that evidence in determining what the appropriate, or a just and reasonable, amount should be.

With respect to the Company's proposed cost of service study and its revenue allocation proposal, Victory Brewing believes that PAWC has provided substantial evidence in support of those proposals. Particularly, OCA's water cost of service study should be rejected in favor of PAWC's proposal, which is well-supported and consistent with prior Commission approvals. As to the proposed rate design, Victory Brewing opposes proposals by OCA that would result in shifting significant additional costs for water service onto industrial customers. Victory Brewing also opposes the Office of Small Business Advocate's ("OSBA") proposal to increase the current special wastewater rates applicable to Victory Brewing and Cleveland-Cliffs Steel, as well as OSBA's related scale-back proposals. The Commission should reject these proposals by OCA and OSBA.

III. OVERALL POSITION ON RATE INCREASE

Victory Brewing does not have an overall position on the rate increase but rather defers to other parties, including I&E and OCA, who have submitted evidence supporting lower revenue requirements.

Victory Brewing wishes to note that the proposed rate increase is the fourth sizeable rate increase PAWC has requested since 2020 alone. Recent approved rate increases include the following:

- In 2021, the Commission approved a total annual revenue increase of \$70.5 million on a total company basis.⁸
- In 2022, the Commission approved a total annual revenue increase of \$138 million on a total company basis.⁹
- In 2024, the Commission approved annual revenue increases of \$88.121 million, or 10.74%, for water service and \$11.21 million, or 6.47%, for wastewater service.¹⁰

As explained in the testimony of Scott Shirley, Vice President of Operations for Victory Brewing, VBC's operations have been impacted and modified substantially to adjust to higher water and wastewater costs over the last 5 years.¹¹ Both the frequency and magnitude of PAWC's recent rate increases, including the current proposed increase, have created ongoing challenges for Victory Brewing's operational costs.¹² The Commission should consider this context and the impact of the proposed rate increase on affordability

⁸ *Pa. Pub. Util. Comm'n v. PAWC*, Docket Nos. R-2020-3019369 *et al.* (Opinion and Order entered Feb. 25, 2021) (noting that, per Ordering Paragraph 6, the \$70.5 million increase was to be phased in over two years and offset by annualized credits of \$10.5 million in 2021 and 2022).

⁹ *Pa. Pub. Util. Comm'n v. PAWC*, Docket Nos. R-2022-3031672 *et al.* (Opinion and Order entered Dec. 8, 2022).

¹⁰ *Pa. Pub. Util. Comm'n v. PAWC*, Docket Nos. R-2023-3043189 *et al.* (Opinion and Order entered July 22, 2024). The Commission subsequently denied reconsideration by Order entered September 26, 2024.

¹¹ Victory Brewing St. No. 1-R at 3, 6.

¹² Victory Brewing St. No. 1-R at 3–4.

for customers like Victory Brewing when examining the overall increase requested by PAWC in this proceeding.

IV. RATE BASE

Victory Brewing takes no specific position on PAWC's rate base.

V. REVENUES

Victory Brewing takes no specific position on PAWC's revenues.

VI. EXPENSES

Victory Brewing takes no specific position on PAWC's expenses.

VII. TAXES

Victory Brewing takes no specific position on PAWC's treatment of taxes.

VIII. DEPRECIATION

Victory Brewing takes no specific position on depreciation.

IX. RATE OF RETURN

Victory Brewing takes no specific position on PAWC's rate of return.

X. RATE STRUCTURE

A. Cost of Service Studies

When a utility files for a rate increase and the proposed increase exceeds \$1 million, the utility must include with its filing an allocated class cost-of-service study ("COSS") in which it assigns to each customer class a portion of the proposed rate increase, based upon

operating costs that it incurred in providing that service.¹³ While cost of service studies are the touchstone for reasonable allocations of revenue responsibility among rate classes,¹⁴ the Commission has often stated that cost of service and revenue allocation analyses require a considerable amount of judgment and are more of an accounting/engineering art rather than a science.¹⁵ For that reason, Pennsylvania appellate courts have repeatedly held that the Commission, in crafting a reasonable rate structure, is “invested with a flexible limit of judgment” and may establish just, reasonable and non-discriminatory rates within a “range of reasonableness.”¹⁶

In this case, the COSSs for water and wastewater service presented by PAWC are well-supported and are consistent with those approved by the Commission in prior rate cases. As such, the Company’s COSSs is reasonable and should be adopted.

1. Water Operations

OCA witness Jerome D. Mierzwa presented his own water COSS and made various recommendations as to how the proposed water rate increase should be allocated among customer classes based on his COSS.¹⁷

¹³ 52 Pa. Code § 53.53.

