

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2022-3031340
Office of Consumer Advocate	:	C-2022-3032868
Office of Small Business Advocate	:	C-2022-3032902
Robert Eicholtz	:	C-2022-3033958
Marguerite Ness	:	C-2022-3033964
Selden M. Granahan	:	C-2022-3034145
Denise L. Lauer	:	C-2022-3034146
Kristina Escavage	:	C-2022-3034173

v.

York Water Company – Water Division

Pennsylvania Public Utility Commission	:	R-2022-3032806
Office of Consumer Advocate	:	C-2022-3032869
Office of Small Business Advocate	:	C-2022-3033016
Carol and Franklin Doyle	:	C-2022-3033791
Robert Eicholtz	:	C-2022-3033988
Selden M. Granahan	:	C-2022-3034182
Tammy I. Shaffer	:	C-2022-3034242
Kristina Escavage	:	C-2022-3034271

v.

York Water Company – Wastewater Division

**RECOMMENDED DECISION**

Before  
Katrina L. Dunderdale  
Administrative Law Judge

TABLE OF CONTENTS

I. INTRODUCTION ..... 1

II. HISTORY OF THE PROCEEDING..... 2

III. FINDINGS OF FACT ..... 5

IV. PUBLIC INPUT HEARING..... 7

V. TERMS OF THE SETTLEMENT ..... 10

VI. SETTLED ISSUES ..... 18

    A. BIE’s Statement in Support..... 38

    B. OCA’s Statement in Support..... 48

    C. OSBA’s Statement in Support..... 67

VII. ANALYSIS ..... 70

VIII. CONCLUSIONS OF LAW ..... 73

IX. ORDER..... 76

## I. INTRODUCTION

On May 27, 2022, York Water Company (York Water, YWC or Company) filed Supplement No. 143 to Tariff Water - Pa. P.U.C. No. 14 to become effective August 1, 2022, and the Company filed Supplement No. 14 to Tariff Wastewater – PA. P.U.C. No. 1 to become effective on August 1, 2022. The Company proposed a general increase in water rates of \$18,853,738 (or 33.8%) per year in Supplement No. 143, and it proposed a general increase in wastewater rates of \$1,456,792 (or 35%) per year in Supplement No. 14.

This decision recommends the Commission approve, without modification, the Joint Petition for Approval of Settlement of All Issues (the Settlement) dated November 4, 2022, to be effective March 1, 2023 for water service. The signatories agreed York Water Company should not charge the water base rate initially proposed by the utility which would have increased annual water revenues by \$18,853,738, or 33.8%, based on a Fully Projected Future Test Year ending February 29, 2024. Overall, the Settlement provides that base rates for water service would increase by approximately 21.6% overall. Average residential customer base rate would increase by approximately 19.5%, average commercial base rate would increase by approximately 29.1%, average industrial customer base rates would increase by approximately 28.7%, public fire service rates would increase by approximately 18.7%, and private fire service rates would increase by approximately 18.0%.

In addition, this Decision recommends the Commission approve, without modification the Joint Petition for Approval of Settlement of All Issues (the Settlement) dated November 4, 2022, to be effective March 1, 2023 for wastewater service. The signatories agreed York Water Company should not charge the wastewater base rate initially proposed by the utility which would have increased annual wastewater revenues by \$1,456,792, or 35%, based on a Fully Projected Future Test Year ending February 29, 2024. Instead, the Settlement provides that base rates for wastewater service should increase by approximately 45.6% overall.

## II. HISTORY OF THE PROCEEDING

On May 27, 2022, York Water Company filed Supplement No. 143 to Tariff Water - Pa. P.U.C. No. 14 to become effective August 1, 2022, and the Company filed Supplement No. 14 to Tariff Wastewater – PA. P.U.C. No. 1 to become effective on August 1, 2022. The Company proposed a general increase in water rates of \$18,853,738 (or 33.8%) per year in Supplement No. 143, and it proposed a general increase in wastewater rates of \$1,456,792 (or 35%) per year in Supplement No. 14.

On June 8, 2022, the Office of Consumer Advocate filed a formal complaint against York Water Company - Water Division at Docket No. C-2022-3032868, and against York Water Company - Wastewater Division on June 9, 2022, at Docket No. C-2022-3032869.

