

COMMONWEALTH OF PENNSYLVANIA



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May 26, 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 Exceptions to the Recommended Decision dated May 15, 2026 in this proceeding.

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

Respectfully submitted,

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Administrative Law Judge Emily I. DeVoe (Via Email Only: edevoe@pa.gov)  
Office of Special Assistants (Via Email: ra-OSA@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 Exceptions, 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 26th day of May 2026.

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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	:	

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EXCEPTIONS  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Dated: May 26, 2026

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## I. INTRODUCTION

On May 15, 2026, Administrative Law Judges Emily I. DeVoe and Jeffery A. Watson (ALJs) issued their Recommended Decision (Recommended Decision or R.D.). The OCA files these Exceptions in response.

The Office of Consumer Advocate (OCA) respectfully urges the Commission to adopt the primary recommendation of ALJs DeVoe and Watson to deny the rate increase request of Pennsylvania American Water Company (PAWC or Company).

ALJs DeVoe and Watson provided a well-reasoned Recommended Decision which scrupulously reviewed the evidentiary record presented in this proceeding and relevant law to arrive at the ultimate conclusion that PAWC did not meet its burden of proof that a rate increase request should be granted in this proceeding.<sup>1</sup> The evidence presented by the OCA demonstrates that, at present rates, PAWC has the opportunity to earn revenues in excess of a reasonable return on its investment.<sup>2</sup> Additional revenue is not necessary to provide PAWC with an opportunity to earn a reasonable return.

However, ALJs DeVoe and Watson included in the Recommended Decision an alternative recommendation that, if PAWC is permitted to increase rates in this proceeding, the recommended revenue requirement increase would be approximately \$82.7 million (\$51.5 million for water, \$31.2 million for wastewater).<sup>3</sup> The OCA excepts to several components of the ALJs' alternative recommendation. Specifically, the OCA submits that ALJs DeVoe and Watson, in formulating the alternative recommendation, erred in recommending that the OCA's depreciation adjustments,

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<sup>1</sup> R.D. at 1-4, 488-90.

<sup>2</sup> OCA M.B. at 42-43; *see generally* OCA St. 2, OCA St. 3.

<sup>3</sup> R.D. at App'x E.

return on equity adjustments, Act 11 shift adjustments, and fixed customer charge adjustments be denied.

In the event that PAWC is granted a rate increase, these adjustments should be adopted by the Commission. Further, the ALJs erred in not accepting the following of OCA's recommendations regarding maintaining PAWC's customer service obligations at the level proposed by PAWC, improvements to PAWC's on-bill billing practices, and self-attestation for customer assistance program eligibility purposes.

For the reasons set forth in the OCA's Main and Reply Briefs and below, the OCA respectfully requests that the Commission adopt the Recommended Decision of ALJs DeVoe and Watson, with several minor modifications. However, should the Commission adopt the ALJs' alternative recommendation, the OCA's exceptions below describe several necessary adjustments which are supported by the evidence of record and applicable law.

## II. EXCEPTIONS

**A. Exception No. 1: The Recommended Decision does not support its determination with substantial evidence when adopting PAWC's proposal to continue using the Equal Life Group depreciation procedure. R.D. at 204-222; OCA M.B. at 31-51; OCA R.B. at 23-27.**

**1. PAWC's depreciation procedure results in unjust and unreasonable rates.**

The OCA recommended that PAWC utilize the Equal Life Group (ELG) procedure as PAWC's decision to use the Average Life Group (ALG)<sup>4</sup> depreciation procedure results in current customers paying nearly \$60 million more per year than they otherwise would.<sup>5</sup> Substantial record evidence shows that PAWC's continued use of the ELG procedure unreasonably accelerates

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<sup>4</sup> Also referred to as the Average Service Life, or ASL, procedure.

<sup>5</sup> OCA M.B. at 32.

recovery of depreciation expense and results in intergenerational inequity.<sup>6</sup> Moreover, the OCA presented substantial evidence showing that the ALG procedure reasonably allocates depreciation expense throughout the service life of the asset and recovers the cost over the average service life using the same depreciation rate for each year.<sup>7</sup>

The Recommended Decision properly states that “[t]he Public Utility Code does not require that a utility’s currently utilized depreciation procedure for certain plant be accepted indefinitely.”<sup>8</sup> Thus, it is squarely within the Commission’s discretion to require PAWC to adopt the ALG procedure.<sup>9</sup>

At no point in this proceeding did PAWC rebut the fact that the ELG procedure results in higher depreciation rates for current customers. In fact, PAWC’s own evidence showed that ELG results in current customers paying more.<sup>10</sup> Additionally, the OCA provided substantial record evidence proving that the vast majority of state commissions approve the use of the ALG procedure, including Pennsylvania.<sup>11</sup>

Yet, the Recommended Decision stated as follows:

We agree with the Company that the cases and authority presented by OCA do not support a departure from the ELG procedure. PAWC has supported the appropriateness of continuing its long-standing use of the ELG procedure and documented the long-term higher costs associated with the ALG procedure.<sup>12</sup>

The Recommended Decision cites to the Commission’s determination in Columbia’s 2025 rate case as support.<sup>13</sup> There, the Commission determined that the proposed savings proposed by

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<sup>6</sup> OCA M.B. at 43-45; OCA R.B. at 25-27.

<sup>7</sup> OCA M.B. at 45-47; OCA R.B. at 25.

<sup>8</sup> R.D. at 217

<sup>9</sup> OCA M.B. 37-42.

<sup>10</sup> OCA R.B. at 26.

<sup>11</sup> OCA M.B. at 47-50.

<sup>12</sup> R.D. at 222.

<sup>13</sup> R.D. at 221-222 citing *Pa. PUC v. Columbia Gas Co.*, Docket No. R-2025-3053499, Order (Dec. 9, 2025) (*Columbia 2025*).

the OCA were a result of the change in procedure and not the procedure itself and that “[a] switch to the ASL procedure would increase rate base in comparison to the continued use of the ELG procedure (by lowering accumulated depreciation), leading to higher rates in the long run.”<sup>14</sup>

The Commission was correct as to the first point that a change in procedure will result in short-term savings. However, the long-term effect of the ALG method is not increased rates as both depreciation procedures make the Company whole over time but is instead intergenerational equity as depreciation is recovered consistently over the service life of the plant as it is used and useful to both current and future customers.<sup>15</sup> The ALG depreciation procedure provides current customers with much needed rate relief and spreads out depreciation recovery and its subsequent cost to customers over time.<sup>16</sup>

The Commission’s two main points in *Columbia 2025*<sup>17</sup> are reasons for the adoption of the ALG procedure in this proceeding, rather than reasons to maintain the nationally atypical ELG procedure which results in accelerated depreciation.<sup>18</sup> The fact that ELG is a form of accelerated depreciation recovery is uncontested in the record.<sup>19</sup>

First, if the Commission requires PAWC to adopt the ALG procedure in this proceeding, customers would pay nearly \$60 million less than they otherwise would.<sup>20</sup> The ALJs correctly noted in the Recommended Decision that “[n]ot only are the proposed rates unaffordable, but we also have serious concerns as to whether the *current* rates are affordable.”<sup>21</sup> Adoption of the ALG

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<sup>14</sup> R.D. at 222.