¹⁴ *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1019, 1021 (Pa. Commw. Ct. 2006).

¹⁵ *Application of Metropolitan Edison Co.*, Docket No. R-00974008 (Order entered June 30, 1998); *Pa. Pub. Util. Comm’n v. Pa. Power & Light Co.*, 55 PUR 4th 185, 1983 WL 913509 (Order dated Aug. 19, 1983).

¹⁶ *U.S. Steel Corp. v. Pa. Pub. Util. Comm’n*, 390 A.2d 865, 874 (Pa. Commw. Ct. 1978).

¹⁷ See OCA St. No. 3 at 30–31.

Mr. Mierzwa's COSS should be rejected. PAWC's water COSS is consistent with the methods that the Commission has approved in prior rate cases and is reasonable and well supported. Victory Brewing agrees with the testimony presented by Cleveland-Cliffs Steel witness Richard Baudino explaining that Mr. Mierzwa's COSS is flawed and should be rejected.¹⁸ Victory Brewing will further respond to Mr. Mierzwa's related revenue allocation proposals in Section C.2 below.

2. Wastewater Operations

As discussed above, the Company's wastewater COSS is reasonable and should be adopted.

3. Cost of Service Studies for Future General Rate Increases

Victory Brewing takes no specific position at this time on COSSs for future general rate increases.

B. Revenue Allocation/Act 11 Shift

Victory Brewing takes no specific position on PAWC's proposed Act 11 shift. Other revenue allocation issues are discussed in Sections C.2 and C.3 below.

C. Tariff Structure

1. Customer Charges

Victory Brewing takes no specific position on PAWC's proposed customer charges. However, Victory Brewing will respond to OSBA's arguments regarding special wastewater rates and related monthly charges in Section C.3 below.

¹⁸ Cleveland-Cliffs Steel St. No. R-1 at 2–5.

2. Water Rate Design

The purpose of revenue allocation is to establish the responsibility of each customer class for a portion of the revenue requirements that are approved by the Commission. A key factor in determining the appropriate portion of the revenue requirements that is allocated to each class is the COSS.¹⁹ OCA witness Mierzwa relied on the water COSS he presented to make various recommendations as to how the proposed water increase should be allocated among customer classes. As highlighted in Victory Brewing witness Shirley's rebuttal testimony, Mr. Mierzwa's proposals would result in a *significantly* higher increase for industrial customers like Victory Brewing as compared to PAWC's proposal as it pushes costs away from residential and commercial customers and onto industrial customers.²⁰ Specifically, if adopted, Mr. Mierzwa's proposal would result in an increase of 24.1% for industrial customers, as opposed to the 11.9% increase proposed by PAWC.²¹

Mr. Mierzwa's water COSS should be rejected for the reasons discussed above, and his proposed allocation to industrial customer should likewise be rejected. Mr. Mierzwa's proposal would result in unreasonably shifting a significant proportion of the increase onto industrial customers like Victory Brewing. While PAWC's proposed 11.9% increase for industrial customers would itself be difficult for Victory Brewing to absorb, OCA's proposal that would increase industrial rates by 24.1% is extreme.²² This would more than

¹⁹ *Lloyd*, 904 A.2d at 1019–21.

²⁰ OCA St. No. 3 at 30–31; Victory Brewing St. No. 1-R at 3–4.

²¹ OCA St. No. 3 at 30–31, Tables 4 and 5; Victory Brewing St. No. 1-R at 3–4.

²² Victory Brewing St. No. 1-R at 4.

double the amount of the increase allocated to industrial water customers as compared to the Company's proposal (i.e., a \$5,097,377 increase under PAWC's proposal, versus a \$10,353,798 increase under OCA's proposal). While Victory Brewing recognizes that Mr. Mierzwa's proposal includes a variety of factors, such as his proposed Act 11 shift, the result unreasonably shifts a significant additional increase away from residential and commercial customers and onto industrial customers.²³ Meanwhile, PAWC's original allocation proposal is more reasonable and consistent with the approach approved by the Commission in prior rate cases.

For these reasons, the Commission should reject OCA's proposed water revenue allocation that would result in a 24.1% increase for industrial customers like Victory Brewing.

3. Wastewater Rate Design

Victory Brewing currently pays a special rate for wastewater service that consists of a \$456.50 monthly service charge and a usage charge of \$1.48 per 100 gallons. This special rate has been approved by the Commission and is included in PAWC's current wastewater tariff.²⁴ PAWC has not proposed any change to the special wastewater rates in its tariff, which apply to Victory Brewing and other large industrial customers.²⁵

²³ Victory Brewing St. No. 1-R at 4.