On June 10, 2022, the Office of Small Business Advocate filed a formal complaint against York Water Company - Water Division at Docket No. C-2022-3032902, and against York Water Company - Wastewater Division on June 15, 2022, at Docket No. C-2022-3033016.

On July 14, 2022, the Pennsylvania Public Utility Commission (Commission) entered an order suspending the implementation of Supplements Nos. 143 and 14, by operation of law until March 1, 2023, pursuant to Title 66 of the Pennsylvania Statutes, at Section 1308(d), and opened an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Supplements Nos. 143 and 14. Further, the matter was assigned to the Office of Administrative Law Judge (OALJ) to schedule such hearings as necessary to develop a record in this proceeding.

On July 15, 2022, OALJ scheduled a call-in telephonic prehearing conference for July 21, 2022, to be conducted telephonically on the Commission's bridge conference number. Prehearing Memoranda were submitted by York Water, the Bureau of Investigation and Enforcement (BIE), OCA and OSBA prior to the start of the prehearing conference.

On July 21, 2022, the presiding officer conducted the prehearing conference as scheduled, at which York Water Company, BIE, OCA and OSBA were represented. The parties agreed to a procedural schedule and agreed the water rate proceeding at Docket No. R-2022-3031340 and the wastewater rate proceeding at R-2022-3032806 should be consolidated for hearing and disposition.

Formal complaints had been filed by the following various individuals prior to the prehearing conference: Larry Wolfe;<sup>1</sup> Carol and Franklin Doyle, Sr.; Robert Eicholtz; and Marguerite Ness. Subsequently, additional formal complaints were filed by: Selden M. Granahan; Tammy I. Shaffer, Denise L. Lauer and Kristina Escavage.

On July 26, 2022, the presiding officer issued the Prehearing Order memorializing the matters decided and agreed upon by the parties attending the prehearing conference. The Prehearing Order consolidated the formal complaints filed against the water rate increase at Docket No. R-2022-3031340 and the formal complaints filed against the wastewater rate increase at Docket No. R-2022-3032806. Also, on July 26, 2022, the OALJ scheduled a telephonic public input hearing for August 17, 2022, to be conducted on the Commission's conference bridge number.

In the Prehearing Order dated July 26, 2022, the presiding officer ordered a telephonic public input hearing to be conducted at 1:00 p.m. on August 17, 2022. In addition, York Water Company was ordered to publish the approved Notice of Public Input Hearings in newspapers of general circulation within the Company's service territory. York Water Company was further ordered to file proof of publication with the Commission's Secretary's Bureau.

On August 17, 2022, the presiding officer conducted a telephonic public input hearing at which testified four YWC customers.

---

<sup>1</sup> On July 18, 2022, Larry Wolfe requested the withdrawal of his formal complaint and the removal of his name/address from the Parties List in these proceedings. On September 1, 2022, the OALJ issued an Initial Decision that granted his request to withdraw from the rate base proceedings.

On August 18, 2022, the OALJ issued a Hearing Notice which scheduled the evidentiary hearings to be conducted telephonically on October 6, 2022; October 7, 2022 and October 11, 2022.

On September 28, 2022, York Water Company filed a Proof of Publication that an advertisement about the public input hearing appeared in newspapers of general circulation within the Company's territory. The public input hearing notices were published in: (1) *Gettysburg Times* on August 4 and 9, 2022; (2) *The News-Chronicle* on August 4 and 11, 2022; (3) *York Daily Record* on August 4 and 8, 2022; (4) *The York Dispatch* on August 4 and 8, 2022; and (5) *The Hanover Evening Sun* on August 4 and 9, 2022.

On October 6, 2022, the presiding officer conducted the evidentiary hearing. Upon request from the parties, the hearings scheduled originally for October 7, 2022 and October 11, 2022 were cancelled after the parties agreed to stipulate to the admission of testimony without cross-examination. Present and represented by counsel at the evidentiary hearing on October 6, 2022 was York Water Company, BIE, OCA and OSBA.