<sup>15</sup> OCA M.B. at 47-50.

<sup>16</sup> OCA M.B. 47-50.

<sup>17</sup> R.D. at 221-222 *citing Columbia 2025*.

<sup>18</sup> OCA M.B. at 43.

<sup>19</sup> OCA R.B. 25-27.

<sup>20</sup> OCA M.B. at 32.

<sup>21</sup> R.D. at 426.

procedure to PAWC specifically would provide PAWC's ratepayers with much-needed immediate relief.

To the Commission's second point, PAWC's adoption of the ALG procedure would result in just and reasonable rates for consumers in the long run.<sup>22</sup> On a going forward basis, depreciation expense will no longer violate the matching principle or result in intergenerational inequity because PAWC's depreciation expense would be calculated on a reasonably consistent basis.<sup>23</sup> Under the ALG procedure, a constant accrual rate would be based on the average life of all property in the group with the same depreciation rate applied to each age interval.<sup>24</sup> Thus, adoption of the ALG procedure would match current customers with current depreciation expenses.<sup>25</sup> Requiring PAWC to adopt the ALG procedure will permit PAWC's accumulated depreciation and annual depreciation to be calculated on a reasonably consistent basis.<sup>26</sup> Thus, 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.<sup>27</sup>

**2. The OCA produced substantial record evidence to support a switch to the ALG procedure.**

The Recommended Decision states that "PAWC has supported the continued use of its long-standing ELG procedure while the OCA has failed to provide any reasonable basis – whether based on equity, accuracy or precedent – to compel a switch to the ALG procedure."<sup>28</sup> As such, the ALJs determined that PAWC may continue to use the ELG procedure due to PAWC's current use of ELG. However, the Recommended Decision provided no legal citation to support this

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<sup>22</sup> OCA M.B. at 33-37.

<sup>23</sup> OCA M.B. at 45-47.

<sup>24</sup> OCA M.B. at 35.

<sup>25</sup> OCA M.B. at 43.

<sup>26</sup> OCA M.B. at 46.

<sup>27</sup> OCA R.B. at 24.

<sup>28</sup> R.D. at 222.

finding. Rather, the Recommended Decision relies on the fact that PAWC used the ELG procedure for a long time.<sup>29</sup>

PAWC's current use of the ELG procedure is not the relevant legal standard and is not substantial evidence that PAWC's use of the ELG procedure results in just and reasonable rates. As was correctly noted in the Recommended Decision, "[i]t appears undisputed that the Commission is not bound by any particular methodology or procedure in determining annual depreciation expense and the Commission must provide for the computation of a utilities accumulated depreciation and annual depreciation expense on a reasonably consistent basis."<sup>30</sup> 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 in Pennsylvania.<sup>31</sup> Moreover, the Public Utility Code and Commission regulations do not prohibit the adoption of the ALG procedure in Pennsylvania and many Pennsylvania public utilities currently utilize the ALG procedure for all plant.<sup>32</sup>

The Public Utility Code also does not require that a utility's currently utilized depreciation procedure must be accepted indefinitely.<sup>33</sup> Merely because a utility used a depreciation procedure in the past is not a justification nor limitation for determining what constitutes just and reasonable rates in this proceeding.<sup>34</sup> Again, none of this is disputed in the record or in the Recommended Decision.

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<sup>29</sup> R.D. at 222.

<sup>30</sup> R.D. at 219-220.

<sup>31</sup> OCA M.B. at 37-41.

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

<sup>33</sup> OCA M.B. at 39.

<sup>34</sup> *Id.*

Contrary to the claims in the Recommended Decision that the OCA did not discuss equity,<sup>35</sup> the OCA provided substantial record evidence that continued use of the ELG procedure is inequitable and results in intergenerational inequity.<sup>36</sup> The OCA also provided substantial record evidence that under the ELG procedure PAWC customers are paying an accelerated form of depreciation.<sup>37</sup> Under ELG current customers are forced to subsidize future ratepayers on the same asset base resulting in inequity.<sup>38</sup> Further, the OCA cited that the use of the ELG procedure produces discriminatory rates violating Section 1304 of the Public Utility Code.<sup>39</sup> The OCA also provided U.S. Supreme Court precedent as well as precedent from other jurisdictions in support of a ALG.<sup>40</sup>

The Recommended Decision highlights the overwhelming number of cases from other jurisdictions and disregards their findings.<sup>41</sup> The Recommended Decision also disregards its own finding of fact that “[u]se of the ALG procedure results in the same depreciation rate applied to each age interval.”<sup>42</sup> The Recommended Decision correctly noted in this finding of fact that current customers would be matched with current depreciation expenses.<sup>43</sup> This matching will eliminate intergenerational inequity resulting in just and reasonable rates.

The ALG procedure simplifies the Commission’s ability to monitor depreciation practices and capital planning for regulated utilities,<sup>44</sup> it furthers the Commission’s regulations regarding depreciation “to establish uniform and industry-wide reporting requirements designed to improve

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<sup>35</sup> R.D. at 222.

<sup>36</sup> OCA M.B. at 43-46.

<sup>37</sup> OCA M.B. at 43.

<sup>38</sup> OCA M.B. at 45.

<sup>39</sup> OCA M.B. at 43-44.

<sup>40</sup> OCA M.B. at 31-51

<sup>41</sup> R.D. at 222.

<sup>42</sup> R.D. at 28.

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

<sup>44</sup> OCA M.B. at 45.

the Commission’s ability to monitor on a regular basis the depreciation practices and capital planning of electric, telephone, gas and water public utilities subject to Commission jurisdiction.”<sup>45</sup> Alternatively, PAWC’s choice to continue using the ELG procedure results in unjust and unreasonable rates, as illustrated by the almost \$60m revenue requirement difference due solely to PAWC’s decision to use the ELG depreciation procedure.<sup>46</sup>

**3. The burden of proof for depreciation procedure is that PAWC must show that the depreciation charges to its customers through expenses are not excessive.**

The Recommended Decision applied the incorrect burden of proof by stating that “[t]he OCA has failed to provide any reasonable basis – whether based on equity, accuracy or precedent – to compel a switch to the ALG procedure.”<sup>47</sup> PAWC has the burden of proof to show that its proposed rates are just and reasonable, not the OCA.<sup>48</sup> PAWC failed to meet its burden of proof and instead merely referenced its previous use of the ELG procedure.<sup>49</sup> Similarly, the Recommended Decision does not state that PAWC met its burden of proof, but instead attempts to shift the burden of proof to the OCA.