²⁴ Pennsylvania-American Water Company, Tariff Wastewater PA P.U.C. No. 16, Page No. 11.1.

²⁵ *See* Victory Brewing St. No. 1-R at 5.

However, OSBA witness Kubas argues that the monthly charges for wastewater service to Victory Brewing and Cleveland-Cliffs Steel should be increased by 19.6%.²⁶ Specifically, Mr. Kubas testified that the monthly service charge should increase from \$456.50 to \$546.00 and the usage charge should increase from \$1.49 to \$1.77 per 100 gallons. He argues that since he is proposing a 19.6% increase for other non-residential customers, the Victory Brewing and Cleveland-Cliffs special wastewater rate should also increase by 19.6%.²⁷

OSBA's argument should be rejected as it is inappropriate and unsupported. OSBA's position that a 19.6% increase for non-residential customers should be applied across the board ignores important differences between Victory Brewing and other non-residential customers.²⁸

For example, OSBA's position does not take into account the fact that Victory Brewing is currently constructing a multimillion-dollar wastewater pre-treatment facility that will significantly reduce costs to PAWC for treatment of wastewater from Victory Brewing's facilities.²⁹ This wastewater treatment facility is being completed after consultation with PAWC and to meet requirements imposed by PAWC, and is intended to pretreat the wastewater effluent from the process of brewing beer before it enters PAWC's

²⁶ OSBA St. No. 1 at 16; OSBA Exh. JK-3, page 1, lines 9–10.

²⁷ *Id.*

²⁸ Victory Brewing St. No. 1-R at 5–6.

²⁹ Victory Brewing St. No. 1-R at 5–6.

wastewater system.³⁰ This project has cost Victory Brewing over \$8 million and is expected to be completed by July of 2026, meaning that the pre-treatment plant is expected to be online before any rate increase resulting from this proceeding would be effective.³¹ The pre-treatment plant represents a significant investment by Victory Brewing, which will in turn reduce PAWC's wastewater treatment costs.³² OSBA's position does not account for either Victory Brewing's multi-million-dollar investment or the resulting reduction in costs for PAWC, and OSBA generally fails to consider the unique aspects of wastewater service to Victory Brewing.

PAWC, on the other hand, did not propose any change to Victory Brewing's current special wastewater rate. VBC submits that the current special wastewater rate appropriately considers the specific and unique factors that apply to Victory Brewing as one of the largest industrial customers in PAWC's service territory. This rate should not be disturbed, particularly not for such cursory reasons as OSBA's desire to implement the same percentage increase across the board for non-residential customers.³³ It is telling that none of the other parties made such a recommendation. OSBA's proposal is an unsupported outlier and should be rejected.

³⁰ Victory Brewing St. No. 1-R at 6.

³¹ Victory Brewing St. No. 1-R at 6.

³² Victory Brewing St. No. 1-R at 6.

³³ Victory Brewing St. No. 1-R at 6.

4. Wastewater Deduct Adjustment

Victory Brewing takes no specific position on PAWC's proposed water deduct adjustment.

5. Demand-Based Contract Rates

Victory Brewing takes no specific position on demand-based contract rates at this time.

D. Summary and Alternatives (Including Scale Back of Rates)

OSBA witness Kubas argues that if the Commission approves a revenue requirement that is less than the amount PAWC requested, the monthly charge for the special wastewater rate applicable to Victory Brewing and Cleveland-Cliffs Steel should be scaled back to match the percentage increase in the Zone 1 Non-Residential usage. However, he does not believe that the usage rate for Victory Brewing and Cleveland-Cliffs Steel should be scaled back at all.³⁴

Victory Brewing submits that OSBA's scale back proposal for the special wastewater rates should be rejected. To be clear, no increase to the wastewater special rate is appropriate or justified here. However, to the extent that any increase to the special rate is approved, both the monthly charge *and* the usage rate should be proportionately scaled back.³⁵

³⁴ OSBA St. No. 1 at 51–52.

³⁵ Victory Brewing St. No. 1-R at 7.

XI. ALTERNATIVE RATEMAKING REQUESTS

A. Customer Assistance Program (“CAP”) Rider

Victory Brewing takes no specific position on PAWC’s proposed CAP Rider.

XII. LOW-INCOME CUSTOMER ASSISTANCE

Victory Brewing takes no position on PAWC’s low-income customer assistance program or proposals.

