

COMMONWEALTH OF PENNSYLVANIA



DARRYL A. LAWRENCE
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
(800) 684-6560

 @pa_oca
 /pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

April 15, 2026

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission
v.
Pennsylvania-American Water Company
Docket Nos. R-2025-3057983 (W)
R-2025-3058051 (WW)

Dear Secretary Homsher:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Brief in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Harrison W. Breitman
Harrison W. Breitman, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 320580
Email: HBreitman@paoca.org

Enclosures

cc: Administrative Law Judge Jeffrey A. Watson (Via Email Only: jeffwatson@pa.gov)
Administrative Law Judge Emily I. DeVoe (Via Email Only: edevoe@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
 :
 v. : Docket Nos. R-2025-3057983 (W)
 : R-2025-3058051 (WW)
 Pennsylvania-American Water Company :
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I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Reply Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 15th day of April 2026.

SERVICE BY E-MAIL ONLY

Elizabeth Rose Triscari, Esq.
Teresa K. Harrold, Esq.
Erin K. Fure, Esq.
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
elizabeth.triscari@amwater.com
teresa.harrold@amwater.com
erin.fure@amwater.com
Counsel for PAWC

Kenneth M. Kulak, Esq.
Mark Lazaroff, Esq.
Catherine Vasudevan, Esq.
Brooke E. McGlinn, Esq.
2222 Market Street
Philadelphia, PA 19103-3007
ken.kulak@morganlewis.com
mark.lazaroff@morganlewis.com
catherine.vasudevan@morganlewis.com
brooke.mcglinn@morganlewis.com
Counsel for PAWC

Rebecca Lyttle, Esq.
Steven C. Gray, Esq.
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
relyttle@pa.gov
sgray@pa.gov
Counsel for OSBA

Carrie B. Wright, Esq.
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17120
carwright@pa.gov
Counsel for I&E

Ria M. Pereira, Esq.
John W. Sweet, Esq.
Elizabeth R. Marx, Esq.
Lauren N. Berman, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
Counsel for CAUSE-PA

Kurt J. Boehm, Esq.
Boehm, Kurtz & Lowry
425 Walnut Street, Suite 2400
Cincinnati, Ohio 45202
kboehm@BKLLawfirm.com
Counsel for Cleveland-Cliffs Steel

Sean M. Gallagher, Esq.
Gallagher Law Group
110 East Diamond Street, Suite 101
Butler, PA 16001
smgallagher@gallagher.legal
Counsel for Cleveland-Cliffs Steel

Lauren M. Burge, Esq.
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15206
lburge@eckertseamans.com
Counsel for Victory Brewing

Stephen M. Pemberton, Esq.
Eckert Seamans Cherin & Mellott, LLC
Two Liberty Place, 22nd Floor
60 South 16th Street
Philadelphia, PA 19102
spemberton@eckertseamans.com
Counsel for Victory Brewing

Sharon Montanye, Esq.
Sweet Stevens Katz & Williams LLP
331 East Butler Avenue
New Britain, PA 18901
smontanye@sweetstevens.com
Counsel for Exeter Township School District

Richard A. Baudino
J. Kennedy & Associates
1347 Frye Road
Westfield, NC 27053
rbaudino@jkenn.com
Counsel for Cleveland-Cliffs Steel

/s/ Harrison W. Breitman
Harrison W. Breitman, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 320580
Email: HBreitman@paoca.org

Joel Cheskis, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 81617
Email: JCheskis@paoca.org

Counsel for:
Darryl A. Lawrence
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: 717-783-5048
Fax: 717-783-7152

Dated: April 15, 2026

Ryan Morden, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 335679
Email: RMorden@paoca.org

Janna E. Williams, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 319584
Email: JWilliams@paoca.org

Johnathan M. Longhurst, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 338157
Email: JLonghurst@paoca.org

Olivia M. Spergel, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 337929
Email: OSpergel@paoca.org
Email: OCAPAWC2025@paoca.org

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY BRIEF
OF THE
OFFICE OF CONSUMER ADVOCATE

Counsel for:
Darryl A. Lawrence
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: 717-783-5048
Fax: 717-783-7152

Harrison W. Breitman
Senior Assistant Consumer Advocate
PA Attorney I.D. # 320580
Email: HBreitman@paoca.org

Joel Cheskis
Senior Assistant Consumer Advocate
PA Attorney I.D. # 81617
Email: JCheskis@paoca.org

Ryan Morden
Assistant Consumer Advocate
PA Attorney I.D. # 335679
Email: RMorden@paoca.org

Janna E. Williams
Assistant Consumer Advocate
PA Attorney I.D. # 319584
Email: JWilliams@paoca.org

Johnathan M. Longhurst
Assistant Consumer Advocate
PA Attorney I.D. # 338157
Email: JLonghurst@paoca.org

Olivia M. Spergel
Assistant Consumer Advocate
PA Attorney I.D. # 337929
Email: OSpergel@paoca.org
Email: OCAPAWC2025@paoca.org

Dated: April 15, 2026

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I. INTRODUCTION

A. Procedural History

The OCA incorporates by reference the Procedural History section of its Main Brief.

OCA M.B. at 1. On April 6, 2026, the OCA submitted its Main Brief in this proceeding.

B. Legal Standards (Burden of Proof)

In PAWC's Main Brief, there are three citations regarding burden of proof that are inaccurate or misleading. First, PAWC cites *Pa. PUC v. UGI Utilities, Inc. - Electric Division*, Docket No. R-2017-2640058 (Order Oct. 25, 2018) (*UGI 2018*), affirmed by *McCloskey v. Pa. PUC*, 225 A.3d 192 (Pa. Cmwlth. 2020) (*McCloskey 2020*), to state that Section 315(a) "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."¹ PAWC omits critical context as the full quote from the Commission order is that Section 315(a):

[C]annot 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. Inasmuch as the Legislature is not presumed to intend an absurd result in interpretation of its enactments, *the burden of proof must be on the party who proposes a rate increase beyond that sought by the utility.*

UGI 2018 at 8 (citations omitted) (emphasis added).

Second, PAWC states that Section 332(a) of the Public Utility Code establishes a burden of proof separate from that in Section 315 for those entities that propose a rule or order, falsely implying that parties other than PAWC carry the burden of proof in this proceeding.² Notably, however, PAWC does not apply or cite Section 332(a) anywhere else in its Main Brief. The Commission should not be misled by PAWC's incomplete and

¹ PAWC M.B. at 3.

² PAWC M.B. at 3.

inaccurate standard. The burden of proof in this case *is squarely* upon PAWC with regard to all elements of its rate claims.³ When determining just and reasonable rates, the Commission “shall consider...the efficiency, effectiveness and adequacy of service of each utility.”⁴ The Commission can order improvements to service as a condition of any rate increase.⁵ The Commission can direct the adequate, reasonable, safe, sufficient service and standards of service to be observed and furnished by the utility.⁶

Finally, PAWC cites to *U.S. Steel Corp. v. Pa. PUC*, 456 A.2d 686 (Pa. Cmwlth. 1983) (*U.S. Steel*), for the following statement contained in its Main Brief: “Rejecting evidence contrary to a public utility’s position is not an impermissible shifting of the evidentiary burden.”⁷ Notably, PAWC does not provide a page cite for that sentence because it cannot; nowhere in that case does the Commonwealth Court discuss the burden of proof under 66 Pa. C.S. § 315(a) or the shifting thereof. Rather, in *U.S. Steel*, the Court made very important holdings and observations that are applicable in this case. First, the Court recognized the Commission’s position that, while cost of service is an important basis of rate structure, “it is not the only consideration” and other “non-cost factors such as the ability of various customer classes to pay, ability to pass on the utility costs, and value of service, should be taken into consideration.”⁸ Next, the Court recognized that the

³ 66 Pa. C.S. § 315.

⁴ 66 Pa. C.S. § 523.

⁵ *Pa. PUC v. Pennsylvania Gas & Water Co.*, 74 PUR4th 238, 244-45 (Pa. PUC 1986) (*PG&W 1986*); *Pa. PUC v. Philadelphia Gas Works*, 2000 Pa. PUC LEXIS 876, *41-44 (Order Nov. 22, 2000) (*PGW 2000*).

⁶ 66 Pa. C.S. §§ 1504, 150.

⁷ PAWC M.B. at 3.

⁸ *U.S. Steel* at 690 (internal quotations omitted).

Commission “is not duty-bound to follow mathematical formulas” in determining just and reasonable rates, and that the Commission has “the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors consonant with constitutional protections applicable to both.”⁹ Finally, the Court in *U.S. Steel* stated that from its review of prior cases the following “doctrinal principles of rate structure” emerge:

- (1) that a prior rate is not *res judicata* on the question of discrimination or *reasonableness*;
- (2) that mere differences in rates between classes of customers does not establish unreasonable discrimination, and
- (3) that the agency with the power to fix rates is invested with a flexible limit of judgment.¹⁰

II. SUMMARY OF ARGUMENT

Given page limitations, the OCA refers to its summary of argument contained in its Main Brief.¹¹ Nothing in the other parties’ brief changes the OCA’s argument or position.

III. OVERALL POSITION ON RATE INCREASE

The OCA recommends that the Commission deny PAWC’s general rate increase request as PAWC has not met its burden of proof in demonstrating that its requested overall revenue increase of \$159,597,595 produces rates that are just and reasonable, equitable among customer groups, or in the public interest.¹² Accordingly, the Commission should reject PAWC’s requested rate increase of \$159.6 million (\$90.4 million for Water and

⁹ *Id.* at 691-92 (internal quotations omitted) (emphasis added).

¹⁰ *Id.* at 692 (internal quotations omitted) (emphasis added).

¹¹ OCA M.B. at 3-8.

¹² OCA M.B. at 8-9; 66 Pa. C.S. § 315(e); *Pa. PUC v. PAWC*, 2004 Pa. PUC LEXIS 29 at *16-18 (Order Jan. 29, 2004); *Burleson v. Pa. PUC*, 461 A.2d 1234, 1236 (Pa. 1983); *Lansberry v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

\$69.2 million for Wastewater) and instead decrease it by \$12.3 million (\$42.4 million decrease for Water and \$27.8 increase for Wastewater (pre-Act 11 shift)).¹³

PAWC emphasizes that its rate increase request is driven by its \$1.05 billion capital investment, recent acquisitions, and inflationary pressures.¹⁴ However, as further discussed in Section XIII.B.2.a of this Reply Brief, consumers are simultaneously experiencing those same inflationary pressures. As stated in the OCA's Main Brief, apart from the claimed \$1.05 billion¹⁵ in infrastructure investment, PAWC's excessive and unnecessary rate increase is primarily driven by its unreasonable requests regarding: (1) rate of return, (2) depreciation procedure, and (3) ratemaking mechanisms that will further increase consumers' rates in unknown quantities beyond PAWC's claimed revenue increase.

PAWC's customers, who ultimately pay the revenue requirement to PAWC, must pay enough, but no more than is necessary, to ensure that service remains adequate, reliable, and safe while allowing the utility to have the opportunity to recover its costs and earn a fair rate of return on its investments.¹⁶ PAWC argues that if investments are not made, costs will increase more.¹⁷ However, the issue that has the largest impact on PAWC's revenue requirement increase is PAWC's desire to increase its ROE from 9.45%

¹³ OCA M.B. at 9.

¹⁴ PAWC M.B. at 10.

¹⁵ PAWC M.B. at 10.

¹⁶ 66 Pa. C.S. § 1301, 1501; *Bluefield Water Works and Improvement Co. v. Public Serv. Comm'n of W.Va.*, 262 U.S. 679, 692-93 (1923); *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944); *Permian Basin Area Rate Cases*, 390 U.S. 747, 794-95 (1968) (*Permian Basin*).

¹⁷ PAWC M.B. at 8.

to 10.95%, representing approximately \$113.95 million.¹⁸ PAWC’s desire to increase its return on equity needs to be balanced with just and reasonable rates for its ratepayers, who are facing increasingly burdensome affordability concerns.¹⁹

PAWC further argues that “a secondary driver of this rate case” is the inclusion of PAWC’s recent acquisitions into rate base.²⁰ However, the OCA did not challenge PAWC’s inclusion of its recent acquisitions into rate base.²¹

PAWC argues that PAWC’s customers in rate zone 1 need to pay “\$3.18 per day ... [to have] all the water they and their family need.”²² This statement downplays the impact of its choices in this case on consumers and falsely implies that water service at PAWC’s rate relief request is affordable, just, and reasonable.²³ PAWC also disregards low-income affordability concerns by stating that PAWC has assistance programs.²⁴ However, PAWC’s low-income assistance programs have shortcomings that are discussed by OCA witness Colton.²⁵ In fact, PAWC has water and wastewater customers who are struggling to pay their monthly utility bills because of the burden of their total utility bills yet they do not qualify for PAWC’s bill discount program (BDP) or other assistance programs.²⁶

¹⁸ OCA St. 1SR at 2; OCA M.B. at Appendix A, Tables.

¹⁹ See Affordability Discussion *infra* Section XIII.B.2.a.

²⁰ PAWC M.B. at 9.

²¹ OCA M.B. at 11; OCA St. 1SR at 11.

²² PAWC M.B. at 9.

²³ *Id.*

²⁴ *Id.*

²⁵ OCA M.B. at 103-107.

²⁶ OCA M.B. at 100, 119-21; Affordability Discussion *infra* Section XIII.B.2.a.

IV. RATE BASE

A. Plant-In-Service

The OCA has no adjustments to PAWC's plant-in-service as the OCA has made no adjustments to any of PAWC's expenditures on utility infrastructure or maintenance.

B. Additions to Rate Base

1. Acquisition Adjustments

The OCA recommended that the Commission deny PAWC's proposal for positive acquisition adjustments for the Manwalamink sewer and water systems (Manwalamink) and Farmington water system (Farmington) resulting in a \$380,725 rate base decrease for Manwalamink and \$23,586 decrease for Farmington because PAWC has not met its burden of proof under Section 1327 of the Pennsylvania Public Utility Code (the Code).²⁷

PAWC asserts that it is entitled to include approximately \$2.1 million in acquisition adjustments in rate base and to recover those amounts through amortization because it contends that it has satisfied Section 1327 of the Code.²⁸

Section 1327 permits inclusion of a positive acquisition adjustment in rate base only where the utility affirmatively demonstrates that each of the nine statutory criterion is satisfied including that "(3) the public utility ... was not, at the time of acquisition, furnishing and maintaining adequate, efficient, safe and reasonable service and facilities," and "(6) the actual purchase price is reasonable."²⁹ Commission precedent makes it clear that this burden is substantial and must be supported by concrete, system-wide evidence

²⁷ OCA M.B. at 12-16; 66 Pa. C.S. § 1327.

²⁸ OCA M.B. at 11-12.

²⁹ 66 Pa. C.S. § 1327.

from the time of the acquisition.³⁰ The OCA respectfully requests that the Commission deny PAWC's acquisition adjustments because PAWC has not met its burden of proof that the Manwalamink and Farmington systems were not providing adequate, efficient, safe, and reasonable service and facilities at the time of acquisition and that the purchase price of the Manwalamink systems was reasonable.

a. Adequacy and Reasonableness of Service and Facilities (Criterion No. 3).