The burden of proof remaining on the utility is especially important regarding depreciation procedure. Contrary to the Recommended Decision’s claim that the OCA did not present precedent,<sup>50</sup> the U.S. Supreme Court stated as follows regarding the need for the Company to show that its depreciation expense is not excessive:

[T]he company has the burden of making a convincing showing that the amounts it has charged to operating expenses for depreciation have not been excessive. That burden is not sustained by proof that its general accounting system has been correct.

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<sup>45</sup> 52 Pa. Code § 73.1.

<sup>46</sup> See OCA M.B. at 50.

<sup>47</sup> R.D. at 222.

<sup>48</sup> OCA M.B. at 8.

<sup>49</sup> OCA R.B. at 24.

<sup>50</sup> R.D. at 222.

The calculations are mathematical, but the predictions underlying them are essentially matters of opinion.<sup>51</sup>

PAWC failed to meet its burden of proof in showing that the amounts it charges to operating expenses for depreciation have not been excessive. In fact, PAWC did not even attempt to meet its burden of proof. PAWC cited to no statute, law, or regulation that requires the continued use of ELG.

The Recommended Decision seemingly adopts a new legal standard in favor of unchanging depreciation procedures by accepting PAWC's argument that, since PAWC currently uses the ELG method, PAWC should be permitted to continue using the ELG procedure.<sup>52</sup> As discussed above, this issue is compounded by an unreasonable burden of proof shift to the OCA, specifically in regard to the issue of depreciation procedure. No such statute, regulation, or precedent requires this burden shift to the OCA. Instead, as discussed above, the Supreme Court determined that the company bears the burden of proof that the amounts it has charged to operating expenses for depreciation have not been excessive.<sup>53</sup>

The Commission has the legal authority to protect ratepayers from unjustified rate increase proposals, including PAWC's use of the atypical ELG depreciation procedure.<sup>54</sup> Requiring the OCA to satisfy a burden of proof that the OCA is not responsible to overcome under law or regulation unreasonably shifts the utility's need to provide substantial evidence that rates are just and reasonable to the OCA.

The OCA is not the party that produced, nor was required to produce, a depreciation study for the FFPTY as the OCA does not bear the burden of proof in this case. The OCA only needed

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<sup>51</sup> *Lindheimer v. Illinois Bell Tel. Co.*, 292 U.S. 151, 169 (1934) (*Lindheimer*).

<sup>52</sup> R.D. at 222.

<sup>53</sup> *Lindheimer* at 169.

<sup>54</sup> OCA M.B. at 50.

to demonstrate, per *Lindheimer*<sup>55</sup> and *Hope*<sup>56</sup>, that the ELG procedure for determining annual depreciation expense is unreasonable and that the ALG procedure is reasonable to ensure the Company is whole and the integrity of its investments maintained. The OCA also needed to demonstrate, per *Pa. Power*<sup>57</sup>, that the use of the ALG procedure will permit accumulated depreciation (or book reserves) and annual depreciation expense to be calculated on a reasonably consistent basis, which the OCA also has successfully demonstrated through substantial evidence.<sup>58</sup>

**4. The OCA produced substantial evidence showing that PAWC's continued use of the ELG procedure resulted in unjust and unreasonable rates.**

The Recommended Decision states that “PAWC has supported the appropriateness of continuing its long-standing use of the ELG procedure and documented the long-term higher costs associated with the ALG procedure.”<sup>59</sup>

The “long-term higher costs” discussed in the Recommended Decision misconstrues the issue. The ALG procedure reasonably allocates depreciation expense throughout the service life of the asset and recovers the cost over the average service life using the same depreciation rate for each year.<sup>60</sup> Alternatively, the ELG procedure has current customers paying more than they otherwise would resulting in intergenerational inequity.<sup>61</sup>

Further, the Recommended Decision inappropriately presented the wrong legal standard. The standard is not if future customers will be paying more under the ALG procedure as compared

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<sup>55</sup> *Lindheimer*.

<sup>56</sup> *Federal Power Com. v. Hope Natural Gas Co.*, 320 U.S. 591, 606 (1944) (*Hope*).

<sup>57</sup> *Pa. Power & Light Co. v. Pa. Pub. Util. Com.*, 311 A.2d 151, 158 (Pa. Cmwlth. 1973) (*Pa. Power*).

<sup>58</sup> OCA M.B. at 46.

<sup>59</sup> R.D. at 222.

<sup>60</sup> OCA M.B. at 45-47; OCA R.B. at 25.

<sup>61</sup> OCA M.B. at 43-45.

to ELG procedure. Instead, the correct legal standard is that the utility bears the burden of proof to demonstrate through substantial evidence that its claimed amounts to recover in expenses are not excessive.<sup>62</sup>

The OCA presented substantial record evidence that the current use of the ELG procedure allows PAWC to collect excessive amounts because ELG is a form of accelerated depreciation which has current customers paying nearly \$60 million more than they otherwise would.<sup>63</sup> The OCA also presented substantial record evidence that under ALG, the integrity of PAWC's investment is maintained.<sup>64</sup>

The record evidence demonstrates that PAWC's continued use of the ELG procedure results in unjust and unreasonable rates.<sup>65</sup> The magnitude of the unreasonably high amount of depreciation expense PAWC proposes to charge to current ratepayers through PAWC's use of the ELG procedure alone is immediately apparent.<sup>66</sup> PAWC did not offer substantial evidence showing that the amounts it charges to operating expenses for depreciation through ELG are not excessive.

**B. Exception No. 2: The Recommended Decision's adoption of I&E's 9.7% ROE is excessive. R.D. at 223-283; OCA M.B. at 51-65; OCA R.B. at 27-42.**

OCA witness Garrett recommended as follows regarding PAWC's rate of return:

- An overall weighted Rate of Return of 6.96% for water operations and 6.59% for wastewater operations
- A Return on Equity (ROE) of 8.7%
- That the management premium performance adder be denied.<sup>67</sup>

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<sup>62</sup> 66 Pa. C.S. § 315(a); *Lindheimer, Hope*.

<sup>63</sup> OCA M.B. at 32,

<sup>64</sup> OCA M.B. at 32-34.

<sup>65</sup> OCA M.B. at 42-49.

<sup>66</sup> OCA M.B. at 36.

<sup>67</sup> OCA M.B. at 51.