XIII. SERVICE QUALITY AND CUSTOMER SERVICE ISSUES

Victory Brewing takes no position on PAWC’s service quality or customer service issues.

XIV. CONCLUSION

Victory Brewing respectfully requests that the Commission adopt the recommendations discussed herein regarding PAWC's proposed rate increase.

Respectfully submitted,



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Dated: April 6, 2026

Counsel for Victory Brewing Company

PROPOSED FINDINGS OF FACT

1. Victory Brewing Company (“Victory Brewing” or “VBC”) is a large industrial customer that receives water and wastewater services from Pennsylvania-American Water Company (“PAWC” or the “Company”) in Rate Zone 1.
2. Victory Brewing is also subject to payment of Pollutant Removal Costs under Section U of PAWC’s wastewater tariff.
3. On December 19, 2025, Victory Brewing filed its Petition to Intervene.
4. Victory Brewing’s intervention was granted during the January 7, 2026 Further Prehearing Conference, and VBC has actively participated as an intervenor in this proceeding.
5. The proposed rate increase is the fourth sizeable rate increase that PAWC has requested since 2020 alone.
6. In 2021, the Commission approved a total annual revenue increase of \$70.5 million on a total company basis. *Pa. Pub. Util. Comm’n v. PAWC*, Docket Nos. R-2020-3019369 *et al.* (Opinion and Order entered Feb. 25, 2021) (noting that, per Ordering Paragraph 6, the \$70.5 million increase was to be phased in over two years and offset by annualized credits of \$10.5 million in 2021 and 2022).
7. In 2022, the Commission approved a total annual revenue increase of \$138 million on a total company basis. *Pa. Pub. Util. Comm’n v. PAWC*, Docket Nos. R-2022-3031672 *et al.* (Opinion and Order entered Dec. 8, 2022).
8. In 2024, the Commission approved annual revenue increases of \$88.121 million or 10.74% for water service and \$11.21 million or 6.47% for wastewater service. *Pa. Pub. Util. Comm’n v. PAWC*, Docket Nos. R-2023-3043189 *et al.* (Opinion and Order entered July 22, 2024) (reconsideration subsequently denied in Order entered Sept. 26, 2024).
9. Victory Brewing’s operations have been impacted and modified substantially to adjust to higher water and wastewater costs over the last 5 years. Victory Brewing St. No. 1-R at 3, 6.
10. Both the frequency and magnitude of PAWC’s recent rate increases, including the current proposed increase, have created ongoing challenges for Victory Brewing’s operational costs. Victory Brewing St. No. 1-R at 3–4.

11. In this case, the COSSs for water and wastewater service presented by PAWC are well supported and are consistent with those approved by the Commission in prior rate cases.
12. If adopted, OCA witness Jerome D. Mierzwa's COSS and related allocation proposals would result in an increase of 24.1% for industrial customers, as opposed to the 11.9% increase proposed by PAWC. OCA St. No. 3 at 30–31, Tables 4 and 5; Victory Brewing St. No. 1-R at 3–4.
13. Victory Brewing currently pays a special rate for wastewater service that consists of a \$456.50 monthly service charge and a usage charge of \$1.48 per 100 gallons. This special rate has been approved by the Commission and is included in PAWC's current wastewater tariff. Pennsylvania-American Water Company, Tariff Wastewater PA P.U.C. No. 16, Page No. 11.1.
14. PAWC has not proposed any change to the special wastewater rates in its tariff, which apply to Victory Brewing and other large industrial customers. *See* Victory Brewing St. No. 1-R at 5.
15. Victory Brewing is currently constructing a multimillion-dollar wastewater pre-treatment facility. Victory Brewing St. No. 1-R at 5–6.
16. The wastewater pre-treatment facility that VBC is installing will significantly reduce costs to PAWC for treatment of wastewater from Victory Brewing's facilities. Victory Brewing St. No. 1-R at 5–6.
17. VBC's wastewater pre-treatment plant is being completed after consultation with PAWC and to meet requirements imposed by PAWC, and is intended to pretreat the wastewater effluent from the process of brewing beer before it enters PAWC's wastewater system. Victory Brewing St. No. 1-R at 6.
18. This project has cost Victory Brewing over \$8 million and is expected to be completed by July of 2026, meaning that the pre-treatment plant is expected to be online before any rate increase resulting from this proceeding would be effective. Victory Brewing St. No. 1-R at 6.
19. The pre-treatment plant represents a significant investment by Victory Brewing, which will in turn reduce PAWC's wastewater treatment costs. Victory Brewing St. No. 1-R at 6.