At the evidentiary hearing, the parties proffered written statements and exhibits for admission into evidence. The documents were marked and were admitted into the hearing record without objection.<sup>2</sup>

On October 26, 2022, York Water Company notified the presiding officer that the active parties had reached a settlement of the issues and would be filing a settlement. Thereafter, on November 4, 2022, York Water Company filed a Joint Petition for Approval of Settlement of All Issues (Settlement) in both base rate cases. YWC entered into the non-unanimous Settlement with BIE, OCA and OSBA, and requested the Commission approve the Settlement without modification. The Settlement provides for increases in the base rates and is set forth in the form

---

<sup>2</sup> The transcript, which was filed on October 12, 2022, included the evidence admitted by order of the presiding officer at the evidentiary hearing on October 6, 2022, except for the initial filing documents of York Water Company. The initial filing documents, which YWC filed on June 2, 2022, were too voluminous to be filed electronically with the transcript. Accordingly, YWC submitted the documents from the initial filing on October 14, 2022 through the Commission's SharePoint, pursuant to the oral directions of the presiding officer at the evidentiary hearing.

of tariff supplements, which were attached as Appendices A and B, in addition to including the proof of revenues for both the water and wastewater increases attached as Appendices C and D. Further, the signatories provided Appendices E, F, G and H, which are the Statements in Support for the Company, BIE, OCA and OSBA, respectively.

On November 7, 2022, the presiding officer issued the Post-Hearing Interim Order which advised the individual complainants of their right to consent or object to the proposed Settlement. The Order provided the individual complainants with an opportunity to object or consent to the Settlement provided the response was received on or before November 17, 2022. The Order was provided electronically to all eight individual complainants. No individual complainant objected to or commented on the Settlement.

On November 17, 2022, the signatories to the Settlement provided a detailed list of the impact of the new rates for customers in various locations. York Water Company provides water and wastewater services to various townships, municipalities and subdivisions, and these rates are separate and distinct from each other. A complete list of the impacts is attached hereto and marked as “Attachment A” however, in general the percentage increase varied from 9.3% to 93.1%.<sup>3</sup>

On November 22, 2022, the presiding officer issued the Post-Hearing Interim Order Closing the Hearing Record. The statutory deadline for Commission action on this matter is March 1, 2023, and the last reasonable public meeting for the Commission to act is February 9, 2023.

### III. FINDINGS OF FACT

1. York Water Company is a “public utility” as defined in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, and is subject to the regulatory jurisdiction of the Pennsylvania Public Utility Commission, which provides water and wastewater services to customers located in its certificated service territory.

---

<sup>3</sup> See York Water St. in Supp., Attachment 1; see also Attachment A, herein.

2. York Water Company provides water and wastewater service to over 75,000 customers in York and Adams Counties across 48 boroughs, townships, or municipalities, including service to 63,477 residential water customers, 4,608 commercial water customers, 302 industrial water customers, 3,149 residential wastewater customers, and 208 commercial and industrial wastewater customers. (York Water St. No. 1, at 3-4; York Water St. No. 3, at 11-14; York Water Exhibits H(b)-3 and H(b)-3W).

3. As of December 31, 2021, York Water Company provides water service to 63,477 residential customers, 4,608 commercial customers, and 302 industrial customers. (*See* York Water St. No. 3, at 11-14; York Water Exhibit H(b)-3).

4. As of December 31, 2021, York Water Company provides wastewater service to 1,164 metered and 1,985 unmetered residential customers (*i.e.*, total of 3,149 residential customers), 41 metered commercial customers, 2 metered industrial customers, and 165 unmetered commercial and industrial customers (*i.e.*, 208 total non-residential wastewater customers). (*See* York Water Exhibit H(b)-3W).

5. As of December 31, 2021, York Water Company has the following classes and types of customers:

- i. Residential Gravity Customers – “20,813 metered residential gravity customers as of December 31, 2021.” (York Water St. No. 3, p. 11) (citing York Water Exhibit No. HII-2-4).
- ii. Residential Repumped Customers – “42,664 metered residential repumped customers as of December 31, 2021.” (York Water St. No. 3, p. 12) (citing York Water Exhibit No. HII-2-5).
- iii. Commercial Gravity Customers – “2,531 metered commercial gravity customers as of December 31, 2021.” (York Water St. No. 3, p. 13) (citing York Water Exhibit No. HII-2-6).
- iv. Commercial Repumped Customers – “2,077 metered commercial repumped customers as of December 31, 2021.” (York Water St. No. 3, p. 14) (citing York Water Exhibit No. HII-2-7).
- v. Industrial Gravity and Repumped Customers – 302 total industrial water customers as of December 31, 2021 (note: the split between industrial gravity and repumped customers is not in the record). (*See* York Water Exhibit No. H(b)-3).