The Recommended Decision adopts I&E's argument in favor of a 9.7% return on equity and concludes as follows regarding overall rate of return:

We agree that PAWC has failed to meet their burden of proof for a 10.95% ROE and, based upon the record evidence as discussed above, we recommend that I&E's ROE of 9.7% be adopted in this proceeding. In addition, we are persuaded by the argument of I&E above and recommend the adoption of I&E's proxy group. We conclude that I&E's recommended ROE is properly in alignment with its proxy group and I&E's position reasonably reflects the interests of the ratepayers and the utility.<sup>68</sup>

However, the Recommended Decision also states that “[n]ot only are the proposed rates unaffordable, but we also have serious concerns as to whether the *current* rates are affordable.”<sup>69</sup>

The OCA submitted substantial record evidence that PAWC should be awarded a lower ROE than was authorized in their last base rate case in 2023.<sup>70</sup> The Recommended Decision failed to cite to any evidence that circumstances have significantly changed for PAWC that would merit the granting of a 25 basis point addition to their authorized ROE in comparison to PAWC's previous BRC, which was filed less than two years ago.<sup>71</sup>

PAWC failed to show that circumstances have changed in the last two years which would merit a higher ROE. Instead, the record evidence establishes that interest rates have been reduced by nearly 100 basis points since PAWC's last base rate, which should have a decreasing effect in relation to PAWC's ROE.<sup>72</sup> The Recommended Decision concluded that PAWC failed to meet its burden that it has superior management and thus denied PAWC's request for a boost to their ROE.<sup>73</sup> It would be illogical to grant PAWC a higher ROE simply because they chose to file yet another base rate case.

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<sup>68</sup> R.D. at 267.

<sup>69</sup> R.D. at 426.

<sup>70</sup> OCA M.B. at 31-51; OCA R.B. at 23-27.

<sup>71</sup> OCA M.B. at 5, 51-52.

<sup>72</sup> OCA R.B. at 35.

<sup>73</sup> R.D. at 283.

I&E's proposed 9.7% ROE was 100 basis points higher than the OCA's proposed 8.7% ROE due to the use of unsustainably high growth rates.<sup>74</sup> The OCA explained that I&E's growth rate assumes that the annual earnings of the proxy group would eventually surpass total U.S. GDP, which is impossible.<sup>75</sup>

The Recommended Decision provided no reasoning as to why PAWC deserves a 9.7% ROE when just two years ago the Commission authorized a ROE of 9.45% to PAWC.<sup>76</sup> The revenue requirement impact of the OCA's change in PAWC's ROE accounts for \$113.9 million, which is significant compared to PAWC's \$159.59 million rate increase request.<sup>77</sup> Due to the compounding affordability issues posed by PAWC's frequent base rate cases to its ratepayers, and PAWC's failure to meet its burden of proof, Commission should adopt the OCA's recommended 8.7% return on equity instead of I&E's 9.7% recommended return on equity as a 9.7% return on equity for PAWC is unreasonable and excessive.<sup>78</sup>

**C. Exception No. 3: The ALJ's Recommended Decision Inappropriately Over Subsidized Combined Sewer System Rate Payers Using Act 11 and unreasonably Increased the Burden on Elizabeth Borough Municipal Authority's Ratepayers by Reducing the PAWC's Proposed Act 11 Shift. R.D. at 307-322; OCA M.B. at 73-78.**

In its Main Brief, the OCA included the following Table to summarize PAWC's proposed \$53 million Act 11 wastewater revenue requirement shift measured against each wastewater system's direct cost of service:

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**Table 1. PAWC Direct Wastewater Cost of Service and Allocation to Water Service**

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<sup>74</sup> OCA M.B. at 60.

<sup>75</sup> OCA M.B. at 61.

<sup>76</sup> OCA M.B. 51-52.

<sup>77</sup> OCA M.B. at 5.

<sup>78</sup> *Id.*

	<b>Direct Cost of Service</b>	<b>Water Allocation</b>	<b>Total Revenue Requirement</b>
Sanitary Systems	\$128,602,237	(12,710,621)	\$115,891,616
Combined Systems	96,162,959	(7,062,475)	89,100,484
BASA	48,125,644	(30,280,040)	17,845,604
EBMA	5,254,181	(2,957,046)	2,297,135
<b>Total</b>	<b>\$278,145,021</b>	<b>\$(53,010,182)</b>	<b>\$225,134,839</b>
<b>Percent</b>	<b>100.0%</b>	<b>19.1%</b>	<b>80.9%</b>

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The OCA demonstrated in its Main Brief that the Sanitary Sewer System (SSS) and Combined Sewer System (CSS) that the proposed Act 11 revenue shifts were unnecessary and against the public interest.<sup>80</sup> However, due to the magnitude of increase the Butler Area Sewer Authority (BASA) and Elizabeth Borough Municipal Authority (EBMA) customers would face without shifting some of its revenue requirement to water customers, the OCA found PAWC's proposed Act 11 shift to be warranted.

The Commission should accept the Recommended Decision's primary recommendation of no rate increase on PAWC customers, and as such, there should be no changes to its cost allocation, including any Act 11 subsidies. However, if the Commission declines to accept the ALJ's recommendation and award the Company an increase, the OCA submits the instant Exception.

In the Recommended Decision, the ALJs found that the SSS customers did not require an Act 11 shift and increased the subsidy to BASA customers slightly, which the OCA does not dispute.<sup>81</sup> Nor does the OCA dispute the legal framework used to analyze Act 11 proposals.<sup>82</sup> However, the ALJs misapplied Act 11 and unnecessarily provided CSS customers with a subsidy

<sup>79</sup> R.D. at 311, Table 2.

<sup>80</sup> OCA M.B. at 74.

<sup>81</sup> See R.D. at 319-320.

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

from water customers without adequate explanation for how it meets the public interest standard.<sup>83</sup> Similarly, without explanation, citation, or any applicable finding of fact, the ALJs increased rates on EBMA customers by reducing PAWC’s proposed Act 11 shift.<sup>84</sup>

Both the CSS and EBMA Act 11 shifts from the Recommended Decision should be rejected and instead the Commission should adopt the OCA’s proposal. The Table below provides a starting point to discuss the OCA’s position:

	<b>Direct Cost of Service</b>			<b>Total Revenue Requirement</b>	
	<b>Present Rates</b>	<b>Increase</b>	<b>Percent</b>	<b>Increase</b>	<b>Percent</b>
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%
<b>Total</b>	<b>\$208,836,306</b>	<b>\$69,308,715</b>	<b>33.2%</b>	<b>\$16,298,533</b>	<b>7.8%</b>

<sup>85</sup>

In Table 3 above, without shifting the revenue requirement amount and using the direct cost of service as a guide for allocating costs, CSS and EBMA customers rates would increase by 12.1% and 197.3%, respectively.<sup>86</sup> With the Act 11 shift as proposed by the Company, CSS and EBMA wastewater operations would experience rate increases of 3.9% and 30.0%, respectively.<sup>87</sup>

As illustrated in Table 3, the direct cost of service for CSS customers at present rates is \$85,758,589. The increase proposed by PAWC would mean rates reach \$96,162,959, as shown on Table 2. As shown on Table 3, without any Act 11 shift, CSS customers would experience an increase of \$10,404,360 or 12.1%. OCA witness Mierzwa testified that an increase of 12.1% is relatively consistent with how much of a rate increase water customers would experience at

<sup>83</sup> *Id.*

<sup>84</sup> R.D. at 322.