With respect to Criterion 3, PAWC argues that both the Farmington water system (Farmington) and the Manwalamink systems were not providing adequate, safe, or reasonable service based primarily on regulatory violations.³¹

As the Commission held in *PAWC 2003*, evidence of regulatory violations does not satisfy Criterion No. 3 where "the quantum of evidence ... was not sufficiently substantial" to show that the system as a whole failed to provide adequate service.³² Similarly, in *Aqua 2022*, the Commission denied recovery when the record did not demonstrate that customers were receiving inadequate service, despite the system facing operational challenges.³³

The OCA demonstrated that PAWC's evidence falls far short of this standard.³⁴ With respect to Manwalamink, OCA witness Morgan explained that the violations were largely monitoring and reporting issues, improved over time, and were not tied to customer

³⁰ *Pa. PUC v. Aqua*, 2022 Pa. PUC LEXIS 161 at *25 (May 12, 2022) (*Aqua 2022*); *Pa. PUC v. PAWC*, 2003 Pa. PUC LEXIS 498 at *40-42 (Nov. 26, 2003) (*PAWC 2003*); *Pa. PUC v. Citizens*, 1996 Pa. PUC LEXIS 167 at *19-22, 27 (Mar. 29, 1996).

³¹ PAWC M.B. at 13-15.

³² *PAWC 2003* at *41-42.

³³ *Aqua 2022* at *29.

³⁴ OCA M.B. at 13-16.

harm or service degradation.³⁵ Mr. Morgan testified that PAWC “has not provided any evidence showing customer complaints for lack of service or discolored water,” and the sewer violations “do not appear to impact customer service.”³⁶ In response, PAWC merely asserts “Mr. Morgan is incorrect.”³⁷ This is not substantial evidence. Without evidence of actual service deficiencies, PAWC has not met its burden under Criterion No. 3 of Section 1327. Moreover, the record confirms that the Manwalamink acquisition was not driven by inadequate service.³⁸ Rather, “the sale was driven due to the ages of the owners and operator.”³⁹

Moreover, PAWC’s argument that “PAWC fought very hard ... to preserve its right to claim a Section 1327 acquisition in this rate case” is not substantial evidence.⁴⁰ PAWC argued that its preservation of its right to claim a Section 1327 adjustment means that PAWC should receive the adjustment and that the OCA is somehow forcing PAWC to litigate a Section 1327 acquisition adjustment, which PAWC itself proposed.⁴¹ The Commission is not required to approve PAWC’s acquisition adjustment for the Manwalamink system.⁴²

³⁵ OCA St. 1SR at 15, 17-19.

³⁶ *Id.* at 15.

³⁷ OCA St. 1SR at 15.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ PAWC M.B. at 14.

⁴¹ *Id.* at 14-15; PAWC St. 7 at 29-30.

⁴² *See Application of Pennsylvania-American Water Co., pursuant to Section 1102 of the Public Utility Code to Acquire Manwalamink Water Company and Manwalamink Sewer Company Assets*, Docket Nos. A-2023-3044418 et al., Order (Mar. 27, 2025).

PAWC then claims, without any citation to the record, that “Manwalamink was fortunate enough that its behavior did not cause a public health crisis.”⁴³ This statement constitutes lawyer testimony, which is not to be relied on. Courts consistently hold that “an attorney's statement in an argument does not constitute evidence.”⁴⁴ Rather, the “self-serving, unsubstantiated and unsworn statements by counsel are not competent evidence.”⁴⁵ Whether evidence is competent is a threshold question for consideration by a finder of fact.⁴⁶ Accordingly, PAWC’s unsupported assertion regarding a purported “public health crisis,” untethered to any record evidence, constitutes precisely the type of unsworn attorney argument that cannot be relied upon to support any factual determination.⁴⁷

PAWC’s arguments regarding Farmington are similarly unavailing. PAWC’s reliance on the stipulated findings of fact (FOF) from the settlement in the Farmington acquisition proceeding is misplaced.⁴⁸ While the FOF identified certain compliance issues and cited Department of Environmental Protection (DEP) violations, it did not include any explicit finding that Farmington was failing to provide “adequate, efficient, safe, and

⁴³ PAWC M.B. at 15.

⁴⁴ *Colonial Sch. Dist. v. Montgomery Cty. Bd. of Assessment Appeals*, 232 A.3d 1051, 1061 (Pa. Cmwlth. 2020) (quoting *School District of Philadelphia v. Board of Revision of Taxes*, 217 A.3d 472, 485 (Pa. Cmwlth. 2019)).

⁴⁵ *East Norriton Township v. Gill Quarries, Inc.*, 604 A.2d 763, n.9 (Pa. Cmwlth. 1992).

⁴⁶ *Gibson v. Workers' Comp. Appeal Bd. (Armco Stainless & Alloy Prods.)*, 861 A.2d 938, 944 (Pa. 2004) (“to test whether the evidence relied upon is substantial evidence in support of a finding, the reviewing court should ascertain whether the evidence admitted is competent, and if it is competent, whether it is sufficient to support the administrative finding.”).

⁴⁷ PAWC M.B. at 15

⁴⁸ *Id.* at 14.

reasonable service” at the time of the acquisition, nor did it contain the type of detailed, system-wide deficiencies that would support an acquisition adjustment under Section 1327.⁴⁹ To the contrary, the FOF merely catalogued discrete violations without concluding that the system as a whole was fundamentally deficient.⁵⁰

PAWC’s attempt to elevate these violations into “serious” threats to public health is likewise unsupported by the record.⁵¹ Although PAWC claims that these DEP violations are Tier 2 notification requirements and asserts, without citation, that “[t]hese are serious violations,” PAWC offers no record evidence or witness testimony in this proceeding substantiating that claim.⁵² As OCA witness Morgan testified, the cited violations “were not critical, nor did they result in ... a serious public health crisis,” and were readily correctible through improved sampling practices.⁵³ These types of limited compliance issues do not establish inadequate service at the time of acquisition.

b. Reasonableness of Purchase Price (Criterion No. 6)

With respect to Criterion No. 6, PAWC argues that the Manwalamink purchase price was reasonable despite reflecting a 111% premium over book value.⁵⁴ However, PAWC’s reliance on general policy arguments and comparative metrics is not enough for

⁴⁹ *Application of Pennsylvania-American Water Co., pursuant to Section 1102 of the Public Utility Code to Acquire Township of Farmington Water and Wastewater Assets*, A-2023-3042587, A-2023-3043196, Joint Stipulation of Fact ¶¶ 12, 16 (Sep. 26, 2024).

⁵⁰ *Id.*

⁵¹ PAWC M.B. at 13-14.

⁵² *Id.*

⁵³ OCA St. 1 at 13-14.

⁵⁴ PAWC M.B. at 16.

it to meet its burden of proof under Section 1327 because the Code requires proof that the *actual* purchase price is reasonable.⁵⁵

PAWC has not provided a proper justification for why it paid an 111% premium over book value for Manwalamink. OCA witness Morgan testified that “it is unclear what benefit PAWC received for paying [that] premium,” as the typical justification for a premium, i.e., enhanced earnings or growth, is absent here.⁵⁶ He further explained that:

PAWC’s own analysis shows that, as proposed in the acquisition proceeding, PAWC would incur a revenue deficiency of \$325,000 at present rates for water services and a revenue deficiency of \$187,000 for sewer services. Hence, just because the PP/C for this acquisition is less than the average does not mean it is reasonable to allow PAWC to include the acquisition adjustment in rate base.⁵⁷

The absence of demonstrated benefits, combined with the magnitude of the premium and the reliance on a pre-existing agreement negotiated by another party, confirms that PAWC has not met its burden under Criterion No. 6. Accordingly, the Commission should deny PAWC’s request for acquisition adjustments for the Manwalamink systems and Farmington water system.

C. Deductions from Rate Base

The OCA did not address this issue in its testimony.

D. Conclusion

PAWC has not met its burden of proof on all of its rate base claims, and the OCA’s adjustments are reasonable.

⁵⁵ 66 Pa. C.S. § 1327(a)(6).

⁵⁶ OCA St. 1SR at 14.

⁵⁷ *Id.* at 14-15 (citation omitted).

V. REVENUES

The OCA did not address this issue in its testimony.

VI. EXPENSES

A. Labor-Related Expense (Salaries and Wages, Employee Benefits, and Related Payroll Taxes)

The OCA agrees with I&E witness Okum's proposed adjustment to reflect a vacancy rate of 1.25% using the average vacancy of the three years ended June 30, 2025.⁵⁸

B. Performance Compensation (PAWC)

The OCA recommended that the Commission remove the component of PAWC's performance pay tied to the achievement of earnings goals, resulting in a \$3,325,873 rate reduction, as this component solely benefits shareholders rather than customers.⁵⁹

PAWC argues that its performance-based compensation should be fully recoverable because it is part of a market-based overall compensation package.⁶⁰ In doing so, PAWC attempts to shift the focus away from whether specific components, particularly those tied to earnings, provide a direct benefit to ratepayers.⁶¹ PAWC claims that financial performance metrics promote efficiency and benefit customers but offers only generalized assertions while ignoring that increased earnings primarily benefit shareholders through higher returns and stock value.⁶² PAWC relied on prior Commission approvals, effectively asking the Commission to forgo meaningful scrutiny of whether these earnings-based

⁵⁸ OCA M.B. at 17.

⁵⁹ OCA M.B. at 20.

⁶⁰ PAWC M.B. at 22.

⁶¹ PAWC M.B. at 22-24.

⁶² *Id.* at 24.

incentives continue to satisfy the required nexus to ratepayer benefits and ignore the statutory requirement that rates must be just and reasonable.⁶³

Where an incentive compensation plan is reasonable, prudently incurred, not excessive, and there is a benefit to ratepayers, a Company may recover the expense of that program.⁶⁴ In Columbia's 2025 rate case, the ALJ recommended that the portion of incentive compensation tied to shareholder earnings goals be disallowed because such metrics lacked a sufficient nexus to rate payer benefits and instead primarily advanced shareholder interests.⁶⁵ In *PPL 2012*, the Commission allowed incentive compensation expense because it was consistent with the Commission's "prior decisions approving incentive compensation programs that are focused on improving operational effectiveness."⁶⁶ Similarly, the Commission has approved incentive compensation plans where employees eligible for the compensation "have direct responsibilities for customer service and regulatory compliance or are otherwise responsible for ensuring safe and reliable service to customers."⁶⁷

Importantly, while the inclusion of financial metrics does not automatically preclude recovery, such recovery is appropriate only where the incentive plan establishes that

⁶³ *Id.* at 23-24.

⁶⁴ See OCA M.B. at 17 citing *Pa. PUC v. PPL Elec. Util. Corp.*, R-2012-229059, Order (Dec. 28, 2012) (*PPL 2012*).

⁶⁵ *Pa. PUC v. Columbia Gas of PA, Inc.*, Docket No. R-2025-3053499 Order at 204-05 (Oct. 3, 2025) (*Columbia 2025*).

⁶⁶ OCA M.B. at 17 citing *PPL 2012* at 26 (citing *Pa. PUC v. Aqua*, 2008 Pa. PUC LEXIS 50, *24; *Pa. PUC v. Duquesne Light Co.*, 1987 Pa. PUC LEXIS 342 at *99-100).

⁶⁷ OCA M.B. at 17-18 citing *Pa. PUC v. PAWC*, 2021 PA. PUC LEXIS 55 at *59 (Order Feb. 25, 2021) (*PAWC 2021*).

eligibility “is based on performance duties and metrics directly related to the provision of service.”⁶⁸ That is not the case here.⁶⁹

PAWC’s arguments miss the central issue. The OCA does not challenge the existence of performance-based compensation or the overall level of employee compensation. Rather, the OCA’s adjustment is narrowly targeted to remove only the portion of performance pay tied to the achievement of earnings goals because that component primarily benefits shareholders, not ratepayers.

As OCA witness Morgan explained, “the achievement of earnings goals is a benefit that is primarily targeted towards increasing shareholder value and benefitting shareholders,” and therefore “these costs are not properly recoverable from ratepayers.”⁷⁰ PAWC attempts to reframe the issue as an attack on total compensation, but as Mr. Morgan clarified, PAWC “has provided no evidence where I argued that compensation levels are too high or that performance-based compensation is ineffective.”⁷¹ Instead the adjustment properly allocates costs based on who receives the benefits.

Shareholders, not customers, are the primary beneficiaries of earnings-based incentives. As OCA witness Morgan testified, “if the performance-based compensation plan results in higher earnings ... customers do not receive a rebate or a rate reduction,” whereas “share prices linked to earnings,” and increased earnings “drive up share prices”

⁶⁸ *Id.*

⁶⁹ *See* OCA M.B. at 21-25.

⁷⁰ OCA St. 1SR at 7.

⁷¹ *Id.* at 7-8.

and shareholder wealth.⁷² He further explained that consistent earnings growth can increase dividends, further benefitting shareholders.⁷³ Thus, assigning 100% of these costs to ratepayers is inequitable because it ignores the disproportionate benefit flowing to shareholders. PAWC’s reliance on generalized claims of customer benefits is insufficient. OCA witness Morgan testified that PAWC acknowledges that performance-based compensation benefits “customers, employees, and shareholders,” yet “ignores, and does not acknowledge, the benefit shareholders receive” when assigning costs.⁷⁴ The OCA’s adjustment corrects this imbalance by ensuring that shareholders bear a fair share of costs associated with benefits they receive.

Moreover, PAWC’s reliance on prior Commission approvals is misplaced. As OCA witness Morgan explained, “despite the approval of the plan in the 2023 rate case, PAWC is seeking a rate increase approximately two years after the last rate case,” demonstrating that the purported customer benefits have not materialized in a meaningful way.⁷⁵ Further, since PAWC’s last rate case, the Commission has recommended disallowance of performance based compensation tied to shareholder earnings goals in Columbia’s 2025 proceeding, reflecting a more recent and relevant application of these principles.⁷⁶ Accordingly, the Commission should recommend removal of performance pay related to

⁷² *Id.* at 10.

⁷³ *Id.*

⁷⁴ *Id.* at 8-9.

⁷⁵ *Id.* at 9.

⁷⁶ *Columbia 2025* at 2024-05.

achievement of earnings goals, resulting in a \$3,325,873 adjustment to PAWC's claimed compensation expense.⁷⁷

C. Group Insurance Expense

The OCA recommended that the Commission reject PAWC's proposed group insurance expense calculation and instead calculate group insurance expense based solely on the 2026 rates, resulting in a recommended adjustment of \$566,573, because the 2026 group insurance rates are the most recent, known rates, and are more aligned with current actuarial considerations.⁷⁸

PAWC's current approach to projecting group insurance expense materially differs from the methodology approved in its last base rate case. While PAWC characterizes its use of a three-year average as a "normalizing" adjustment, it is instead applying the 3.74% historical average as a growth factor to escalate costs beyond the known 2026 level.⁷⁹ In the prior base rate case, the use of a three-year average was intended to normalize fluctuations in historical costs, not to project future increases.⁸⁰ By contrast, PAWC's present method compounds past changes without demonstrating that those trends will continue, introducing unnecessary speculation.⁸¹ As OCA witness Morgan testified, this is not a normalization technique but a forecasting method that relies on historical variability rather than actuarial principles.⁸² In contrast, the use of the most recent 2026 group

⁷⁷ OCA St. 1SR at 9.

⁷⁸ OCA M.B. at 20-22.