6. York Water Company has two separate types of service areas: (1) a “Gravity System” in which water flows to customers from the Purification Plant without the use of booster pumps; and (2) a “Repumped System” in which booster pumps are used to provide necessary water pressure and flow, noting that all booster stations are equipped with at least two pumps and backup power generation to safeguard water service in the event of mechanical or electrical failure. (York Water St. No. 2, p. 4).

#### IV. PUBLIC INPUT HEARING

The presiding officer conducted one telephonic public input hearing on August 17, 2022. Present during the public input hearing was counsel for YWC, BIE, OCA and OSBA. Four YWC customers testified with ten (10) exhibits marked and introduced into the record as evidence.

In summary, the four witnesses were customers receiving either water and/or wastewater services from the Company, and they raised five major issues concerning York Water Company’s requests for rate increases. In those five issues, the witnesses alleged or contended: (1) the shock value of the requested percentage increase; (2) lack of documentation proving the need for the sizeable increases; (3) failure to use DSIC funds to make ongoing infrastructure improvements; (4) the inappropriateness of requesting 33% or 48% increases when reporting large profits; and (5) allocating revenue from water customers to pay for uncovered monetary losses in the Company’s wastewater service.

1. Larry Wolfe testified he is a customer of YWC and a shareholder who receives only water service from YWC. Mr. Wolfe contended YWC is wrong to seek reallocation of revenue from water customers and inject that revenue into the wastewater division. He agreed with YWC that an increase in the base rate should be granted but requested the Commission grant a smaller portion of the Company’s request. He noted YWC hinged its request on a claim that \$176 million in infrastructure repair and upgrade was needed. Mr. Wolfe noted the Company never provided dollar estimates for any of the eight projects it claims are needed to maintain the infrastructure’s continued viability and, without those estimates, it is

impossible to substantiate whether the cost is necessary. Mr. Wolfe testified the price per linear foot in a pipe replacement project could vary up to \$500 per linear foot, which would adjust the price from \$23 million to \$120 million.

Mr. Wolfe argued the company has not shown how it will defer the cost of the replacement project through the 4.91% surcharge paid by all customers through the Distribution System Improvement Charge (DSIC). Mr. Wolfe argued the pipeline replacement expense should not be treated as an unrecovered capital expense because it has already been paid, in part, by the DSIC surcharge. Mr. Wolfe questioned why YWC was only now spending a substantial amount of money, for which it did not provide an estimated cost, to replace lead service lines when laws against use of lead pipes have existed for over 100 years.

Mr. Wolfe also noted the rate increase follows an announcement by YWC of a stock offering which netted \$38.2 million, which amount exceeded the Company's 2021 capital investment expenditure. Overall, Mr. Wolfe noted the Company is entitled to a reasonable rate increase, but it failed to show it needs an additional \$176 million to satisfy past and future capital investment programs.

Lastly, Mr. Wolfe strenuously opposed York Water Company's proposal to allocate a portion of the water revenue to cover wastewater costs. Mr. Wolfe testified the Commission should require York Water Company to charge its wastewater customers for the costs of the wastewater services instead of requiring water customers to offset the monetary losses YWC incurs because it does not bill its wastewater customers appropriately. Mr. Wolfe contends YWC failed to prove it needs water revenue to be allocated to cover wastewater costs when the number of water customers outnumber the number of wastewater customers in the Company's territory by a factor of twenty. Mr. Wolfe also testified revenue allocation is especially unfair to some of the Company's water customers who live outside of York (in Howard Borough) but who receive wastewater services from the Eastern York County Sewer Authority. He questions how the Commission can fairly assess those customers to help cover the costs of wastewater services they do not receive. (Tr. 64-78).