<sup>85</sup> R.D. at 313, Table 3.

<sup>86</sup> *Id.*

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

16.2%.<sup>88</sup> However, PAWC proposed a shift of \$7,062,475 from water customers to CSS customers. R.D. at 311, Table 2. That would result in an increase of only \$3,341,895, or a mere 3.9% relative to present rates.<sup>89</sup> Because of the parity levels, the OCA argued that the Act 11 subsidy is unnecessary.

The Recommended Decision's determination goes in the opposite direction and increases the subsidy by \$11,632,644.<sup>90</sup> Again, the cost of service for CSS customers at PAWC's proposed increase would be \$96,162,959.<sup>91</sup> The Recommended Decision reduces that amount to \$77,467,840, which is \$8,290,749 less than customers are paying at present rates.<sup>92</sup>

The Recommended Decision does not explain why CSS customers should be subsidized by water customers, let alone pay less than current rates. Instead, the Recommended Decision states:

We find that PAWC's Act 11 allocation approach to recover wastewater subsidies from water users in a revenue neutral manner and by customer class, in combination with OSBA's Act 11 allocation amounts and scaleback method discussed below, provides a reasonable result that appropriately balances cost causation principles with gradualism and affordability while avoiding unreasonable discrimination in rates.<sup>93</sup>

Without a specific reference, the OCA cannot determine which portion of the Recommended Decision the ALJs are referencing with respect to OSBA, Act 11, and CSS customers. However, in the Conclusions of Law portion of the Recommended Decision, it clearly states that "[t]he basic factor in allocating revenue is to have the rates reflect the cost of service."<sup>94</sup>

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<sup>88</sup> OCA St. 3 at 25.

<sup>89</sup> R.D. at 313, Table 3.

<sup>90</sup> R.D. at 322.

<sup>91</sup> R.D. at 311, Table 2.

<sup>92</sup> R.D. at 322.

<sup>93</sup> R.D. at 321.

<sup>94</sup> R.D. at 496.

As discussed in the OCA's Main Brief, and above, the cost of service for CSS customers under PAWC's proposal increases rates by 12.1%, which is not an amount necessitating relief by Act 11.<sup>95</sup>

The same reasoning the OCA laid out in its Main Brief also applies to EBMA, yet the Recommended Decision comes to the opposite conclusion.<sup>96</sup> As illustrated in Table 3, the direct cost of service for EBMA customers at present rates is \$1,767,267.<sup>97</sup> The increase on EBMA customers proposed by PAWC would mean rates reach \$5,254,181, as shown on Table 2.<sup>98</sup> Without any Act 11 shift, this would entail an increase of \$3,486,914 or 197.3%. OCA witness Mierzwa testified that "the . . . 197.3% rate increases that would be experienced by . . . EBMA wastewater operations . . . without an Act 11 shift, would be extreme, inconsistent with the principal of gradualism, and requires mitigation."<sup>99</sup> The Company proposed a shift of \$2,957,046 from water customers to EBMA customers.<sup>100</sup> This would result in an increase of only \$2,297,135, or a 30% increase relative to present rates.<sup>101</sup> If EBMA customers were to be charged at their cost of service, they would suffer rate shock.<sup>102</sup> PAWC's proposed Act 11 shift in this case is necessary.<sup>103</sup> Again, without explanation, the ALJs reduced the Act 11 subsidy by \$287,995.<sup>104</sup> This means EBMA customers would face an increase of \$2,585,130, or a 46% rate increase from present rates.<sup>105</sup> The Act 11 shift should be restored to the \$2,957,046 amount originally proposed by PAWC.

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<sup>95</sup> OCA M.B. at 73-76.

<sup>96</sup> *Id.*

<sup>97</sup> R.D. at 313, Table 3.

<sup>98</sup> R.D. at 311, Table 2.

<sup>99</sup> OCA M.B. at 77.

<sup>100</sup> R.D. at 311, Table 2.

<sup>101</sup> R.D. at 313, Table 3.

<sup>102</sup> OCA M.B. at 77.

<sup>103</sup> OCA M.B. at 73-76.

<sup>104</sup> R.D. at 322.

<sup>105</sup> *Id.*

**D. Exception No. 4: The Wastewater Customer Charges in the R.D. should be modified to include a reduction in charge for Rate Zones 1d and 1f to align with cost-based principles. R.D. at 322-381; OCA M.B. at 78-82.**

In its Main Brief, the OCA noted that PAWC proposed to reduce the customer charges in the following rate zones:

Rate Zone 1d – Butler Area Sewer Authority

In SSS Rate Zone 1d, the current Residential monthly customer charge is \$45.50, and PAWC is proposing to reduce that charge to \$20.00.

Rate Zone 1f – Farmington

In SSS Rate Zone 1f, PAWC is proposing to reduce the Residential customer charge from \$53.50 to \$20.00.<sup>106</sup>

The OCA further recommended that customers in Rate Zones 1d and 1f experience a further reduction in their customer charges to \$15.00.<sup>107</sup> The Recommended Decision determined as follows:

[W]e are persuaded that the record evidence supports I&E’s and OSBA’s recommendation that the Commission reject PAWC-WD’s fully allocated customer cost analysis and direct PAWC-WD to maintain its existing wastewater customer charges, except as detailed in our recommendations for wastewater rate design that are discussed below.<sup>108</sup>

The OCA agrees with the Recommended Decision’s determination to maintain the current wastewater customer charges.<sup>109</sup> However, it is unclear whether the same reasoning applies to customers in rate zones who were faced with proposed reductions to their customer charges.<sup>110</sup>

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<sup>106</sup> R.D. at 327.

<sup>107</sup> R.D. at 328.

<sup>108</sup> R.D. at 381.

<sup>109</sup> R.D. at 381.