⁷⁹ *Id.* at 19; PAWC Workpaper 4d Group Insurance Adjustment Revised.

⁸⁰ OCA St. 1SR at 19.

⁸¹ *Id.*

⁸² OCA St. 1 at 23.

insurance rates reflect known and measurable costs, grounded in current actuarial assumptions, and therefore provides a more accurate and reliable basis for ratemaking than a three-year average applied as a growth rate.⁸³ Accordingly, the Commission should reject PAWC's proposed group insurance expense calculation and instead calculate group insurance expense based solely on the 2026 rates, resulting in a recommended adjustment of \$566,573.⁸⁴

D. Service Company Expense

The OCA did not address this issue in its testimony.

E. Waste Disposal Expense

The OCA did not address this issue in its testimony.

F. Transportation Expense

The OCA recommended that the Commission deny the inflation adjustment included in PAWC's transportation expense adjustment, resulting in a \$217,216 reduction because historical inflation rates are not good predictors of future inflation and many of PAWC's claimed transportation expenses are fixed costs not affected by inflation.⁸⁵

PAWC's inclusion of an inflation escalation in its transportation expense should be rejected because it is speculative and unsupported by the Company's own data. While PAWC claims that applying a CPI-based escalation is a reasonable way to account for rising fuel and maintenance costs, the record shows that historical inflation rates are not reliable predictors of future costs.⁸⁶

⁸³ OCA St. 1SR at 19-20.

⁸⁴ App. A, OCA Tables; OCA St. 1SR at 2.

⁸⁵ OCA M.B. at 22-23.

⁸⁶ OCA St. 1 at 23-24.

As OCA witness Morgan demonstrated, transportation CPI increased by 7.47% between December 2023 and December 2024, but only 1.72% between December 2024 and December 2025, highlighting the volatility and declining trend in inflation.⁸⁷ Even PAWC acknowledged this by reducing its proposed escalation from a 6.94% three-year average to 3.11%, further underscoring the uncertainty inherent in relying on historical averages.⁸⁸ More importantly, PAWC’s own historical expense data does not track inflation trends: fuel costs decreased over the period, and other components such as titling and registration fees are largely fixed and not subject to inflationary pressures.⁸⁹

Under these circumstances, applying an across-the-board inflation factor artificially inflates projected expenses without a demonstrated basis.⁹⁰ Moreover, PAWC’s argument that it included inflation escalations that were not challenged by the OCA in its previous base rate case is not substantial evidence.⁹¹ Accordingly, the Commission should reject PAWC’s inflation escalation and rely on known, measurable costs, consistent with Mr. Morgan’s recommended adjustment of \$217,216.⁹²

G. Towamencin Transaction Costs

PAWC requests recovery of \$660,128 in transaction costs for its abandoned Towamencin acquisition, arguing that these costs were prudently incurred and should be recoverable due to “unforeseen and extraordinary circumstances.”⁹³ The OCA

⁸⁷ *Id.*

⁸⁸ PAWC St. 6R at 21.

⁸⁹ OCA St. 1 at 23-24.

⁹⁰ *Id.*

⁹¹ PAWC M.B. at 30.

⁹² OCA St. 1SR at 2; OCA M.B. App. A, OCA Tables.

⁹³ PAWC M.B. at 30-31.

recommended that the Commission deny PAWC's request for recovery of these transaction costs, resulting in a rate base reduction of \$61,638, because the Towamencin system will not be used and useful for PAWC customers, since the acquisition was not consummated, and the costs related to a failed transaction is an ordinary business risk that utilities and their shareholders, not ratepayers, must bear.⁹⁴

The Commission has consistently held that only property that is used and useful in providing service to customers may be included in rates, and the utility must demonstrate with reasonable certainty that such property will be in service during the forecast test year.⁹⁵ Here, there is no dispute that the Towamencin transaction was never consummated, the application was withdrawn, and no assets were acquired.⁹⁶ As such, these costs did not and will not contribute to the provision of utility service, either presently or during the forecast test year, and therefore cannot meet the threshold requirement for recovery.⁹⁷

PAWC argues that it should be treated differently from established Commission precedent due to purported "unforeseen and extraordinary circumstances" that prevented the Towamencin acquisition from closing.⁹⁸ That claim does not withstand scrutiny because the circumstances identified by PAWC are neither extraordinary nor shown to have materially impaired its ability to consummate the transaction.⁹⁹ Rather, they reflect

⁹⁴ OCA M.B. at 23-28.

⁹⁵ *Pa. Power & Light Co. v. Pa. PUC*, 516 A.2d 426, 430 (Pa. Cmwlth. 1985) (citations omitted); *see also UGI Corp. v. Pa. PUC*, 410 A.2d 923, 929 (Pa. Cmwlth. 1980); *Phila. Suburban Water Co. v. Pa. PUC*, 394 A.2d 1063, 1066-67 (Pa. Cmwlth. 1978).

⁹⁶ PAWC M.B. at 30.

⁹⁷ OCA M.B. at 23-25.

⁹⁸ PAWC M.B. at 30-31.

⁹⁹ OCA M.B. at 26-28.

the type of regulatory and local risks that are inherent in acquisition activity and routinely borne by utilities.¹⁰⁰

First, PAWC’s reliance on the Commission’s 2024 Final Supplemental Implementation Order (*2024 FSIO*) is misplaced.¹⁰¹ The Commission expressly stated that the provisions of the *2024 FSIO* would not apply retroactively to acquisitions where an Asset Purchase Agreement (APA) had already been executed and an application filed.¹⁰² Here, PAWC had already executed the APA and submitted its application prior to the issuance of the *FSIO*. As such, the *2024 FSIO* did not alter the regulatory framework governing the Towamencin transaction and would not have prevented its completion.

Second, PAWC points to a local referendum adopting a Home Rule Charter that restricted privatization of Towamencin’s assets.¹⁰³ However, PAWC itself acknowledged that the legal effect of this measure was uncertain and that it “arguably could not have retroactively negated an existing contract.”¹⁰⁴ Rather than pursue resolution of that issue, PAWC and Towamencin chose to withdraw the application.¹⁰⁵ That decision reflects a business judgment, not an unavoidable external barrier.¹⁰⁶ The possibility of local opposition or legal uncertainty is a foreseeable risk in utility acquisitions, not an

¹⁰⁰ *Id.*

¹⁰¹ *Valuation of Acquired Municipal Water and Wastewater Systems- Act 12 of 2016 Implementation, Final Supplemental Implementation Order*, Docket No. M-2016-2543193, at 114 (July 2, 2024) (*2024 FSIO*).

¹⁰² *Id.*

¹⁰³ PAWC St. 7R at 16.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ OCA M.B. at 27-28.

extraordinary circumstance warranting recovery through charging PAWC's ratepayers for a failed business transaction.¹⁰⁷

Allowing recovery here would set a troubling precedent. As OCA witness Morgan explained, it would signal that the Commission will insulate utilities from the financial risks of failed utility acquisitions.¹⁰⁸ The Commission's "used and useful" doctrine does not permit such risk-shifting. Ratepayers should not be required to pay for costs that produced no assets, no service improvements, and no benefits. For all of these reasons, the Commission should deny PAWC's request to include Towamencin transaction costs in rates, thus reducing PAWC's requested rate base by \$61,638.¹⁰⁹

H. Interest Synchronization

The OCA recommended that the Commission adopt OCA witness Morgan's interest synchronization adjustment calculation.¹¹⁰ PAWC opposes OCA witness Morgan's proposed interest expense adjustment as it is "concomitant to the OCA's proposed adjustments to rate base and weighted costs of debt," which PAWC rejects.¹¹¹ As the OCA's recommended capital structure and adjustments to rate base are reasonable, the OCA's interest synchronization adjustment should be adopted in this proceeding.¹¹²

I. Amortization Expense

The OCA did not address this issue in its testimony.

J. Third-Party Call Center Expense

¹⁰⁷ *Id.*

¹⁰⁸ OCA St. 1SR at 13.

¹⁰⁹ OCA M.B. App. A, OCA Tables.

¹¹⁰ OCA M.B. at 28.

¹¹¹ PAWC M.B. at 32.

¹¹² OCA M.B. at 28; OCA St. 1 at 24-25.

Please see Section XIII.

**K. Pension and Other Post Employment Benefits (“OPEB”) Expense
(Request for Deferred Regulatory Accounting Treatment)**

The OCA recommended that the Commission disallow PAWC’s ancillary requests for approval of deferred regulatory accounting treatment for pension and OPEB expenses for recovery in a future rate case because PAWC has not met its burden to demonstrate that these accounting mechanisms are necessary or just and reasonable, and it is an example of impermissible single-issue ratemaking that shifts the risk of fluctuations of a specific expense item away from investors and onto customers.¹¹³

PAWC again seeks Commission approval to defer pension and OPEB expense variances for future recovery, arguing that these costs are subject to fluctuation due to actuarial assumptions and external economic factors.¹¹⁴ This argument is not new and it has already been rejected by the Commission.¹¹⁵ In PAWC’s previous base rate case, the Commission held that “pension and OPEB costs are not extraordinary, unanticipated, or non-recurring,” but rather “routine expenses that can be forecasted on an annual basis and are part of contractual agreements with past employees.”¹¹⁶ On that basis, the Commission concluded that such costs “do not qualify for deferred accounting treatment” and expressly rejected similar tracker proposals.¹¹⁷ PAWC presents no materially different facts, new

¹¹³ OCA M.B. at 28-31.

¹¹⁴ PAWC M.B. at 34.

¹¹⁵ *Pa. PUC v. Pennsylvania American Water Company*, R-2023-3043189, R.D. at 131 (July 11, 2024) (citing OCA M.B. at 44-45; PAWLUG M.B. at 7-8).

¹¹⁶ *Id.*

¹¹⁷ *Id.*

evidence, or new justification here that would warrant a departure from that clear precedent.

Isolating and tracking the Pension and OPEB expenses for eventual recovery via a special rate recovery mechanism or in future base rates, runs counter to a fundamental principle of ratemaking – that a utility should be afforded the opportunity to recover its costs of providing service but not guaranteed such recovery.¹¹⁸ This is particularly so for PAWC in this case given that the Company is utilizing a FPFTY that anticipates the Company’s future costs of providing service.¹¹⁹ Deferrals of fluctuations in one particular cost or cost category in isolation from all other cost fluctuations is by definition single-issue ratemaking because it focuses only on one cost or a single group of costs, typically where the utility expects such costs to increase, and ignores fluctuations between rate cases in other costs.¹²⁰

For these reasons and consistent with the Commission's prior determination in PAWC’s last base rate case, the Commission should deny PAWC’s request for deferred regulatory accounting treatment of pension and OPEB expenses.

VII. TAXES

The OCA did not address this issue in its testimony.

VIII. DEPRECIATION

A. Introduction

¹¹⁸ See OCA M.B. at 30.

¹¹⁹ PAWC M.B. at 4.

¹²⁰ OCA St. 1 at 26.

The Commission should require PAWC to adopt the ALG procedure because it will result in fairer rates to consumers and it is not prohibited by state or federal law.¹²¹ PAWC argues that its use of the ELG procedure since the 1980s is a reason for its continued adoption.¹²² However, as discussed in the OCA's Main Brief, PAWC's current and historic use of ELG is not the relevant legal standard.¹²³ Rather, depreciation procedure is squarely a matter of Commission ratemaking discretion, as there is no state or federal law that mandates a specific depreciation procedure for conducting a depreciation analysis.¹²⁴ Further, the Public Utility Code and the Commission's regulations do not require a utility's depreciation procedure be adopted indefinitely.¹²⁵

The practices and procedures in Pennsylvania support a switch to ALG and there is nothing specific to Pennsylvania that requires continued use of ELG. PPL's use of the ALG procedure in their 2025 base rate case shows that the ALG procedure is utilized by large investor-owned utilities in Pennsylvania. The ALG procedure simplifies the Commission's ability to monitor depreciation practices and capital planning for regulated utilities consistent with its regulations, and provides rate relief for PAWC's ratepayers.¹²⁶ Conversely, PAWC's continued use of the ELG procedure continues unnecessary complexities and results in unjust and unreasonable rates.¹²⁷

B. PAWC's ELG procedure is inaccurate as it is not updated annually.

¹²¹ OCA M.B. at 31-40.

¹²² PAWC. M.B. at 37.

¹²³ OCA M.B. at 37-42.

¹²⁴ OCA M.B. at 37-42.

¹²⁵ OCA M.B. at 40.

¹²⁶ 52 Pa. C.S. § 73.1.

¹²⁷ See OCA M.B. 42-49.

PAWC argues that using the ELG procedure provides a more precise calculation of depreciation recovery.¹²⁸ However, for depreciation rates to be accurate under the ELG method, they need to be updated every year.¹²⁹ OCA witness Garrett testified that “[u]nder the ELG procedure, customers rates (not just depreciation rates), would need to be adjusted every year in order for the ELG procedure to produce accurate depreciation rates. Since that is not practical, the vast majority of jurisdictions have adopted the ALG procedure.”¹³⁰ Mr. Garrett further testified that the ALG procedure reasonably allocates depreciation expense throughout the service life of the assets as follows:

In the average life procedure, a constant annual accrual rate based on the average life of all property in the group is applied to the surviving property. While property having shorter lives than the group average will not be fully depreciated, and likewise, property having longer lives than the group average will be over-depreciated, the ultimate result is that the group will be fully depreciated by the time of the final retirement. Thus, the average life procedure treats each unit as though its life is equal to the average life of the group.¹³¹

Thus, by adopting the ALG procedure, PAWC’s depreciation expense will both be more accurate and protect ratepayers from unjust and unreasonable rates.

C. PAWC admits that continued use of the ELG procedure results in intergenerational inequity and violates the matching principle.

PAWC claims that current customers benefit from the continued use of the ELG procedure because rate base is lower now compared to what rate base would have been

¹²⁸ PAWC M.B. at 38.

¹²⁹ OCA St. 2 at 49.

¹³⁰ OCA St. 2SR at 17.

¹³¹ OCA St. 2, Appx. C at 4.

under an ALG framework over the last 40 years.¹³² PAWC then argues that use of the ALG procedure will result in a higher rate base and higher overall cost to consumers over time.¹³³

By its own admission, PAWC confirms the OCA's argument regarding the ELG procedure's inconsistency with the matching principle and intergenerational inequity.¹³⁴ PAWC does not contest that under the ELG procedure, current customers pay more than future customers and admit that future customers are paying less.¹³⁵

The ELG procedure results in intergenerational inequity.¹³⁶ To be clear, at no point in PAWC's main brief or testimony did PAWC rebut the fact that, compared to the ALG procedure, the ELG procedure results in higher depreciation rates for current customers. Rather, PAWC highlighted PAWC witness Spanos's two-unit example, arguing that under the ELG procedure capital recovery is better matched to the actual lives forecast by the estimated survivor curve.¹³⁷ However, OCA witness Garrett testified that PAWC's plant is depreciated on a group basis as follows:

In that example, there were two units being depreciated – one with an original cost of \$4,000 and a 4-year life and the second with an original cost of \$6,000 and an 8-year life. Thus, the average life of this group is 6.4 years. Under the ALG procedure, the depreciation rate is 15.625% per year ($1/6.4 = 15.625\%$). Under the ELG procedure, however, there are higher rates and accrual amounts during the earlier years. In reality, the Company has numerous units of property that are depreciated on a group basis in each account.¹³⁸

¹³² PAWC M.B. at 39.