PROPOSED CONCLUSIONS OF LAW

1. As the party requesting the rate increase, PAWC has the burden of proving that its proposed rates are just and reasonable. 66 Pa. C.S. § 315(a). *Allegheny Center Assocs. v. Pa. Pub. Util. Comm’n*, 570 A.2d 149, 153 (Pa. Commw. Ct. 1990) (citation omitted) (*see also Pa. Pub. Util. Comm’n v. Equitable Gas Co.*, Docket No. R-901595 (Opinion and Order entered Nov. 21, 1990)).
2. The burden of establishing the justness and reasonableness of every component of its rate request is an affirmative one, which remains with the public utility throughout the course of the rate proceeding. *Pa. Pub. Util. Comm’n v. Appalachian Utilities, Inc.*, Docket No. R-2015-2478098, et al. (Opinion and Order entered Mar. 10, 2016) at 19 (adopting the Recommended Decision dated February 19, 2016).
3. The public utility must satisfy its burden of proof by a preponderance of the evidence, which “means only that one party has presented evidence that is more convincing, by even the smallest amount, than the evidence presented by the other party.” *NRG Energy, Inc. v. Pa. Pub. Util. Comm’n*, 233 A.3d 936, 949 (Pa. Commw. Ct. 2020) (citing *Energy Conservation Council of Pa. v. Pa. Pub. Util. Comm’n*, 995 A.2d 465, 478 (Pa. Commw. Ct. 2010)).
4. A party proposing an adjustment to a ratemaking claim bears the burden of going forward with evidence to respond to the reasonableness of its proposed rates. *See, e.g., Pa. Pub. Util. Comm’n v. PECO*, Docket Nos. R-891364 et al. (Opinion and Order entered May 16, 1990); *Pa. Pub. Util. Comm’n v. Breezewood Telephone Co.*, Docket No. R-901666 (Opinion and Order entered January 31, 1991).
5. PAWC’s rates must meet the constitutional and statutory standard of being “just and reasonable.” 40 Pa.B. at 2672; 52 Pa. Code § 69.2702(b); *PUC v. PGW*, Docket No. R-00006042 (Order entered Oct. 4, 2001) at 25, *aff’d by City of Philadelphia v. Pa. Pub. Util. Comm’n*, 829 A.2d 1241 (Pa. Commw. Ct. 2003) ([T]he “just and reasonable” standard in Section 1301 is coextensive with the federal constitutional standard for determining utility rates.).
6. Section 1301 of the Public Utility Code requires that “[e]very rate made, demanded, or received by any public utility . . . shall be just and reasonable, and in conformity with regulations or orders of the commission.” 66 Pa. C.S. § 1301.
7. The Commission must set the rate *within* the zone of reasonableness to be “just and reasonable.” *See FPC v. Conway*, 426 U.S. 271, 278 (1976) (“[T]here is no single cost-recovering rate, but a zone of reasonableness.”).
8. When a utility files for a rate increase and the proposed increase exceeds \$1 million, the utility must include with its filing an allocated class cost-of-service study

(“COSS”) in which it assigns to each customer class a portion of the proposed rate increase, based upon operating costs that it incurred in providing that service. 52 Pa. Code § 53.53.

9. While cost of service studies are the touchstone for reasonable allocations of revenue responsibility among rate classes, the Commission has often stated that cost of service and revenue allocation analyses require a considerable amount of judgment and are more of an accounting/engineering art rather than science. *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1019, 1021 (Pa. Commw. Ct. 2006); *Application of Metropolitan Edison Co.*, Docket No. R-00974008 (Order entered June 30, 1998); *Pa. Pub. Util. Comm’n v. Pa. Power & Light Co.*, 55 PUR 4th 185, 1983 WL 913509 (Order dated Aug. 19, 1983).
10. Pennsylvania appellate courts have repeatedly held that the Commission, in crafting a reasonable rate structure, is “invested with a flexible limit of judgment” and may establish just, reasonable and non-discriminatory rates within a “range of reasonableness.” *U.S. Steel Corp. v. Pa. Pub. Util. Comm’n*, 390 A.2d 865, 874 (Pa. Commw. Ct. 1978).
11. The purpose of revenue allocation is to establish the responsibility of each customer class for a portion of the revenue requirements that are approved by the Commission. A key factor in determining the appropriate portion of the revenue requirements that is allocated to each class is the COSS. *Lloyd*, 904 A.2d at 1019–21.

PROPOSED ORDERING PARAGRAPHS

1. PAWC's water and wastewater cost of service studies are accepted.
2. PAWC's proposed rate design and revenue allocations for industrial customers are accepted.