<sup>110</sup> *Id.*

The OCA submits this Exception to ensure all wastewater customers get the benefit of the ALJs' reasoning in the Recommended Decision. In Findings of Fact No. 166, the Recommended Decision states: "Factoring in I&I costs means including a component that is largely a function of precipitation and does not vary directly with the addition or subtraction of a customer."<sup>111</sup> This Finding of Fact is a fundamental component of OCA witness Mierzwa's analysis.<sup>112</sup> OCA witness Mierzwa testified that precipitation is not affected by the number of customers served by PAWC.<sup>113</sup> As such, I&I related costs should not be included in a customer charge calculation.<sup>114</sup>

The Public Utility Code designates the presiding officer(s) as the initial<sup>115</sup> fact finders:

When the commission does not preside at the reception of evidence, the presiding officer shall initially decide the case, unless the commission requires, either in specific cases or by general rule, the entire record to be certified to it for decision. When the presiding officer makes an initial decision, that decision then shall be approved by the commission and may become the opinion of the commission without further proceeding within the time provided by commission rule. On review of the initial decision, the commission has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule. **When the commission makes the decision in a rate determination proceeding without having presided at the reception of the evidence, the presiding officer shall make a recommended decision to the commission in accordance with the provisions of this part.**<sup>116</sup>

...

The record shall show the ruling on each finding, conclusion or exception presented. All decisions, including initial, recommended and tentative decisions, are a part of the record **and shall include a statement of:**

**(1) findings and conclusions, and *the reasons or basis therefor*, on all material issues of fact, law or discretion presented on the record; and**

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<sup>111</sup> R.D. at 42.

<sup>112</sup> R.D. 328-330.

<sup>113</sup> OCA M.B. at 80.

<sup>114</sup> *Id.*

<sup>115</sup> The Commission is the ultimate "Finder of Fact." *Popowsky v. Pa. Pub. Util. Com.*, 937 A.2d 1040, 1059 (Pa. 2007); 66 P.S. § 335(a).

<sup>116</sup> 66 Pa. C.S. § 335(a). (*emphasis added*)

(2) the appropriate rule, order, sanction, relief or denial thereof.<sup>117</sup>

OCA witness Mierzwa testified that the proposed customer charge proposal for Rate Zones 1d and 1f are not rooted in an accurate cost-based analysis.<sup>118</sup> In fact, PAWC's direct customer charge calculation includes the costs associated with collecting and treating Infiltration and Inflow (I&I).<sup>119</sup> The OCA's Main Brief contained an extensive discussion of how I&I relates to the customer charge.<sup>120</sup> Finding of Fact No. 166 necessitates the adoption of the OCA's recommendation as this finding of fact directly contradicts the basis of I&E and OSBA's recommendation.<sup>121</sup>

As stated above, the Recommended Decision does not provide clear confirmation that customers in Rate Zones 1d and 1f would experience a reduction to their customer charge. If that is not the case, then the ALJs did not provide reason or basis as required by Section 335(c) of the Public Utility Code.<sup>122</sup> Here, however, OCA witness Mierzwa provides evidence for why customers in Rate Zones 1d and 1f should see their customer charges lowered to \$15 due to the company inappropriately factoring I&I costs.<sup>123</sup>

Factoring in I&I costs means including a component that is largely a function of precipitation and does not vary directly with the addition or subtraction of a customer.<sup>124</sup> Since rainwater entering the system does not correlate with how many customers a system has, Mr. Mierzwa testified that only costs that vary directly with the addition or subtraction of a customer

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<sup>117</sup> 66 Pa. C.S. § 335(c).

<sup>118</sup> OCA M.B. at 80.

<sup>119</sup> *Id.*

<sup>120</sup> OCA M.B. at 78-82.

<sup>121</sup> R.D. at 42.

<sup>122</sup> 66 Pa C.S. § 335(c).

<sup>123</sup> OCA M.B. at 78-82.

<sup>124</sup> *Id.*

should be included in the calculation of customer charges.<sup>125</sup>

As such, Mr. Mierzwa's recommendation is that the Customer Charge in SSS Rate Zones 1d and 1f be reduced to \$15 dollars.<sup>126</sup> The OCA respectfully requests that the Commission adopt the OCA's position and modify the ALJ's Recommended Decision to state that SSS customers in Rate Zones 1d and 1f will see their customer charge reduced to \$15 dollars.

**E. Exception No. 5: The ALJs erred in rejecting the OCA's recommendation to require PAWC's call center performance to meet minimum standards objective of answering 80% or more of calls within 60 seconds. R.D. at 63-64; 477-478; OCA M.B. at 115-119; OCA R.B. 67-69.**

The OCA recommended that PAWC must, at a minimum, be held to "its call center performance objective of answering 80% or more of calls within 60 seconds with an abandonment rate of 8% or less."<sup>127</sup> In the Recommended Decision, the ALJs found that "[i]f customers are required to pay more and more for service, it is reasonable to expect PAWC to furnish quality customer service."<sup>128</sup> However, in setting out the basis for improved service through the previous recommendations, the Recommended Decision erred in not establishing a standard of customer service by which PAWC's call centers must be held.<sup>129</sup>

While the OCA supports the Recommended Decision's findings that an annual audit and root cause analysis are needed, these findings are only a starting point.<sup>130</sup> For PAWC to deliver meaningful improvements to customer service, PAWC must be held to a minimum standard.

PAWC's current call center metrics show a need for improved service. OCA witness Alexander testified that "[t]he 2024 and 2025 annual average percentage of calls answered within

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<sup>125</sup> OCA St. 3 at 44.

<sup>126</sup> R.D. at 328.

<sup>127</sup> OCA M.B. at 114.

<sup>128</sup> R.D. at 477.

<sup>129</sup> See R.D. at 477, 481.

<sup>130</sup> R.D. at 477, 481.

60 seconds is 47% and 44%, respectively, for one contractor, and 31% and 22%, respectively, for the other contractor.”<sup>131</sup> OCA witness Alexander further testified that “[t]he annual average abandonment rate reflects similarly poor and unacceptable performance: 19% for one contractor for both 2024 and 2025, and 20% in 2024 and 23% in 2025, for the other contractor.”<sup>132</sup> This is in direct contrast with findings of fact numbers 278 and 280, which praise PAWC’s reduction of wait time and call abandonment through its hiring processes.<sup>133</sup> There is no basis in record evidence for these facts. In fact, 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.<sup>134</sup>

The OCA recommended that PAWC merely be held to the standard that it set forth in its case in chief, namely “PAWC’s stated objective for 2026 is to answer 80% of the calls within 60 seconds and experience an abandonment rate of 8% or less.”<sup>135</sup> The Recommended Decision strives to make improvements to the subpar service that PAWC customers have been experiencing for years, all in the face of increasing unaffordability. However, holding PAWC accountable to its own stated objectives regarding customer service is a benefit to consumers that should be implemented in this matter is necessary given PAWC’s deteriorating service over time.

**F. Exception No. 6: The ALJs erred in not reducing the overall revenue requirement by 10% in response to the oversight failures and poor performance of its customer call centers. R.D.at 477-478; OCA M.B. at 115-119, OCA R.B. 67-69.**

The OCA recommended that PAWC’s actual costs included in its revenue requirement for third party call centers be penalized in the form of a 10% reduction in response to the oversight

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<sup>131</sup> OCA M.B. at 117.