¹³³ *Id.*

¹³⁴ OCA M.B. at 42-45.

¹³⁵ PAWC M.B. at 39.

¹³⁶ *See* OCA M.B. at 43-45.

¹³⁷ PAWC M.B. at 38.

¹³⁸ OCA St. 2SR at 17.

As depreciation expense is evenly charged to current and future customers based on the same depreciation rate over the average life of the group under the ALG procedure, no such inequity results between generations of customers.¹³⁹ The ALG procedure ensures the most just and reasonable allocation of depreciation expense between customer generations and supports intergenerational equity.¹⁴⁰

PAWC's argument that it is protecting future ratepayers from higher costs is also inconsistent with the well-established "matching principle" of ratemaking which requires that expenses, revenue, and rate base match over the same time period.¹⁴¹ The ELG procedure creates a mismatch between revenues, expenses, and rate base which violates the matching principle.¹⁴² Utilizing the ALG procedure would bring PAWC's depreciation procedure in line with the "matching principle" because ALG results in reasonably consistent annual expense relative to accrued depreciation.¹⁴³

IX. RATE OF RETURN

A. Summary

The OCA recommended the following rate of return for PAWC:

- An overall weighted Rate of Return of 6.96% for water operations and 6.59% for wastewater operations.
- A Return on Equity of 8.7%¹⁴⁴

¹³⁹ OCA M.B. at 43-45.

¹⁴⁰ *Id.*

¹⁴¹ *Pa. PUC v. NFGD*, 1994 Pa. PUC LEXIS 135, *13 (Order Oct. 7, 1994); PAWC M.B. at 38-39.

¹⁴² OCA M.B. at 42-43.

¹⁴³ OCA M.B. at 43.

¹⁴⁴ OCA M.B.

PAWC argues that its mathematical models, market risk, and management performance support a 10.95% Return on Equity (ROE). However, none of PAWC's mathematical models presented in its case in chief, some of which include determinations of market risk¹⁴⁵, produced an ROE as excessive as 10.95%.¹⁴⁶

PAWC argues that OCA witness Garrett's 8.7% ROE is equal to his Capital Asset Pricing Model (CAPM) calculation and is below the Commission's recently authorized ROEs.¹⁴⁷ PAWC further argues that after they changed the inputs to OCA witness Garrett's calculations, his cost of equity rises.¹⁴⁸

PAWC's proposed ROE is the primary driver of this proposed rate increase.¹⁴⁹ The difference between the OCA's 8.7% ROE and PAWC's 10.95% ROE has a \$113.9 million impact on the rate increase request.¹⁵⁰ If PAWC were awarded its current 9.45% ROE in this proceeding, it would reduce PAWC's requested revenue requirement increase to \$17.3m.¹⁵¹ Every 10 basis point change in the ROE has an impact of approximately \$5.3 million to the revenue requirement at PAWC's as-filed rates.¹⁵²

PAWC's desire to increase its ROE by charging its ratepayers a significant amount more as a result of PAWC's alleged superior management performance is unreasonable,

¹⁴⁵ The CAPM measures market risk through the use of a beta. *See* OCA M.B. at 57.

¹⁴⁶ OCA M.B. at 55.

¹⁴⁷ PAWC M.B. at 44.

¹⁴⁸ PAWC M.B. at 44.

¹⁴⁹ OCA M.B. at 51.

¹⁵⁰ *Id.*

¹⁵¹ OCA St. 2 at 41. A revenue requirement of \$17.3 million assumes all other OCA adjustments to the revenue requirement are adopted by the Commission.

¹⁵² *Id.*

especially given the recency and frequency of PAWC's rate increase requests.¹⁵³ Simply put, PAWC's system acquisitions does not support an increased ROE as its call center performance and universal service programming shortcomings, as well as its frequent rate increase filings, support the contrary.

As demonstrated in its Main Brief, OCA witness Garrett performed sound financial analysis and based on his Discounted Cash Flow analysis (DCF) he calculated a range of reasonable ROE's from 6.8% to 9.3%.¹⁵⁴ Mr. Garrett then checked the reasonableness of his DCF analysis with his CAPM, which produced a ROE of 8.7%.¹⁵⁵

PAWC did not carry its burden of proof that their proposed ROE results in just and reasonable rates through substantial evidence. As such the Commission should reject PAWC's excessive 10.95% ROE.

B. Proxy Group

The OCA recommended that the Commission should continue utilizing a proxy group consisting exclusively of water utilities consistent with PAWC's prior rate case.¹⁵⁶

PAWC argues that the proxy group used by both the OCA and I&E are deficient.¹⁵⁷ PAWC argues that exclusively including water utilities in the proxy group does not create a large enough sample size considering the proposed merger of its parent company,

¹⁵³ OCA M.B. at 115.

¹⁵⁴ OCA M.B. at 51.

¹⁵⁵ *Id.*

¹⁵⁶ OCA M.B. at 52-53.

¹⁵⁷ PAWC M.B. at 47-49.

American Water Works Inc., with Essential Utilities, the parent company of Aqua Pennsylvania Water, Aqua Pennsylvania Wastewater, and Peoples Natural Gas.¹⁵⁸

The Commission's determination in PAWC's previous base rate case supports using the OCA and I&E proxy group.¹⁵⁹ In fact, PAWC admitted in its main brief that, in its previous base rate case, the Commission approved a proxy group consisting of only 5 water utilities.¹⁶⁰ OCA witness Garrett used six companies in his proxy group calculations, which is a larger sample size than what the Commission used in PAWC's previous base rate case.¹⁶¹ PAWC also fails to mention that in PAWC's previous base rate case, the Commission found it appropriate to include PAWC's parent company, American Water Works Inc., stating "[n]onetheless, we shall reinforce that this company is properly included in the proxy group."¹⁶²

C. Capital Structure

The OCA accepts PAWC's capital structure. No further reply is necessary.

D. Cost of Long-Term Debt

The OCA accepts PAWC's long-term debt. No further reply is necessary.

E. Return on Equity

The OCA recommended an 8.7% ROE based on the DCF and CAPM.¹⁶³

¹⁵⁸ *Id.*

¹⁵⁹ OCA M.B. at 51.

¹⁶⁰ PAWC M.B. at 49, *Pa. PUC v. PAWC*, Docket No. R-2023-3043189, Order at 149, 26, 391 (July 11, 2024).

¹⁶¹ OCA St. 2SR at 5.

¹⁶² *Pa. PUC v. PAWC*, Docket No. R-2023-3043189, Order at 149, 26, 391 (July 11, 2024).

¹⁶³ OCA M.B. at 53.

PAWC argues that, late in the proceeding, it updated its appropriate DCF range of possible ROE's ranges to reach 10.05% to 11.70% and requests the Commission adopt a 10.95% ROE.¹⁶⁴ However, as cited in PAWC's main brief, this modified ROE range was presented in rejoinder testimony and no party had a reasonable opportunity to issue subsequent discovery to analyze the basis for this updated range or provide responsive expert testimony.¹⁶⁵ This goes far beyond the Commission's regulations, which state:

e) A party will not be permitted to introduce evidence **during a rebuttal phase** which:

(1) Is repetitive.

(2) **Should have been included in the party's case-in-chief.**

(3) **Substantially varies from the party's case-in-chief.**¹⁶⁶

Nevertheless, as stated in the OCA's Main Brief, the Commission should reject PAWC's proposed 10.95% ROE as it is excessive.¹⁶⁷ Substantial record evidence shows that PAWC's authorized ROE should be lower than their current 9.45% ROE, not 150 basis points higher than what the Commission awarded PAWC only two years ago.¹⁶⁸ Rather, the Commission should accept the OCA's 8.7% ROE as it would allow PAWC to earn a fair rate of return.

1. DCF Model

PAWC disagrees with OCA witness Garrett's use of dividend per share (DPS) growth rates in his DCF.¹⁶⁹ PAWC argues that earnings are the fundamental determinant of

¹⁶⁴ PAWC M.B. at 54.

¹⁶⁵ See PAWC M.B. at 54 *citing* PAWC Ex. 13-RJ, Schedule 1.

¹⁶⁶ 52 Pa. Code § 5.243.

¹⁶⁷ OCA M.B. at 54, 60.

¹⁶⁸ OCA M.B. at 51-52.

¹⁶⁹ PAWC M.B. at 63.

a company's ability to pay dividends, and over the long term, dividend growth can only be sustained by earnings growth, so earnings per share (EPS) growth rates should be relied on in the DCF analysis.¹⁷⁰ OCA witness Garret testified in support of using dividends in a DCF model as follows:

However, it is important to reiterate that in the DCF Model, the "cash" that is being discounted is the dividends paid to investors. While it is true that dividends are paid from earnings, and earnings growth can be an indicator to consider when assessing the growth rate input in the DCF Model, the ultimate form of "cash flow" in the discounted cash flow model, is dividends. In that regard, it is perfectly appropriate and reasonable to consider dividend growth when conducting the DCF Model. In other words, I am considering the direct cash flow input to investors, while Ms. Bulkley is considering, in part, an indirect source from which the cash flow may be paid.¹⁷¹

PAWC also argues that OCA witness Garrett's DCF model is problematic because it produces a cost of equity estimate of 6.8%, which is the very bottom of Mr. Garrett's range, averring that this is below any ROE authorized since the 1980s.¹⁷² In the context of mathematical DCF calculations, this is immaterial because when "managers, analysts, investors, and academics conduct cost of equity analysis using either the CAPM or DCF Model, they do not compare the results to decisions from a regulatory body."¹⁷³ Commission authorized ROEs from other Companies or industries, which can result from settlement and other non-market factors, have no bearing on objective market-based cost of equity analysis.¹⁷⁴

¹⁷⁰ *Id.*

¹⁷¹ OCA St. 2SR at 7.

¹⁷² PAWC. M.B. at 63.

¹⁷³ OCA St. 2SR at 8.

¹⁷⁴ *Id.* at 9.

PAWC also argues that OCA witness Garrett’s proposed Return on Equity (ROE) of 8.7% is equal to his Capital Asset Pricing Model (CAPM), implying that Mr. Garrett relied exclusively on his CAPM results.¹⁷⁵ However, Mr. Garrett calculated a range of reasonable ROE’s from 6.8% to 9.3%.¹⁷⁶ OCA witness Garrett then checked the reasonableness of his DCF analysis with his CAPM which produced a ROE of 8.7%, well within the range of possible ROE’s under the DCF.¹⁷⁷

2. CAPM

PAWC argues the OCA witness Garrett’s CAPM analysis is flawed because Mr. Garrett utilized a 5.00% market risk premium derived from averaging estimates from reputable financial institutions and scholars in the field along with his own implied equity risk premium.¹⁷⁸ PAWC further argues that “[e]ach of these sources fails to reflect the well-established inverse relationship between interest rates and the market risk premium.”¹⁷⁹ The OCA further rebutted the argument that reliance on independent expert reports is unreasonable.¹⁸⁰ OCA witness Garrett testified:

When compared with other independent sources for the ERP (as well as my estimate), which do not have a wide variance, Ms. Bulkley’s ERP estimate is clearly not within the range of reasonableness. Ms. Bulkley offers various criticisms of these sources, and basically argues the Commission should accept her estimate over the opinions of hundreds of CEOs, CFOs, scholars, and an international corporate finance advising company. I would argue that investors are more likely to rely on these types of sources for the ERP than Ms. Bulkley’s personal ERP estimate. Effectively, Ms. Bulkley is suggesting the Commission should adopt her ERP estimate over the opinions of

¹⁷⁵ PAWC M.B. at 44.

¹⁷⁶ OCA M.B. at 51.

¹⁷⁷ *Id.*

¹⁷⁸ PAWC M.B. at 64.

¹⁷⁹ *Id.*

¹⁸⁰ OCA M.B. at 58.

thousands of unbiased experts, Kroll (a global financial advisory firm), and one of the world's leading experts on the ERP.¹⁸¹

As shown in the OCA's Main Brief via an informative graph, the ERP calculated by Ms. Bulkley is nearly double all reputable estimates, revealing subjective bias.¹⁸²

PAWC then alters OCA witness Garrett's DCF calculations by changing inputs in an attempt to argue that his models support a higher ROE.¹⁸³ Specifically, PAWC posits that if the sustainable growth rate in OCA witness Garrett's analysis were replaced with a different growth rate, the cost of equity increases to 10.98% with an average result of 10.66%.¹⁸⁴ However, OCA witness Garrett did not perform these calculations. Changing OCA witness Garrett's inputs to obtain PAWC's desired result of an ROE as high as feasibly possible highlights a difference in approach. OCA witness Garrett's CAPM inputs relied on reputable data without alteration whereas PAWC attempts to reach a result by altering data as support for PAWC's excessive ROE request. PAWC has failed to meet their burden of proof supporting a 10.95% ROE.

3. Reasonableness of the OCA's proposed ROE

PAWC contends that OCA witness Garrett's recommendation remains the same as it was in PAWC's previous base rate case.¹⁸⁵ However, PAWC fails to mention that PAWC witness Bulkley is proposing the same 10.95% ROE as PAWC's last base rate case, which

¹⁸¹ OCA M.B. at 59-60.

¹⁸² OCA M.B. at 59.

¹⁸³ PAWC M.B. at 65.

¹⁸⁴ *Id.*

¹⁸⁵ PAWC M.B. at 63.

the Commission previously reviewed in determining that a 9.45% ROE was appropriate only two years ago.¹⁸⁶

PAWC claims that Ms. Bulkley analyzed current and prospective market conditions including interest rates, which she theorized would likely remain high.¹⁸⁷ However, record evidence proves that interest rates are, in fact, lower than the last time PAWC filed for a rate increase.¹⁸⁸ In March of 2023, while PAWC's previous base rate case evidentiary hearing was occurring, the Federal Reserve raised the federal funds rate from 4.75% to 5%.¹⁸⁹ In March of this year, when the evidentiary hearing was being held in the instant proceeding, the Federal Reserve, after weighting inflationary concerns including the developing conflict in the middle east, decided to maintain the federal funds rate at 3.5% to 3.75%.¹⁹⁰ The federal funds rate is approximately 125 basis points lower than it was during PAWC's previous base rate case.

The OCA recommended a ROE of 8.7%, which has a significant \$113.9 million impact on PAWC's revenue requirement increase, given that an increase to PAWC's ROE is the primary driver behind PAWC's revenue requirement increase request.¹⁹¹ Every 10 basis point change to the ROE results in approximately \$5.3 million of impact to the revenue requirement at PAWC's as-filed rates.¹⁹² In the event the Commission grants

¹⁸⁶ OCA M.B. at 54.

¹⁸⁷ PAWC M.B. at 44.

¹⁸⁸ Tr. at 1834-40.

¹⁸⁹ OCA Hearing Exh. 3 at 1.

¹⁹⁰ OCA Hearing Exh. 2 at 1.

¹⁹¹ OCA M.B. at 51.

¹⁹² OCA M.B. at 51.