<sup>132</sup> *Id.*

<sup>133</sup> R.D. at 63-64.

<sup>134</sup> OCA M.B. at 117; OCA R.B. at 68; OCA St. 5 at 8-11.

<sup>135</sup> OCA M.B. at 118.

failures and poor performance documented by OCA witness Alexander.<sup>136</sup> The Recommended Decision rejected the OCA’s proposal to reduce the overall revenue requirement in response to the subpar customer service performance that has been delivered by PAWC.<sup>137</sup> Specifically, the Recommended Decision stated “[w]e acknowledge that the Commission lacks authority to impose performance-based rates on the Company in this proceeding and therefore recommend that the Commission not mandate specific metrics as proposed by OCA.”<sup>138</sup> However, the OCA cited to sections of the Public Utility Code that give the Commission the authority to impose a reduction in revenue.<sup>139</sup>

Section 523 of the Public Utility Code provides in pertinent part, “[t]he commission shall consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title.”<sup>140</sup> Additionally, “[o]n the basis of the commission’s consideration of such evidence, it shall give effect to this section by making such adjustments to specific components of the utility’s claimed cost of service as it may determine to be proper and appropriate.”<sup>141</sup> Moreover, Sections 1501 and 1505 provide further authority to implement a reduction in revenue requirements based on PAWC’s ability to “...furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and...make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary” and the Commission’s ability to “determine

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<sup>136</sup> OCA M.B. at 113.

<sup>137</sup> R.D. at 477.

<sup>138</sup> *Id.*

<sup>139</sup> *See* OCA M.B. at 115-116.

<sup>140</sup> 66 Pa. C.S. § 523.

<sup>141</sup> *Id.*

and prescribe by regulations or order, the reasonable, safe, adequate, sufficient, services or facilities to be observed, furnished, enforced, or employed.”<sup>142</sup>

OCA witness Alexander testified that “[t]he call centers perform at a dramatically lower level of performance than should be tolerated...”<sup>143</sup> OCA witness Alexander further testified that “PAWC’s inadequate call center performance supports the OCA’s recommendations to disallow certain call center expenses and should be considered in relation to the ROE... This is also supported by Section 1501 and Section 1505 of the Public Utility Code.”<sup>144</sup> Ms. Alexander referenced PAWC’s actual call center performance inadequacy because of (1) high call-answer times, (2) high call abandonment rates, and (3) and customer complaints.<sup>145</sup>

The ALJs agreed that PAWC is not performing up to the standards that the public should expect. The Recommended Decision states “[i]f customers are required to pay more and more for service, it is reasonable to expect PAWC to furnish quality customer service.”<sup>146</sup> The Recommended Decision also included Finding of Fact number 281, finding that consumers have been actively testifying to wait times as high as 20 minutes to speak to supervisors to resolve water quality issues, which resulted in no resolution.<sup>147</sup> Substantial record evidence shows that PAWC does not provide efficient, effective, or adequate service to its customers through its call centers.

Instead, substantial record evidence demonstrates that PAWC has long been providing subpar customer service to its consumers. The Recommended Decision notes these issues at length.<sup>148</sup> The OCA’s recommended reduction in revenue based on this performance is reasonable

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<sup>142</sup> See 66 Pa. C.S. §§ 1501, 1505; OCA M.B. at 116.

<sup>143</sup> OCA M.B. at 117.

<sup>144</sup> *Id.*

<sup>145</sup> OCA M.B. at 116.

<sup>146</sup> R.D. at 477.

<sup>147</sup> R.D. at 64.

<sup>148</sup> R.D. at 64, 477.

as it incentivizes PAWC to improve its customer services. As discussed above, PAWC's customer service metrics deteriorated over time as PAWC has not been incentivized to improve its subpar performance. The Commission has the authority to take action to improve the customer service experienced by all PAWC consumers. Implementing the recommendation by OCA witness Alexander is the catalyst needed by PAWC to spur improvements to customer service.

**G. Exception No. 7: The ALJ's erred in rejecting the finding that the relationship between PAWC and AWR should be prohibited as discriminatory and requiring documentation that PAWC offers the use of its customer bills for non-basic charges to other providers. R.D. at 486-488; OCA M.B. at 121-124; OCA R.B. at 72-74.**

The OCA recommended that the Commission order that the marketing of AWR services be reformed to require a statement that these services are optional, that the use of the shared logo and fictitious name be prohibited as a basic consumer protection, and be required to document that it offered use of its customer bills for non-basic services to any third party provider of home protection services.<sup>149</sup>

The Recommended Decision found that “[r]egarding the exclusive nature of the relationship between AWR and PAWC, we do not believe the record supports a finding that this is a prohibited discriminatory practice or represents a violation of the Code.”<sup>150</sup> The Recommended Decision does not give enough weight to the evidence presented by OCA witness Alexander that the exclusivity of the relationship between AWR and PAWC has the potential effect of consumers paying more for services without knowledge of other options given a perceived endorsement by a regulated public utility.<sup>151</sup>

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<sup>149</sup> OCA M.B. at 114.

<sup>150</sup> R.D. at 487.

<sup>151</sup> R.D. at 486-488, OCA M.B. at 120-121, OCA St. 5 at 24-25.

Section 1502 states in pertinent part: “No public utility shall, as to service, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage.”<sup>152</sup> OCA witness Alexander testified that “American Water Resources’ exclusive marketing and billing arrangement with PAWC is discriminatory to any other provider of these services in PAWC’s service territory.”<sup>153</sup>

PAWC has had a relationship with AWR in some form for 20 years.<sup>154</sup> In fact, AWR was, until recently, affiliated with PAWC.<sup>155</sup> This relationship continues today, as admitted by PAWC “the day-to-day relationship between PAWC and AWR remains essentially the same by virtue of a Utility Agreement...”<sup>156</sup> This is the essence of a discriminatory relationship. There is no incentive for PAWC to approach other entities providing similar services, because both PAWC and AWR benefit from their relationship.<sup>157</sup>

The continuation of the relationship between AWR and PAWC only serves to advantage both Companies at the expense of Pennsylvania’s consumer. OCA witness Alexander recommended that “PAWC should be required to document that it has offered the use of its customer bills for non-basic services to any third-party provider that markets home protection services or, as an option, terminate this program. Among other purposes, such a competitive process may result in less expensive products to PAWC’s customers...”<sup>158</sup> Ms. Alexander’s recommendation is simply asking PAWC to document that it offered the use of its billing to other

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<sup>152</sup> 66 Pa. C.S. § 1502.

<sup>153</sup> OCA M.B. at 122; OCA St. 5 at 25.

<sup>154</sup> R.D. at 66.

<sup>155</sup> R.D. at 482.