PAWC a 9.45% ROE and accepts all other OCA adjustments, PAWC's revenue requirement increase would be reduced to \$17.3 million. Nevertheless, PAWC has failed to meet their burden of proof for a 10.95% ROE and Mr. Garrett's 8.7% ROE is supported by substantial evidence,

F. Management Performance

In its Main Brief, the OCA discussed PAWC's proposal to increase its return on equity due to its management performance and demonstrated that a performance adder is not warranted.¹⁹³

PAWC argues that it deserves a ROE at the higher end of its DCF range, as modified in its rejoinder testimony, due to superior management performance.¹⁹⁴ PAWC did not specify the amount of the management adder adjustment to its ROE either as originally proposed in its case in chief, or as modified in rejoinder testimony.¹⁹⁵ PAWC has not met its burden to necessitate an unquantified upward adjustment to their ROE and failed to show that a 150 basis point increase from the Commissions previously authorized ROE of 9.45% from just two years ago results in just and reasonable rates.

As stated in the OCA's Main Brief, the Commission is not obligated to increase PAWC's ROE.¹⁹⁶ Rather, under the constitutional standards, the return need to be "equal to that being made at the same time on investments in other business undertakings which are attended by corresponding risks and uncertainties" and "commensurate with returns on

¹⁹³ OCA M.B. at 61-65.

¹⁹⁴ *See generally* PAWC M.B. at 65-72.

¹⁹⁵ PAWC M.B. at 65; PAWC St. 13-RJ.

¹⁹⁶ OCA M.B. at 52.

investments in other enterprises having corresponding risks” while being sufficient “to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and attract capital.”¹⁹⁷

PAWC argues that under Section 523, PAWC deserves an upward ROE adjustment for management effectiveness.¹⁹⁸ PAWC also argues that they deserve a higher ROE based on effective management in delivering water and wastewater services to its customers.¹⁹⁹ As support, PAWC cites a report that was triggered based on the large quantity of formal complaints in PAWC’s Northeastern Service Territory, arguing that the report did not find systemic issues and recognized PAWC as being proactive in their efforts regarding customer complaints and quality-of-service issues.²⁰⁰

As was discussed at length in the OCA’s Main Brief PAWC has not met their burden to be granted an upward adjustment to their ROE under Section 523 for many reasons including, the quantity of formal complaints, the testimony of consumers at the PIH, and PAWC’s treatment of low income customers.²⁰¹ A recurring theme of the Public Input Hearings was multiple customers testifying to the poor customer service they received from interactions with PAWC as well as to the poor quality of water and service disruptions.²⁰²

¹⁹⁷ *Id.*

¹⁹⁸ PAWC M.B. 65.

¹⁹⁹ PAWC M.B. at 66.

²⁰⁰ PAWC M.B. at 66.

²⁰¹ OCA M.B. at 61-65.

²⁰² OCA M.B. at 62.

Regarding the Commission's investigative report that resulted from PAWC's previous base rate case, OCA witness Alexander testified that the report illustrates PAWC's lack of proactive investigation as follows:

The fact that the Commission had to order this investigation based on numerous complaints brought forward in PAWC's last base rate case is indicative that PAWC did not take sufficient action or monitor complaints in a sufficient manner to have initiated responses prior to the last rate case. As noted in the Commission's Report, 30 *pro se* complainants and 50 public comments at the rate case public hearings caused the Commission to order this investigation. PAWC's lack of "proactive" knowledge or investigation of these issues is indicative of its lack of root cause analysis of customer complaints prior to the formal Staff investigation.²⁰³

In this proceeding there have been 159 formal complaints and 572 informal complaints filed with the Commission.²⁰⁴ The OCA also notes that, similar to PAWC's previous base rate case, many complaints are from customers in PAWC's Northeastern Service territory.

PAWC then argues that it should be granted an upward ROE adjustment based on acquisitions of other water and wastewater systems.²⁰⁵ In its Main Brief, the OCA rebutted the argument that recent acquisitions made by PAWC are already reflected in rate base and does not give ground to an upward adjustment to PAWC's ROE.²⁰⁶ Under Section 1329 of the Public Utility Code, a system does not have to be troubled to be acquired.²⁰⁷ Acquisitions under Section 1329 already grant PAWC a ratemaking rate base under fair

²⁰³ OCA St. 5 at 29.

²⁰⁴ OCA M.B. at 119.

²⁰⁵ PAWC M.B. at 66-70.

²⁰⁶ OCA M.B. at 65.

²⁰⁷ 66 Pa. C.S. § 1329.

market value and should have no impact on PAWC's ROE.²⁰⁸ Acquisitions of troubled systems occur under Section 529 of the Public Utility Code.²⁰⁹

In this present proceeding there are only two acquisitions that PAWC is seeking to recover in rate base under Section 529, namely Rock Springs and Indian Springs.²¹⁰ All other acquisitions occurred under Sections 1102 or 1329.²¹¹ The OCA has not opposed in this proceeding recovery in rate base of systems acquired under 1102 or 1329.

The Indian Springs acquisition was finalized in 2022, prior to PAWC's previous base rate case.²¹² Further, the Commission stated that the Indian Springs proceeding was not a typical 529 acquisition proceeding as follows:

Under the Settlement, it will not result in a Commission-ordered acquisition of a troubled system by a capable public utility where the acquiring entity will continue operating the system as a public utility. Rather, by Commission Order, PAWC has served as the Receiver of the system and has operated the system and provided potable water to residents from the date of the August 8, 2019 Order to the present. The Joint Petitioners in this proceeding are seeking Commission approval for the abandonment of service to ISWC's remaining five customers and the conversion of those remaining customers to an alternate water supply. If the Settlement is approved, the ISWC system will not continue operating as an ongoing public utility. As a result, the considerations required under a typical Section 529 analysis are inapplicable here.²¹³

Further, under a settlement term approved by the Commission, PAWC was to receive reimbursement from Indian Springs Water Company for costs associated from its

²⁰⁸ OCA M.B. at 65

²⁰⁹ OCA M.B. at 65.

²¹⁰ OCA M.B. at 65.

²¹¹ *Id.*

²¹² *Pa. PUC v. Indian Springs Water Company*, Docket No. M-2019-3011972, Order (Oct. 7, 2021).

²¹³ *Id.* at 8-9.

receivership.²¹⁴ If PAWC did not receive full reimbursement for all costs of receivership from Indian Springs Water Company, PAWC could claim unreimbursed costs in a subsequent base rate case.²¹⁵ The next available base rate case for PAWC to file costs associated with the acquisition would have been in their previous base rate case in 2023. PAWC should not receive additional ROE for a system to which they have been fully reimbursed and no longer serve.

Regarding the Rock Springs acquisition, PAWC argued that it reduced unaccounted-for water by 25%.²¹⁶ PAWC witness Ladner testified that Rock Springs unaccounted-for water has been 50-70% in recent years.²¹⁷ Mr. Ladner correctly testified that anything above 20% is deemed excessive by the Commission.²¹⁸ By reducing unaccounted-for water by 25% Rock Springs unaccounted-for water is now between 25-45% by PAWC's own admission.²¹⁹ PAWC should not receive additional millions of ratepayer-funded dollars in enhanced return on equity for its shareholders because it acquired Rock Springs.

PAWC's response to the impact of management performance on return on equity is limited to focusing solely on the Company's acquisition of troubled systems, but the level of equity return should not be based on a single factor.²²⁰ PAWC also did not adequately rebut the testimony of OCA witnesses Colton and Alexander that PAWC has poor

²¹⁴ *Id.* at 9-10.

²¹⁵ *Id.*

²¹⁶ PAWC M.B. at 67.

²¹⁷ PAWC St. 1 at 14.

²¹⁸ PAWC St. 1 at 14.

²¹⁹ *Id.*

²²⁰ OCA M.B. at 65 *citing* OCA St. 4SR at 35-36.

management performance.²²¹ Specifically, PAWC’s treatment of low-income customers explains why PAWC does not deserve an upward adjustment to ROE based on management. OCA witness Colton testified that “notwithstanding the PUC’s prohibition on cold weather terminations, PAWC continues to issue disconnection notices warning of an impending nonpayment disconnection during cold weather months. This represents a serious management failure.”²²² Additionally, PAWC did not rebut OCA witness Alexander’s testimony that their call center performance is inadequate and has been inadequate for some time.²²³

PAWC claims that its experts refuted OCA witness Colton and Alexander’s claims regarding its treatment of low-income customers.²²⁴ However, PAWC does not specifically rebut OCA witness Colton and Alexander’s claims within its main brief but rather turns to a discussion of PAWC’s BDP enrollment efforts and compliance with the Management Performance Audit.²²⁵

For example, PAWC noted in its Main Brief that OCA witness Mr. Colton testified that PAWC’s fails to successfully identify its low-income customer population, provides ineffective deferred payment arrangements, relies too heavily on disconnection of service to control unpaid bills and disconnects low-income customers during the winter moratorium.²²⁶ In response, PAWC argued that it focuses specific attention on identifying

²²¹ OCA M.B. at 61-65.

²²² OCA St. 4SR at 6.

²²³ *Id.*

²²⁴ PAWC M.B. at 70.

²²⁵ *Id.* at 70-71.

²²⁶ PAWC M.B. at 69 *citing* OCA St. 4 at 111-121.

low-income customers, and offers referrals to assistance programs before placing customers on a deferred payment arrangement.²²⁷

Requiring PAWC's ratepayers, including its low-income customers, to pay millions of dollars in increased rates to increase PAWC's ROE due to PAWC's treatment of low-income customers is the opposite of promoting affordability and further illustrates the unreasonable nature of PAWC's rate increase request. PAWC has failed to adequately rebut the OCA's evidence that a performance adder is not warranted because of the Company's poor performance with regard to its low-income population.

PAWC has not satisfied its burden to demonstrate that a performance adder is warranted and, therefore, for the reasons explained in the OCA's Main Brief and herein, any such adder should be rejected.

X. RATE STRUCTURE AND RATE DESIGN

A. Cost of Service Studies

1. Water Operations

The OCA demonstrated in its Main Brief that using PAWC's outdated demand factors adversely impacts Residential ratepayers and further demonstrated that it developed revised demand factors that reflect modern usage patterns for PAWC's system.²²⁸

In its Main Brief, PAWC attempted to justify using an obsolete maximum day demand factor by stating that "several areas" of PAWC's water operations have experienced maximum day usage at more than 1.4 average use in recent years.²²⁹ However, *several areas* do not represent *system-wide* usage and therefore PAWC's approach should

²²⁷ PAWC M.B. at 70.

²²⁸ OCA M.B. 65-71.

²²⁹ PAWC M.B. at 73.

be rejected for evaluating its proposed *system-wide* maximum day demand factor. OCA witness Mierzwa reviewed PAWC's customer usage on a system wide basis and determined a 1.2 maximum day demand factor is a reasonable reflection of customer consumption patterns.²³⁰

PAWC further argues that a higher maximum day factor is justified because the system needs to be prepared for peak demands in the event they occur.²³¹ However, this argument is inapplicable in this proceeding as OCA witness Mierzwa testified that the 1.4 proposal by PAWC has not been experienced by its system in a generation and PAWC has not produced evidence to meet its burden of proof that a higher figure is justified.²³²

PAWC's final argument suggested that Mr. Mierzwa's 1.2 figure creates a diversity factor outside the range of "reasonableness" according to the AWWA M1 Manual.²³³ Mr. Mierzwa's diversity ratio is 1.62 whereas PAWC's is 1.39.²³⁴ Yet, according to the AWWA M1 Manual: "[t]he system diversity ratio is *often* in the range of 1.1 to 1.4, though different system diversity measures may arise for communities with more atypical customer usage patterns."²³⁵ Claiming the Mr. Mierzwa figure is outside of the range of reasonableness misapplies what the AWWA M1 Manual prescribes.

The maximum day and maximum hour extra capacity demand factors PAWC used in its COSS are the same figures PAWC used in its most recent prior rate case, which it

²³⁰ OCA St. 3 at 15-17.

²³¹ PAWC M.B. at 73-74.

²³² PAWC M.B. at 73; OCA M.B. at 67.

²³³ PAWC M.B. at 74.

²³⁴ PAWC M.B. at 74.

²³⁵ OCA St. 3 SR at 4 (emphasis added).

described as “experienced.”²³⁶ The OCA demonstrated that PAWC’s class cost of service study (COSS) for water operations is out of alignment with the just and reasonable standard because the system-wide maximum day and maximum hour demand factors are obsolete and adversely impact Residential ratepayers.²³⁷ The OCA’s alternative water COSS incorporated two important changes: a lower system-wide maximum day demand factor of 1.2 and a lower system-wide maximum hour demand factor of 1.5.²³⁸

PAWC is unable to justify continued use of its outdated 1.4 maximum day demand factor²³⁹ as PAWC’s system only experienced demands at that level once over two decades ago, back in the year 2003.²⁴⁰ OCA witness Mierzwa reviewed PAWC’s usage trends and observed that it peaks at approximately 1.2 for the past 14 years. This aligns with standard utilized in the American Water Works Association’s Manual, M1, Principles of Water Rates, Fees, and Charges (AWWA M1 Manual). According to the AWWA M1 Manual, development of demand factors should be based off a “representative number of *recent years*.”²⁴¹ No party disputes the AWWA M1 Manual as an authoritative guide and PAWC used it to support its COSS methodology.²⁴² Despite the authoritative guidance used by Mr. Mierzwa, PAWC considered his observations as “arbitrary selected.”²⁴³ Mr. Mierzwa’s 14

²³⁶ PAWC M.B. at 73.

²³⁷ OCA M.B. at 65-71.

²³⁸ *Id.*

²³⁹ OCA M.B. at 66-67; OCA St. 3 at 14; PAWC M.B. at 73.

²⁴⁰ PAWC has not experienced maximum day usage at the 1.4 rate since 2003. Prior to that year, the 1.4 figure was recorded in the years 1988, 1995, 1996, and 1999. OCA St. 3 at 14.

²⁴¹ OCA St. 3 SR at 2(emphasis added).

²⁴² PAWC M.B. at 72; OCA M.B. at 66.

²⁴³ PAWC M.B. at 42.

year timeline using recent years is further supported by PAWC witness McClellan, who presents evidence that there is a pervasive decline in customer usage during the past year years and indicates that this trend will continue.²⁴⁴

The 2.1 maximum hour extra capacity demand factor PAWC proposed is based on a study conducted in 1988.²⁴⁵ Mr. Mierzwa's recommended 1.5 maximum hour extra capacity demand factor is based off recent usage patterns. He testified:

My recommended maximum hour extra capacity demand ratios of 1.5 is based on the data presented in Table 2 on page 12 of Mr. Herbert's direct testimony which reflects maximum hour demands for the years 2021-2024. The data presented in Table 2 has been adjusted to exclude hourly data for missing data gaps. The 1.5 maximum hour extra capacity demand ratio that I have recommended reflects the highest factor for the most recent three years data was available.²⁴⁶

Additionally, Cleveland-Cliffs Steel (Cleveland-Cliffs) and Victory Brewing Company (Victory Brewing) argue against the OCA's COSS solely due to the impact it has on the Industrial class and asked the Commission to adopt PAWC's COSS.²⁴⁷ As stated above, PAWC's COSS is not just and reasonable due to the outdated maximum day and maximum hour extra capacity demand factors. Mr. Mierzwa's COSS is rooted in principles of cost-causation and therefore it should be adopted by the Commission.

Cleveland-Cliffs stated that PAWC's capacity factors are consistent with Commission precedent but does not provide a citation to a single case or authority in its

²⁴⁴ OCA M.B. at 70-71.

²⁴⁵ PAWC M.B. at 74; OCA M.B. at 67.

²⁴⁶ OCA St 3 SR at 5.

²⁴⁷ Cleveland-Cliffs M.B. at 2-5; Victory Brewing M.B. at 6-10.

entire Main Brief.²⁴⁸ Victory Brewing stated that PAWC's COSS is consistent with prior Commission approved methods, but only describes the basic COSS legal framework and does not demonstrate how it is applicable to this proceeding to meet its conclusion.²⁴⁹ However, in the Commission's Order from PAWC's most recent increase issued less than two years ago, it acknowledged that PAWC's demand factors are dated in light of usage trending downward.²⁵⁰ And this past winter, the Commission agreed with the OCA that York Water Company's demand factors are outdated.²⁵¹

2. Wastewater Operations

The OCA recommends no direct adjustments to the Company's Wastewater COSS.

3. Cost of Service Studies for Future General Rate Increases

The OCA demonstrated in its Main Brief and the next section below that an Act 11 shift is warranted for the Butler Area Sewer Authority and Elizabeth Borough Municipal Authority in part because PAWC's filing included separate COSSs.²⁵² This is one example why it's important that PAWC continue including separate COSSs for its Section 1329 acquisitions.²⁵³

In its Main Brief, PAWC did not address the Commission's overarching reasons for requiring separate COSSs for its Section 1329 acquisitions: transparency, assurance that rates are reasonably cost-based, and better information to determine whether any Act 11

²⁴⁸ Cleveland-Cliffs M.B. at 2.

²⁴⁹ Victory Brewing M.B. at 8.

²⁵⁰ OCA M.B. at 69.

²⁵¹ OCA M.B. at 69; 71.

²⁵² OCA M.B. at 73-78.

²⁵³ OCA M.B. 72-73.

reallocation is in the public interest, despite PAWC bearing the burden of proof.²⁵⁴ Instead, PAWC merely states that the Commission should reject the OCA's recommendations so PAWC can move towards single tariff pricing.²⁵⁵

The Commission prefaced its reasoning by stating that requiring separate COSSs for its Section 1329 acquisitions is particularly important because of the amount of revenue requirement customers are asked to pay.²⁵⁶ PAWC argued that the Commission should instead focus on moving toward single tariff pricing for all PAWC systems.²⁵⁷ However, filing separate COSSs do not prohibit PAWC from proposing consolidating acquired systems within its Sanitary Sewer System (SSS) and Combined Sewer System (CSS) divisions, separate COSSs simply help all parties evaluate the reasonableness of proposed rates, revenue requirement shifts, or consolidation proposals. As such, the Commission should adopt the OCA's recommendation that PAWC continue preparing separate wastewater COSSs for its existing Section 1329 acquisitions, either individually for each acquisition or as a group, and separate CCOS studies for new acquisitions not included in the current rate case.²⁵⁸

²⁵⁴ PAWC M.B. at 76, OCA M.B. at 72 *citing Pa. PUC v. PAWC*, Docket No. R-2023-3043189, Order at 217-218 (July 11, 2024).

²⁵⁵ *Id.*

²⁵⁶ OCA M.B. at 72.

²⁵⁷ PAWC M.B. at 76.

²⁵⁸ OCA St. 3 at 8.

B. Revenue Allocation and Act 11

PAWC’s proposed Act 11 shift is not in the public interest because it would provide inequitable relief for SSS and CSS ratepayers and simultaneously increases the burden for water customers.²⁵⁹

In its Main Brief, PAWC downplays the negative impact its proposed \$53 million Section 1311(c) allocation would have on Residential water customers.²⁶⁰ For example, OCA witness Colton testified that only a sliver of a fraction of its identified low-income customers are enrolled in customer assistance programs. Mr. Colton included this Table:

| | |
|---|---------|
| Estimated low-income (LI) | 150,503 |
| Identified low-income | 16,091 |
| No. of BDP participants | 15,813 |
| Pct Estimated LI that are Identified LI | 10.7% |
| Pct Estimated LI participating in BDP | 10.5% |

PAWC stated in its Main Brief that its \$53 million Act 11 allocation proposal will have a “modest” impact of approximately \$5 per month for its average Residential customer.²⁶² That is a substantial increase of \$60 per year, which would adversely impact the approximately 135,000 estimated low-income customers who are not enrolled in a customer assistance program.²⁶³ PAWC estimates that its proposal could provide relief for

²⁵⁹ OCA M.B. 73-78.
²⁶⁰ PAWC M.B. at 76.
²⁶¹ OCA St. 4 at 36.
²⁶² PAWC M.B. at 77.
²⁶³ OCA St. 4 at 36.

its approximately 117,638 wastewater customers.²⁶⁴ However, that relief is negated by the negative impact its proposal would have its estimated low-income customer base alone, let alone the total water customer base who would have to absorb more strain from an extra \$60 in utility billings.

The shift proposed by OCA witness Mierzwa prevents significant rate shock by providing relief for Butler Area Sewer Authority (BASA) and Elizabeth Borough Municipal Authority (EBMA) wastewater customers who would face an unconscionably high 277.5% and 197.3% rate increase, respectively, if charged based on their full cost of service.²⁶⁵ OCA included the following in its Main Brief to illustrate how PAWC’s Act 11 shift would be applied across wastewater divisions:

| | Direct Cost of Service | | | Total Revenue Requirement | |
|------------------|-------------------------------|---------------------|----------------|----------------------------------|----------------|
| | Present | | | Increase | Percent |
| | Rates | Increase | Percent | | |
| Sanitary Systems | \$108,561,975 | \$20,040,262 | 18.5% | \$7,329,641 | 6.8% |
| Combined | | | | | |
| Systems | 85,758,589 | 10,404,370 | 12.1% | 3,341,895 | 3.9% |
| BASA | 12,748,475 | 35,377,169 | 277.5% | 5,097,129 | 40.0% |
| EBMA | 1,767,267 | 3,486,914 | 197.3% | 529,868 | 30.0% |
| Total | \$208,836,306 | \$69,308,715 | 33.2% | \$16,298,533 | 7.8% |

PAWC argues that it wants to make progress in moving towards a single consolidated wastewater design for all of PAWC’s wastewater operations.²⁶⁷ However, if

²⁶⁴ *Id.*

²⁶⁵ OCA M.B. at 76.

²⁶⁶ *Id.*

²⁶⁷ PAWC M.B. at 77.

the Commission authorizes PAWC to implement its full Act 11 revenue requirement shift, SSS and CSS customers would only experience a 6.8% and 3.9% bill increase respectively.²⁶⁸ That is disproportionately low in comparison with the rate increase experienced by all customers of PAWC, who are facing significant rate increases as high as 40%.²⁶⁹

PAWC's desire to move towards a single consolidated wastewater rate results in rate shock for certain customers, as opposed to just and reasonable rates.²⁷⁰ As filed, the PAWC the SSS and CSS customers would experience 18.5% and 12.1% increases, respectively, without Act 11 relief.²⁷¹ That is within the realm of parity with the overall average increase.²⁷² The Commission should 1) authorize PAWC's Act 11 requested revenue requirement shift for BASA and EBMA customers and deny PAWC's Act 11 request for SSS and CSS customers; and 2) apply the same criterion toward the final revenue increase or decrease authorized by the Commission. OCA witness Mierzwa's proposed Act 11 shift meets the public interest standard because it keeps comparable percentage increases for Water, Wastewater SSS and CSS Wastewater customers.²⁷³

C. Tariff Structure

1. Customer Charges

PAWC's proposal to include I&I costs as a component of its customer charge is inappropriate because as the OCA explained in its Main Brief, I&I is driven by weather

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ PAWC M.B. at 77.

²⁷¹ OCA M.B. at 76.

²⁷² PAWC M.B. at 1.

²⁷³ OCA M.B. at 73-78.

events like rain and rainfall is not utility infrastructure impacted by the number of customers served by PAWC.²⁷⁴ The amount of I&I entering the system is not something customers can control through usage because it is largely dependent on weather.²⁷⁵ Therefore, I&I related costs should not be included in a customer charge calculation.

In its Main Brief, PAWC also claimed that adding customers could increase impervious surface area, which in turn, would increase I&I that is primarily caused by precipitation.²⁷⁶ This suggests that there is a link between the number of customers and the amount of impervious surface area. No party presented an index or formula to assert there is a link between the two, therefore that argument should be afforded minimal consideration and PAWC failed to meet its burden of proof.²⁷⁷ Furthermore, Mr. Mierzwa testified that the driver of I&I is precipitation, and the amount of impervious surface area is simply one mitigating factor for that precipitation can impact a community in terms of I&I.²⁷⁸ In its Main Brief, OSBA agreed that the customer charges proposed by PAWC should be rejected because they erroneously include I&I.²⁷⁹

PAWC has not met its burden of proof in classifying I&I as fixed cost component of its Residential charge. As such, I&I related costs should not be included in PAWC's fixed customer charge.²⁸⁰

2. Water Rate Design

²⁷⁴ *Id.*

²⁷⁵ *Id.*

²⁷⁶ PAWC M.B. at 78.

²⁷⁷ 66 Pa.C.S. § 315(a).

²⁷⁸ PAWC M.B. at 78; OCA M.B. at 80-81.

²⁷⁹ OSBA M.B. at 33-34.

²⁸⁰ *Id.*

OCA's COSS uses accurate extra capacity demand factors and therefore should be used as the blueprint for revenue allocation, along with its Act 11 methodology.²⁸¹ OSBA's rate design proposal is flawed because it is modeled off of PAWC's COSS, and as described above, PAWC's COSS does not meet the just and reasonable standard because of its use of outdated demand factors.²⁸² As OSBA's Act 11 shift proposal does not include a public interest analysis, the Commission should adopt the OCA's Act 11 proposal.²⁸³

3. Wastewater Rate Design

The OCA recommended several wastewater scaleback proposals, including: 1) That the SSS revenue increase authorized by the Commission in this proceeding be assigned to each SSS rate zone based on the percentage share of the SSS increase initially assigned to each rate zone by PAWC; 2) the SSS revenue requirement increase amount authorized by the Commission be assigned to each class based on the same percentage PAWC assigned; and 3) each rate zone be assigned a percentage increase equal to the overall CSS percentage rate increase authorized by the Commission.²⁸⁴

I&E stated that it supports OSBA's wastewater rate design proposal.²⁸⁵ However, OSBA's rate design proposal included an Act 11 shift without utilizing a public interest analysis and therefore should not be considered by the Commission.²⁸⁶

4. Wastewater Deduct Adjustment

²⁸¹ OCA M.B. 82-84

²⁸² OSBA M.B. at 26-32.

²⁸³ OSBA M.B. at 30-32.

²⁸⁴ OCA M.B. at 84-85.

²⁸⁵ I&E M.B. at 92.

²⁸⁶ OSBA M.B. at 26-32.

The OCA explained in its Main Biref that there is not a significant disparity between water entering the wastewater system in the winter months versus the remaining months of the year and therefore the Commission should reject PAWC’s winter deduct adjustment proposal.²⁸⁷ PAWC stated in its Main Brief that statistical modeling demonstrates that there are “significant” differences in water usage between winter months and summer months.²⁸⁸ However, PAWC’s argument is based off of future projections.²⁸⁹ OCA witness Mierzwa examined recent usage rates and found the usage difference between winter months and summer months to be di minimis, as illustrated in the Table below:

| Period | Usage |
|-----------------------|--------------|
| January - March 2023 | 3,307 |
| April - December 2023 | 3,426 |
| <i>Difference</i> | <i>119</i> |
| Ratio | 104% |
| January - March 2024 | 3,256 |
| April - December 2024 | 3,421 |
| <i>Difference</i> | <i>165</i> |
| Ratio | 105% |

OCA witness Colton also reviewed PAWC’s winter deduct adjustment proposal and found that the highest usage was not necessarily in the non-winter months and the lowest

²⁸⁷ OCA M.B. at 86-88.

²⁸⁸ PAWC M.B. at 83.

²⁸⁹ PAWC St. 10 at 55-56.

²⁹⁰ OCA St. 3 at 42.

usage was not necessarily in the winter months.²⁹¹ Since PAWC is unable to produce evidence that its deduct adjustment proposal will perform as laid out in its filing, the Commission should reject it.

5. Demand-Based Contract Rates

The OCA did not brief this section.

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

The OCA's cost-of-service study, revenue allocations and residential customer charge recommendations are rooted in cost-based principles and are supported by the evidence of record and Commission precedent.²⁹² OCA witness Mierzwa's revision to the PAWC's water COSS using updated maximum day and maximum hour demand factors ensures just and reasonable outcomes for Residential customers.²⁹³ For continued transparency, the Commission should require PAWC to file separate COSSs for its 1329 acquisitions, as it did PAWC's 2023 rate proceeding.²⁹⁴ The amount allocated under Act 11 for SSS and CSS revenue requirement should be eliminated.²⁹⁵ The Company's wastewater customer charges should be calculated without I&I costs since it is largely factored on precipitation entering the system, not the number of customers using the system.²⁹⁶ Finally, rates should be scaled back in accordance with OCA's recommendations outlined in its Main Brief.²⁹⁷

²⁹¹ OCA St. 4 at 106-108; *see also*, OCA-04-023 and OCA-04-024.

²⁹² *Lloyd v. Pa. PUC*, 904 A.2d 1010 (Pa. Cmwlth. 2006).

²⁹³ *See* OCA St. 3 at 11-18.

²⁹⁴ OCA St. 3 at 20.

²⁹⁵ *See* OCA St. 3 at 20-27.

²⁹⁶ *See* OCA St. 3 at 43-45.

²⁹⁷ OCA M.B. at 84-86.

XI. ALTERNATIVE RATEMAKING REQUESTS

A. Customer Assistance Program (CAP) Rider

The OCA opposed PAWC's proposed CAP Rider and demonstrated that PAWC's universal costs should be recovered in base rates, instead of isolating one element out of a multitude of elements that affects PAWC customer rates.²⁹⁸

PAWC argues that a CAP Rider is "necessary due to the significant and ongoing volatility in the Company's CAP enrollment and costs."²⁹⁹ PAWC adds that it cannot reliably predict which customers will enroll in the Arrearage Management Plan (AMP) or otherwise include a projected cost of the Renter Assistant Pilot Program (RAPP) in base rates.³⁰⁰

There may be decreases in expenses such as cash working capital that may be realized through the CAP program and there may be a double recovery of costs without an appropriate offset.³⁰¹ Furthermore, the OCA notes that the language of Section 1330 of the Public Utility Code, on which PAWC relies, is permissive and not mandatory, and that this is a situation where such an alternative ratemaking mechanism is not appropriate.³⁰² Notably, the OCA is not advocating that PAWC should not recover *any* of these costs; just that the recovery of these costs should be done through the traditional rate base/rate of return ratemaking process and not a new Rider.³⁰³

²⁹⁸ OCA M.B. at 89-91.

²⁹⁹ PAWC M.B. at 88.

³⁰⁰ PAWC M.B. at 89-90.

³⁰¹ OCA M.B. at 89-90 *citing* OCA St. 4 at 92-99.

³⁰² 66 Pa. C.S. § 1330 ("the commission *may* approve an application by a utility in a base rate proceeding to establish alternative rates and rate mechanisms") (emphasis added).

³⁰³ OCA M.B. at 89.