<sup>156</sup> R.D. at 482-483; PAWC M.B. at 120.

<sup>157</sup> OCA M.B. at 122-123.

<sup>158</sup> OCA M.B. at 124.

service providers, not forcing a relationship with them. The OCA is recommending that PAWC provide consumers with a choice and allow them to make an informed determination of which company will provide the best coverage for service line repair and replacement.<sup>159</sup> The Commission should adopt OCA’s recommendation that PAWC be required to reform its billing and marketing practices so that consumers are aware that services provided by AWR are optional and can be found through other companies, providing the consumer with transparency and protection.

**H. Exception No. 8: The ALJs erred in determining that no changes to the presentation of AWR charges on PAWC bills are warranted. R.D. at 486-488; OCA M.B. at 121-124; OCA R.B. at 72-74.**

OCA witness Alexander recommended that “PAWC’s customer bill should not include any non-basic charges in the same section and calculation of the regulated service charges.”<sup>160</sup>

In the Recommended Decision, the ALJs stated “[n]or do we agree with Ms. Alexander that the way in which charges are presented on customer bills is inconsistent with the Code. These non-basic services are listed as a separate line item, with itemized line items for ‘Service-Related Charges’ and ‘Protection Programs.’”<sup>161</sup>

Pursuant to 52 Pa. Code Section 56.263, “[c]harges for other than basic service...must appear *after* charges for basic services and *appear distinctly separate*. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include *line repair programs* and appliance warranty programs.”<sup>162</sup>

OCA witness Alexander testified that “under the current presentation, the customer’s total amount

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<sup>159</sup> OCA M.B. at 122-123.

<sup>160</sup> OCA M.B. at 114.

<sup>161</sup> R.D. at 487.

<sup>162</sup> 52 Pa. Code § 56.263.

due includes the AWR non-basic charges...There is no reasonable way that the customer can clearly differentiate their payment options with the current PAWC bill presentation.”<sup>163</sup>

OCA witness Alexander’s recommendation is to separate non-basic charges and regulated service charges entirely, providing consumers with transparency in their billing.<sup>164</sup> As acknowledged in the Recommended Decision, the services provided by AWR are distinct and separate from PAWC’s water services.<sup>165</sup> In fact, PAWC makes a point to state that the charges for AWR services on its bills are a separate line item and “no customer service is terminated for non-payment of AWR charges.”<sup>166</sup> OCA witness Alexander’s recommendation is simply to separate these charges into different sections on the same bill, so consumers clearly understand what they are paying for from both entities.<sup>167</sup>

As PAWC makes a clear demarcation of service and the Recommended Decision reiterates that demarcation, this same simple demarcation of services should be presented on PAWC consumer bills through the adoption of OCA witness Alexander’s recommendations.

**I. Exception No. 9: The Recommended Decision errs in failing to allow customers to self-attest as to their eligibility for PAWC’s low-income customer assistance programs so that more of PAWC’s low-income customers can receive benefits they are entitled to. R.D. at 443-453; OCA M.B. at 103-106; OCA R.B. at 59-61.**

PAWC has an affordability problem.<sup>168</sup> Substantial record evidence in this case demonstrates that both low-income and moderate-income customers have problems affording PAWC’s service.<sup>169</sup> PAWC did not present solutions to this affordability problem in its initial

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<sup>163</sup> OCA St. 5SR at 18.

<sup>164</sup> OCA St. 5SR at 17.

<sup>165</sup> R.D. at 484.

<sup>166</sup> *Id.* at 484.

<sup>167</sup> OCA St. 5SR at 17; OCA M.B. at 123; OCA R.B. at 74.

<sup>168</sup> R.D. at 425-427.

<sup>169</sup> OCA M.B. at 93-107.

filing to increase enrollment in its customer assistance programs (CAP). OCA witness Colton, however, provided an extensive analysis of the impact of PAWC's rates on its customers and offered multiple suggestions on how to increase both the identification and enrollment of low-income customers into PAWC's CAP.<sup>170</sup>

However, the Recommended Decision "disagrees with the OCA's recommendation that a customer's self-attestation is sufficient for identification as low-income," adding that "verifying eligibility via income documentation ensures program participation is limited to those customers who are truly eligible."<sup>171</sup> The OCA respectfully submits that the Recommended Decision erred in failing to allow customers to self-attest, sometimes referred to as self-certify, their eligibility for PAWC's CAP.

The Commission stated in recent decisions that a narrow definition of a customer being "confirmed low-income" is inappropriate.<sup>172</sup> In those cases, the Commission raised concerns that recognize the needs of low-income customers who are income-eligible but who, for whatever reason, are not participating in CAP.<sup>173</sup>

Allowing customers to self-certify or self-attest to their eligibility will address this concern raised by the Commission. More importantly, OCA witness Colton noted that Commission regulations governing other utilities allow customers to self-certify their eligibility, including through the receipt of LIHEAP funds.<sup>174</sup> Mr. Colton added:

A customer's self-attestation of the receipt of public assistance (e.g., Supplemental Nutrition Assistance Program [SNAP], welfare, Supplemental Security Income [SSI], Medicaid), for example, would all place a customer in a "low-income designation." For purposes of establishing the customer's "Identified Low-

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<sup>170</sup> See OCA St. 4 and 4-S.

<sup>171</sup> R.D. at 452.

<sup>172</sup> *Pa. PUC v. Columbia Gas Co.*, Docket No. R-2025-3053499, Order at 350 (Dec. 9, 2025); *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-2023-3037933, Order at 226 (Nov. 9, 2023).

<sup>173</sup> *Id.*

<sup>174</sup> OCA M.B. at 104 citing OCA St. 4 at 50-51; see also 52 Pa. Code §§ 56.97(b) and 62.2.

Income” status, it would not matter what specific dollar level of income allows the customer to receive such assistance. A customer need not provide the actual dollars in income that would allow PAWC to determine whether that income “calculates at a level” that would establish the customer’s low-income status. The mere fact of receiving such assistance is sufficient to meet the recommended definition.<sup>175</sup>

Lastly, allowing customers to self-certify as eligible for low-income benefits is consistent with the requirement of Section 1303 of the Public Utility Code that utilities compute rates under the rate most advantageous to the patron.<sup>176</sup>

As a result, the recommended Decision erred in failing to allow a customer to self-certify eligibility for PAWC’s CAP.

### III. CONCLUSION

Based on the foregoing and for the reasons articulated in the OCA’s Main and Reply Briefs, the OCA respectfully requests that the Commission grant the OCA’s Exceptions and adopt the OCA’s positions as discussed above.

Respectfully submitted,

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<sup>175</sup> OCA M.B. at 104, citing, OCA St. 4 at 51.

<sup>176</sup> 66 Pa. C.S. § 1303.

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