Overall, however, PAWC’s variability concerns are insufficient to support adopting the proposed CAP Rider since many costs of the Company are variable, but not all those costs warrant a Rider. Instead, PAWC’s costs are evaluated in each base rate case and PAWC’s CAP costs should also be evaluated in future base rate cases as is appropriate under the traditional rate base/rate of return ratemaking methodology.³⁰⁴

Finally, the OCA notes in the recent Columbia Gas base rate case, the Commission affirmed the decision of the presiding Administrative Law Judges to reject the proposed universal service rider in that matter.³⁰⁵ In that matter, Columbia proposed to recover the costs of its current Energy Assistance Team (EAT) through its Rider Universal Service Plan (USP), shifting recovery of those costs from its base rates into its Rider USP, precisely as PAWC seeks to do in this proceeding.³⁰⁶ The Commission held: “we concur with the ALJs’ recommendation, to which no Party objected, that the Company be directed to continue to recover its EAT costs through base rates.”³⁰⁷ The Commission should do the same here, especially as Columbia Gas is a natural gas distribution company and PAWC would be the first and only water/wastewater company with a universal service rider if adopted here.

For the reasons set forth in its Main Brief and herein, the Commission should reject PAWC’s request for a CAP Rider.

³⁰⁴ OCA M.B. at 89.

³⁰⁵ *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2025-3053499, Order (Dec. 9, 2025) (*Columbia Gas*).

³⁰⁶ *Id.* at 165.

³⁰⁷ *Id.* at 167.

XII. LOW-INCOME CUSTOMER ASSISTANCE

A. Summary

PAWC argues that it does not have an affordability problem.³⁰⁸ As stated in the OCA's Main Brief, this case is about affordability.³⁰⁹ It is crucial to reemphasize that there are few considerations as important as affordability, as affordability "is in both the shareholder and ratepayers' best interests. Affordable bills will maximize revenues for the Company and will enable ratepayers to continue to receive an essential service."³¹⁰

PAWC's proposed rate increase should be rejected because it will make PAWC's rates unaffordable. In order to achieve rates that are more affordable for this Company, OCA witness Colton reviewed the impact of PAWC's rates on its customers.³¹¹ Mr. Colton examined the overall affordability of PAWC's bills for current service and the importance of considering the affordability of PAWC's bills to low- and moderate-income customers. Mr. Colton testified regarding multiple recommendations of ways to enhance PAWC's CAP, including its Bill Discount Program (BDP) and Arrearage Management Program (AMP). Mr. Colton's recommendations should be adopted.

B. Affordability of Water and Wastewater Service

PAWC's use of basic water service (BWS) should be rejected because it does not consider the individual circumstances of the household and ignores differences based on factors such as age or number of children in the household, or the age or number of adults in the household.³¹² Mr. Colton provided additional reasons why PAWC's affordability is

³⁰⁸ PAWC M.B. at 92-112.

³⁰⁹ OCA M.B. at 91.

³¹⁰ *Pa. PUC v. Roaring Creek Water Co.*, 73 Pa. PUC 373, 400 (1990).

³¹¹ OCA St. 4, *passim*; OCA St. 4-SR, *passim*.

³¹² OCA M.B. at 95 *citing* OCA St. 4 at 13.

inherently deficient and that “Ms. Ather’s jurisdiction for her BWS consumption is arbitrary and not supported by data.”³¹³

PAWC argued that it conducted an analysis that considers affordability over a multi-year period and individual groups of customers.³¹⁴ PAWC added that its analysis uses a bill to income ratio at median household income (MHI) and BWS level usage of 40 gallons per day.³¹⁵

The Commission should reject PAWC’s use of MHI in its affordability analysis. Mr. Colton refuted Ms. Ather’s justification for the use of MHI as the foundation for her affordability analysis in response to CAUSE-PA witness Harry Geller.³¹⁶ PAWC’s use of MHI as the foundation of its affordability analysis was criticized by Mr. Geller as being inappropriate because it masks the extreme levels of unaffordability experienced by the lowest income households. Mr. Colton testified that

MHI does not “encompass the entire residential customer base...” The “median” is a single point. It is the point at which half of the population is greater than it is, with the other half of the population being less. The median is certainly not considered to be “representative” of the entire population.³¹⁷

Mr. Colton then referenced the “Gini index” as a measure of income inequality, noting that “even though the ‘median’ is the ‘middle,’ the middle is artificially high given the inequality in the distribution of income.”³¹⁸

³¹³ OCA M.B. at 95-97 *citing* OCA St. 4 at 15 and OCA St. 4SR at 4-8.

³¹⁴ PAWC M.B. at 92.

³¹⁵ PAWC M.B. at 93-94.

³¹⁶ PAWC St. 9-R at 10.

³¹⁷ OCA St. 4SR at 9.

³¹⁸ OCA St. 4SR at 10.

For the reasons set forth in its Main Brief, the OCA recommends the Commission should reject PAWC’s affordability analysis and adopt the analysis conducted by Mr. Colton.

C. Bill Discount Program (BDP) Design

The OCA discussed BDP design and recommended several actions PAWC should take to increase its low-income customer identification and expanded enrollment in CAP.³¹⁹

However, in PAWC’s Main Brief, PAWC simply notes that “the Company proposed limited modifications to its BDP design, which should be approved. These proposed changes were accepted by the OCA.”³²⁰ While it is correct that Mr. Colton agreed with aligning discounts on the fixed and variable portions of the bills, PAWC’s argument in its Main Brief does not respond to numerous recommendations Mr. Colton made beyond the minimal proposals made by PAWC in this case.³²¹

Mr. Colton testified that PAWC’s opposition to his recommendations should be rejected. For example, PAWC witness Prine opposed Mr. Colton’s recommendation to broaden its identification of low-income customers to include the use of self-attested information.³²² Mr. Prine’s concerns are unfounded. In part, Mr. Prine misunderstands Mr. Colton’s recommendation because the Commission’s prior directives regarding the income documentation for such program enrollment are not relevant.³²³ Also, the enrollment of

³¹⁹ OCA M.B. at 103-107.

³²⁰ PAWC M.B. at 96; *see also*, PAWC M.B. at 97 (“Notably, the OCA supports the Company’s proposed BDP changes.”).

³²¹ OCA M.B. at 103-107 *citing* OCA St. 4 at 47-65. In fact, Mr. Colton testified that the discounts should be applied to the entire bill, not just the fixed and variable portions.

³²² PAWC St. 15-R at 21.

³²³ OCA St. 4SR at 16-17.

low-income customers is important for purposes other than the actual enrollment in BDP and AFP but also such information would be helpful in referring customers to hardship funds and assist in other data gathering purposes.³²⁴ Mr. Colton also responded to Mr. Prine's opposition by noting the value of COMPASS, an online tool for Pennsylvanian's to apply for many health and human service programs and management benefit information.³²⁵

Mr. Colton responded to Mr. Prine's assertion that there is no need for the Company to gain the "informed consent" of low-income customers prior to entering the DPA.³²⁶ Mr. Colton recognized that the Commission has recently addressed the need for utilities to obtain "informed consent" and held that the utility must explain to the customer how the decision would impact the customer's monthly bill, a requirement which Mr. Colton questioned why PAWC would oppose.³²⁷

PAWC opposed screening new applicants for service to determine whether they can provide information that would reasonably lead PAWC to conclude that they are low-income because PAWC already "engages in significant outreach regarding its customer assistance programs."³²⁸ Mr. Colton testified that Mr. Prine misses the point:

in each instance he cites, PAWC requires (or allows) a customer to get into payment difficulties before offering the outreach. ... PAWC is reacting to payment difficulties which have already developed rather than seeking to

³²⁴ OCA St. 4SR at 17.

³²⁵ OCA St. 4SR at 18 *citing* compass.dhs.pa.gov/home/#/.

³²⁶ PAWC St. 15-R at 22.

³²⁷ OCA St. 4SR at 18-19 (noting "there is a legitimate question why PAWC would insist on entering into payment arrangements in nearly 19,000 cases over less than a three-year period when those arrangements are likely to default.").

³²⁸ PAWC M.B. at 70.

proactively identify low-income customers who are likely to have payment difficulties and then seeking to prevent those difficulties.³²⁹

Finally, PAWC argued that there is no need for PAWC to clarify its outreach and intake regarding the right of low-income enrollees in PAWC's BDP to simultaneously be enrolled in PAWC's AFP.³³⁰ Mr. Colton argued, however, that this position is not reflected in the data which PAWC provided in response to discovery.³³¹

PAWC failed to address the recommendations Mr. Colton made to improve PAWC's BDP and focused only on those limited suggestions that PAWC proposed. The OCA recommends that PAWC should be directed to expand its enrollment into its CAP programs.

D. Arrearage Management Program (AMP)³³²

The OCA provided substantial evidence that PAWC's Arrearage Management Program is not successful at the one purpose of an arrearage forgiveness program – that is, to forgive arrears.³³³ Therefore, Mr. Colton presented three recommendations to improve AMP: 1) allow customers to earn monthly arrearage forgiveness credit for each complete payment the customer makes, similar to Pennsylvania energy utilities, 2) expand the monthly credit that is provided for a timely payment or for a cured missed or late payment and 3) tie its enrollment of low-income customers into its AMP more closely to enrollment

³²⁹ OCA St. 4SR at 21-22, noting that the Commission recently addressed this issue in the Columbia Gas rate case, where Columbia had 23% of the estimated low-income customers enrolled in CAP. *Columbia Gas* at 350.

³³⁰ PAWC M.B. at 70.

³³¹ OCA St. 4SR at 24 *citing* OCA St. 4 at 79.

³³² PAWC uses two different terms to refer to providing arrearage forgiveness. At times, the Company's program is known as the Arrearage Forgiveness Program (AFP). At other times, it is referenced as the Arrearage Management Program (AMP).

³³³ OCA M.B. at 107-11.

in BDP since a significant number of low-income customers are being enrolled into the BDP with pre-existing arrears on their account.³³⁴

PAWC argued that its AMP “is designed to provide meaningful assistance to low-income customers while encouraging sustainable payment behavior.”³³⁵ PAWC further argued that the proposals made by Mr. Colton and Mr. Geller should be rejected because, according to PAWC, the AMP is “well-structured, accessible and reasonable as implemented.”³³⁶

PAWC’s opposition to those recommendations should be rejected. For example, PAWC argues that adopting Mr. Colton’s first recommendation, or “eliminating or weakening the timeliness requirement and providing credits for untimely payments would undermine the Company’s objective of encouraging timely payments and weaken the programs effectiveness.”³³⁷ Mr. Colton testified, however, that PAWC’s restrictive policies on granting credits is inequitable, noting that for the 14 months for which data is provided, despite AMP customers paying nearly half their bills (48%), those customers received less than one quarter (24%) of the credits that were potentially available.³³⁸ PAWC’s argument is not supported by the record evidence in this case.

Likewise, PAWC’s argument that the current \$25 monthly credit is “reasonable and allows participants to make steady progress toward arrearage reduction,”³³⁹ should also be

³³⁴ OCA M.B. at 107-110.

³³⁵ PAWC M.B. at 99.

³³⁶ PAWC M.B. at 99.

³³⁷ PAWC M.B. at 100.

³³⁸ OCA M.B. at 108-109 *citing* OCA St. 4 at 70-72.

³³⁹ PAWC M.B. at 101.

rejected. Again, the record evidence in this case does not support PAWC's argument. In fact, record evidence demonstrates the opposite – AMP participants had participated in the program for an average of only 6.3 months and virtually no participant reduced pre-existing arrears to \$0.³⁴⁰ As such, clearly there is no incentive as PAWC argues but, rather, the monthly credit should be increased to \$40 to provide such incentive.

Finally, PAWC argues that Mr. Colton's argument to tie the AMP and BDP more closely should be rejected because "the Company's existing structure already closely integrates the BDP and AMP" and "the \$5 co-payment required reflects existing Company IT system constraints,"³⁴¹ should also be rejected. In contrast, the OCA stands by its position that the barriers to simultaneous enrollment in both programs should be removed.³⁴²

For the reasons set forth in its Main Brief, the OCA's three recommendations made in this proceeding to improve PAWC's AMP should be adopted. Doing so will help the Company achieve the purposes of the arrearage forgiveness plan – to forgive arrears.

E. H2O Help to Others (H2O) Program Screening, Outreach, and Enrollment Procedures.

The OCA discussed improvements to PAWC's enrollment procedures, including self-attestation and requiring PAWC to provide a stand-alone written plain language notice

³⁴⁰ OCA M.B. at 109 *citing* OCA St. 4 75-76.

³⁴¹ PAWC M.B. at 102-103.

³⁴² OCA M.B. at 110.

informing customers of their rights, as part of its position that identification of PAWC's low-income customers and enrollment in the CAP should be expanded.³⁴³

PAWC argued that it has “appropriate customer-facing materials and additional touchpoints where a customer facing termination is provided with information about assistance programs.”³⁴⁴ PAWC argued “additional processes specific to educating low-income customers facing termination or considering a DPA are simply not necessary.”³⁴⁵

The OCA has demonstrated that a plain language written notice informing customers of their rights is consistent with Section 1303 of the Public Utility Code which requires bills to be computed under the rate most advantageous to the patron.³⁴⁶ However, PAWC's arguments fail to recognize the deficient levels of enrollment into the PAWC's customer assistance programs for those customers who need it most.³⁴⁷ PAWC's arguments also fails to recognize the struggle that low-income customers face in trying to afford basic water service – an essential human need. This includes a recognition that PAWC rates increased from 2020 through 2023 by 26% and that incomes in PAWC's service territory were not keeping up.³⁴⁸ PAWC's CAP is simply not working, or, at a minimum, not working as well as it should be. As Mr. Colton testified: “PAWC bills for low-income customers are routinely, and substantially, unaffordable, and will become even more so if the rates

³⁴³ OCA M.B. at 104.

³⁴⁴ PAWC M.B. at 106.

³⁴⁵ PAWC M.B. at 106.

³⁴⁶ OCA M.B. at 105 *citing* 66 Pa. C.S. § 1303.

³⁴⁷ OCA M.B. at 101.

³⁴⁸ OCA M.B. at 97 *citing* OCA St. 4 at 16-17 (citations omitted).

proposed in this proceeding are approved.”³⁴⁹ The Commission should adopt Mr. Colton’s reasonable recommendations to give more otherwise-eligible PAWC customers access to the essential water service they need at just and reasonable rates.

F. Water Conservation and Line Repair and Replacement Assistance

The OCA did not address this issue in its testimony.

G. Hardship Fund

The OCA did not address this issue in its testimony.

H. Renter Assistance Pilot Program (RAPP)

The RAPP represents a substantial change in regulatory policy in Pennsylvania and care should be taken in structuring any such program and providing approval even on a pilot basis.³⁵⁰ As such, the OCA recommended that the RAPP program be withdrawn.³⁵¹

PAWC argued that it will administer the RAPP for a minimum of two years in Scranton and Butler where the renter population is high at an annual cost of \$1 million to be recovered through the proposed CAP Rider to provide low-income residents who live in master-metered buildings and do not pay their utility directly for their utility service.³⁵²

Mr. Colton recommended that PAWC be directed to present its conceptual proposal for RAPP to its Low-Income Advisory Committee for further development of program details prior to re-submitting the proposal, either in a separate proceeding or as part of its next rate case.³⁵³ Mr. Colton raised several issues that should be addressed before the proposal is implemented even on a pilot basis.

³⁴⁹ OCA St. 4 at 25.

³⁵⁰ *Id.*

³⁵¹ OCA M.B. at 111-112.

³⁵² PAWC M.B. at 110-111.

³⁵³ OCA M.B. at 112 *citing* OCA St. 84-85.

PAWC stated in its Main Brief that “the Company is willing to work with CAAG to further develop the program framework prior to implementation and can review program results and findings with CAAG one year after implementation.”³⁵⁴ PAWC’s Main Brief is unclear as to whether it means it will take these actions after withdrawing its proposal in this case. Doing so would be consistent with Mr. Colton’s testimony and is supported by the OCA.³⁵⁵ If not, the OCA continues to maintain that the proposal should be withdrawn from this proceeding and the issues raised by Mr. Colton addressed *before* the proposal is resubmitted for approval in a separate proceeding or a future base rate case.

I. Universal Service Plan

The OCA did not address this issue in its testimony.

XIII. SERVICE QUALITY AND CUSTOMER SERVICE ISSUES

A. Summary

PAWC’s customer service through its call centers is not adequate, efficient nor reasonable as required by Section 1501 of the Public Utility Code.³⁵⁶ However, PAWC’s Main Brief downplays customer complaints regarding affordability of service.³⁵⁷ Moreover, the customer communications regarding the relationship between PAWC and American Water Resources (AWR) is unclear and should be updated for transparency.³⁵⁸

B. Customer Service Performance

³⁵⁴ PAWC M.B. at 111.

³⁵⁵ OCA M.B. at 110-111.

³⁵⁶ 66 Pa. C.S. § 1501.

³⁵⁷ PAWC M.B. at 117.

³⁵⁸ OCA M.B. at 121.

Under Section 1501 of the Public Utility Code, call center performance must be adequate, efficient, and reasonable.³⁵⁹ However, PAWC is not providing adequate, efficient, nor reasonable service given lengthy wait times and high call abandonment rates.

1. Call Center Performance

The OCA recommends that PAWC conform with a minimum standard of answering 80% of calls within 60 seconds, with an abandonment rate of 8% or less, undertake an annual audit of its call center performance, and conduct a root cause analysis of customers' complaints.³⁶⁰ PAWC argues that Ms. Alexander's evaluation of its customer service quality as poor is erroneous because her evaluation is narrowly focused on wait times and call abandonment rates, rather than the larger driving force of first contact solution.³⁶¹ PAWC further contends that if Ms. Alexander had considered calls by its Intelligent Virtual Agent (IVA) or customers utilizing its courtesy call back feature "...service levels would far exceed the CSO's internal performance goals."³⁶²

While PAWC's performance metrics could be changed through the inclusion of virtual assistants and call backs, this does not comport with Mr. Prine's arguments that the most important factor is PAWC's first contact resolution. As Ms. Alexander testified "[i]f the customer is not able to routinely access a trained and qualified customer service representative in a timely manner, many of the crucial rights and remedies that must be

³⁵⁹ 66 Pa. CS § 1501.

³⁶⁰ OCA M.B. at 113.

³⁶¹ PAWC M.B. at 114.

³⁶² *Id.*

offered to customers are delayed or ignored.”³⁶³ Further, OCA witness Alexander testified that automated pick-ups do not provide a customer with vital assistance as follows:

[A]n automated pick up does not immediately provide a consumer with the potentially time critical information they require. As I explained in detail in my direct testimony, while there are many automated transactions that can and should be offered to customers, access to the call center to discuss the details of a customer bill, file a dispute or complaint, respond to a disconnection notice, negotiate a payment plan, explain a service quality or water quality issue, is a first step requirement to measure adequate service.”³⁶⁴

PAWC argues that Ms. Alexander’s analysis and recommendations are skewed by not considering automatic answering and courtesy call backs and truncated by only considering collection calls.³⁶⁵ Yet, PAWC also argues that first contact is the most important customer service factor.³⁶⁶

OCA witness Alexander testified that PAWC’s call center performance is inadequate and has been inadequate for some time, based on (1) high call-answer times, (2) high call abandonment rates, and (3) and customer complaints.³⁶⁷ PAWC’s call centers in 2024 and 2025 answered less than 50% of calls within 60 seconds on average and experienced an approximately 20% abandonment rate.³⁶⁸ Yet, PAWC argues that Ms. Alexander’s concerns about the CSO oversight of compliance with Pennsylvania regulations are unfounded.³⁶⁹

³⁶³ *Id.* at 8.

³⁶⁴ *Id.*

³⁶⁵ *Id.*

³⁶⁶ PAWC M.B. at 114.

³⁶⁷ OCA St. 5 at 5, 10-11, 16-17, 32-33; OCA Exh. BA-2; OCA St. 5, App. A

³⁶⁸ See OCA M.B. at 117, OCA St. 5 at 8-10, OCA St. 5 at 11.

³⁶⁹ PAWC M.B. At 116.

PAWC presented an 80 page training module, contending that Ms. Alexander provides no evidence the CSO does not comply with these materials.³⁷⁰ As Ms. Alexander testified: “While those regulations are described in detail in PAWC’s voluminous training materials, the existence of the training materials does not determine whether the training materials are understood or complied with.”³⁷¹

PAWC further relies on its Quality Assurance (QA) process “which involves reviewing all calls with low satisfaction scores from customers and any call that did not resolve the customer’s concern in the first contact.”³⁷² However, this process relies entirely on customer identification of their overall call status in a survey response.³⁷³ PAWC’s QA does not proactively evaluate its customer calls to determine compliance with training materials.³⁷⁴ PAWC’s reliance on its QA review to ensure its call centers perform efficiently and comply with Pennsylvania requirements is misplaced.

Ms. Alexander recommendations ensure that consumers who are calling into PAWC receive reasonable and adequate service in accordance with the Public Utility Code.³⁷⁵

2. Customer Complaints

a. Affordability

PAWC’s proposed rate increase results in unaffordable rates to customers who have experienced base rate increases in 2021, 2022, 2023, and 2024.³⁷⁶ PAWC’s Main Brief

³⁷⁰ *Id.*

³⁷¹ OCA St. 5SR at 10.

³⁷² PAWC M.B. at 116.

³⁷³ OCA St. 5SR at 13

³⁷⁴ *Id.*

³⁷⁵ OCA M.B. at 115-119.

³⁷⁶ *Id.* at 3.

downplays customer complaints regarding affordability of service.³⁷⁷ PAWC argues in its Main Brief that several of the customers who testified at public input hearings had bills that were much lower than stated.³⁷⁸ However, considering only the public input hearing in Reading, 27 customers testified that their bills are unaffordable.³⁷⁹ This is a small number of customers compared to the volume of formal and informal complaints on affordability.

Under the Company's proposal, the total bill for a residential water customer purchasing 3,263 gallons of water per month would see increases ranging by Rate zone, between 9.8% to 41.1%.³⁸⁰ This means that depending on the rate zone of these particular customers, water bills could be anywhere from \$8.93 to \$37.46 higher. These same customers could be facing increases of 8% to 54% depending on rate zone³⁸¹ for wastewater or between \$10.19 and \$68.81. Customers with average usage according to PAWC could see water bills upwards of \$100.09 and wastewater bills at approximately \$137.62.

While PAWC alleges that these bills are "far lower than their testimony alleges"³⁸² that does not change the fact that these customers are facing approximately \$20 more per month, on average, for the necessity of water and wastewater service under inflationary economic pressures.³⁸³

b. Customer Service, Water Quality, and Service Disruptions

³⁷⁷ PAWC M.B. at 117.

³⁷⁸ *Id.*

³⁷⁹ PAWC St. 3-R

³⁸⁰ OCA M.B. at 120, OCA St.5 at 4.

³⁸¹ OCA M.B. at 120, OCA St. 5 at 3.

³⁸² PAWC M.B. at 117

³⁸³ Tr. at 1831.

Throughout the public input hearings, PAWC consumers testified to the poor customer service they received from interactions with PAWC as well as to the poor quality of water and service disruptions.³⁸⁴ The volume of customer complaints in these proceedings is staggering.³⁸⁵ PAWC's main brief relies on PAWC witness Runzer's various explanations in response to certain consumer complaints. PAWC's reliance on Mr. Runzer's rebuttal testimony is inappropriate. Mr. Runzer's testimony only addressed approximately 5% of the 731 formal and informal complaints, and 10 public input hearing sessions.³⁸⁶ The OCA understands that Mr. Runzer cannot address every complaint in rebuttal, however, to present 22 pages of testimony with no mention of continued follow up or means of correcting clear issues only serves to enhance Ms. Alexander's recommendations.³⁸⁷

PAWC stated that it has a "robust complaint analysis process" rejecting the recommendation of Ms. Alexander that a root cause analysis be conducted.³⁸⁸ In rejoinder testimony, PAWC witness Prine stated that PAWC analyzes all customer complaints but for informal mediation complaints, makes a root-cause determination and logs it, generates monthly reports reflecting complaint root causes, analyzes trends, and discusses root-cause trends internally.³⁸⁹

³⁸⁴ OCA M.B. at 121.

³⁸⁵ OCA M.B. at 119, OCA St. 5 at 5.

³⁸⁶ PAWC St. 3-R at 22-44.

³⁸⁷ OCA St. 5 at 3, OSCA St. 5SR at 21-22.

³⁸⁸ *Id.*

³⁸⁹ *Id.*

However, in response to discovery, Mr. Prine stated that “[t]he Company **does not conduct root cause analyses** by utility or state footprint. Instead, the QA team reviews all calls (regardless of the state/utility) that meet the criteria discussed in the Company’s response to OCA 20-011.”³⁹⁰ Whether PAWC currently conducts what Ms. Alexander has called a “proper root cause analysis of customer disputes, informal, and formal complaints”³⁹¹ or not, it is clear from the quantity of complaints and the minimalist response by PAWC in its testimony and main brief that steps must be taken to ensure customers complaints are being heard and addressed by PAWC. The Commission should adopt OCA’s recommendations with regard to conducting a root cause analysis of customer complaints to reform the quality of service PAWC customers receive.

C. Billing Arrangement with American Water Resources

The OCA recommended that the marketing of services between PAWC and AWR be reformed, including documentation that these services are offered by other providers.³⁹² Further, customer bills should not include non-basic and basic charges in the same section.³⁹³ Training materials should require representatives to state that PAWC is paid to promote and bill for AWR services.³⁹⁴

PAWC argues that the relationship with AWR has been ongoing for over two decades.³⁹⁵ However, the Commission has the authority under Section 1501 of the Public

³⁹⁰ OCA St. 5SR at 13.

³⁹¹ *Id.* at 22.

³⁹² OCA M.B. at 114

³⁹³ *Id.*

³⁹⁴ *Id.*

³⁹⁵ PAWC M.B. at 118, 119.

Utility Code to order changes to improve service.³⁹⁶ PAWC argues “[t]he Commission only has the authority to evaluate whether a utility’s jurisdictional services, such as a utility’s billing of warranty products and services, are consistent with the Code.”³⁹⁷ However, Section 508 of the Code provides the Commission with the “power and authority to vary, reform, or revise, upon a fair, reasonable, and equitable basis, any obligations, terms, or conditions of any contract heretofore or hereafter entered into between any public utility and any person, corporation, or municipal corporation...”³⁹⁸

PAWC contends that cases prohibiting competitive suppliers from including charges for their non-basic products and services on the utility’s bills, while permitting a different party to include its products and services on the utility bills,³⁹⁹ does not apply to PAWC since no other entity has requested use of PAWC bills.⁴⁰⁰ PAWC argues that there is no discriminatory practice under Section 1502 as no other entity requests access to its bills for the purpose of promoting non-basic services, however PAWC has not attempted to obtain services from other sources while admitting in testimony that other entities existed.⁴⁰¹

³⁹⁶ See 66 Pa.C.S. § 1501 which states “...shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary...”

³⁹⁷ PAWC M.B. at 121.

³⁹⁸ 66 Pa. C.S. § 508

³⁹⁹ See *Columbia Gas Order*, 2018 WL 6590854, at *22-23; *Interstate Gas Supply, Inc. et al. v. Metro. Edison Co., Pennsylvania Elec. Co., Pennsylvania Power Co., and West Penn Power Co.*, Docket Nos. C-2019-3013805 *et al.*, 2021 WL 3840884, at *1-2 (Aug. 26, 2021), *aff’d*, *Interstate Gas Supply, Inc. et al. v. Pa. PUC*, 298 A.3d 1181 (Pa. Cmwlth. 2023).

⁴⁰⁰ PAWC M.B. at 121-122

⁴⁰¹ PAWC M.B. at 123.

Additionally, PAWC argues that “clear disclosures are included in on all the marketing materials explaining that AWR is not affiliated with PAWC...”⁴⁰² However, the disclosures that PAWC relies upon are fine print.⁴⁰³ Forcing consumers to read fine print to determine that they are not purchasing warranty services from the PAWC brand only enhances the contention by Ms. Alexander that these practices are discriminatory and provide “substantial benefits to the marketing and sale of AWR products and services.”⁴⁰⁴

Ms. Alexander recommended that “[n]on-basic charges should be separately identified and disclosed with a separate total.”⁴⁰⁵ This is a minor change to how bills are presented to customers which only serves to enhance the customer experience. Ms. Alexander further asserts “[t]here is certainly room to consider alternatives that would more clearly separate the regulated utility charges and amount due from the non-basic charges and amount due.”⁴⁰⁶

PAWC’s bill does not present a clear differentiation of billing for each service in separate sections of the bill, which is a reasonable expectation that a consumer may have to understand exactly what they are paying for. OCA witness Alexander’s recommendation enhances transparency and consumer understanding of PAWC’s bill.

⁴⁰² *Id.*

⁴⁰³ OCA St. 5SR at 16-17.

⁴⁰⁴ *Id.*

⁴⁰⁵ OCA St. 5SR at 17.

⁴⁰⁶ OCA St. 5R at 18.

XIV. CONCLUSION

PAWC has not affirmatively demonstrated the reasonableness of every element of its claims for rate base, revenues and expenses, rate of return, capital structure, revenue allocation, rate design, deferred accounting treatment, and alternative ratemaking. Accordingly, it is well within the discretion of the ALJs and the Commission to deny, and the ALJs and the Commission should deny, PAWC's ratemaking claims and requests in this proceeding that are challenged by the OCA.

Respectfully submitted,

/s/ Harrison W. Breitman

Harrison W. Breitman
Senior Assistant Consumer Advocate
PA Attorney I.D. # 320580
Email: HBreitman@paoca.org

Joel Cheskis
Senior Assistant Consumer Advocate
PA Attorney I.D. # 81617
Email: JCheskis@paoca.org

Johnathan M. Longhurst
Assistant Consumer Advocate
PA Attorney I.D. # 338157
Email: JLonghurst@paoca.org

Ryan Morden
Assistant Consumer Advocate
PA Attorney I.D. # 335679
Email: RMorden@paoca.org

Janna E. Williams
Assistant Consumer Advocate
PA Attorney I.D. # 319584
Email: JWilliams@paoca.org

Olivia M. Spergel
Assistant Consumer Advocate
PA Attorney I.D. # 337929
Email: OSpergel@paoca.org
Email: OCAPAWC2025@paoca.org

Counsel for:
Darryl A. Lawrenc
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: 717-783-5048
Fax: 717-783-7152
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