2. Thomas Pokopec testified he has received water service from York Water Company for approximately 30 years and he agreed with the testimony provided by Mr. Wolfe. Mr. Pokopec testified he has been very happy with the quality of water service YWC provides but he contends the Company did not justify the 33.8% requested increase. Mr. Pokopec noted various news releases which he testified purportedly showed York Water Company is making money, buying back shares of stock and asking for a significantly higher percentage increase than other similar water companies. Mr. Pokopec opined that YWC should absorb a fair amount of the improvement costs because of the high level of profit it has experienced recently and recommended the Commission should limit the increase, if approved at all, to the same or similar percent increase experienced recently by Aqua Pennsylvania Inc.<sup>4</sup> (Tr. 81-95).

3. Selden Granahan testified he has been a water and wastewater customer of York Water Company for approximately 18 years. He agreed with the testimonies provided by Messrs. Wolfe and Pokopec. Mr. Granahan testified he was aware that Pennsylvania received over a billion dollars through the federal Rescue Plan Act, and one approved use for the funds was to make water, sewer and internet infrastructure repairs. Mr. Granahan requested the Commission look specifically for whether YWC provided information that it had applied for the monies and about how it planned to use monies received. Mr. Granahan testified a base rate increase might be appropriate but at a much lower rate than the proposed 33% increase by the Company for water service customers and the proposed 46% increase for wastewater service customers. Mr. Granahan noted recent Commission proceedings in which base rate requests were granted at significantly smaller percentages and testified he does not see how the Company proved it should receive such a high percentage increase. (Tr. 96 – 108).

4. Donna Droege testified she has been a water and wastewater customer of York Water Company for approximately 15 months. Ms. Droege testified the financial times are hard with the high prices for many items and she has had to make decisions to go without some wanted items in order to pay for needed items. Ms. Droege testified water is a necessity and she thinks the requested base rate increase is astronomical. Instead, she testified the

---

<sup>4</sup> See *Pa. Pub. Util. Comm'n v. Aqua Pa. Inc.*, Docket No. R-2021-3027385 (Opinion and Order entered May 16, 2022).

Company should have made these repairs and improvements over time from the profits they have earned over the years. She testified it is not fair for the Company to expect its customers to pay so much more, especially when the customers are mostly poor. Ms. Droege contended the company should have asked for the increase in increments instead of asking for such a large increase all at one time. (Tr. 111 – 114).

## V. TERMS OF THE SETTLEMENT

The Settlement is a nineteen (19) page document containing sixty-seven (67) numbered paragraphs. Appendix A to the Settlement contains the proposed tariff pages to be filed upon approval of the Settlement. Appendix B contains the Proof of Revenue. Appendices C, D, E, and F to the Settlement are the respective statements of York Water Company, BIE, OCA and OSBA in support of the Settlement.

The essential terms of the Settlement are contained in Paragraphs 33 through 59, which are quoted *verbatim* below:

33. The Joint Petitioners agree as follows:
34. The settlement rates will be designed to produce \$13.5 million in additional annual base rate operating revenue, which consists of \$11.6 million in additional water base revenues and \$1.9 million in additional wastewater base revenues, based upon the pro forma level of operations for the twelve (12) months ended February 29, 2024. These revenue amounts reflect the allocation of \$1.3 million in wastewater revenue requirement to water rates. York Water will be permitted to file tariff supplements to become effective March 1, 2023.
35. York Water will not file for an increase in distribution water or wastewater base rate revenues for 24 months from the effective date of rates; provided however, that the foregoing provision shall not prevent York Water from filing a tariff or tariff supplement proposing a general increase in rates in compliance with Commission orders or in response to fundamental changes in regulatory policies or federal tax policies affecting York Water's rates.
36. The state income tax rate in this proceeding will be set at 8.99% and has been reflected in the settlement revenue

requirement. The Company will reflect subsequent state tax adjustments to the state income tax rate for the post-2023 tax years through the Company's State Tax Adjustment Surcharge [STAS] or future base rate proceedings.

37. In accordance with the provisions of 52 Pa. Code § 69.55, the STAS for York Water shall be reset to 0.00% effective with the effective date of rates. Future changes to state tax rates will be reflected either through the STAS or base rate changes.
38. The following water amortization is specifically approved and is reflected in the Settlement's base rate allowance:

<u>Description</u>	<u>Amortization Period</u>	<u>Annual Amortization</u>
Customer-Owned Lead Service Line Replacements	4 years beginning with the effective date of rates in this proceeding	\$215,890

39. The following water amortization for a positive acquisition adjustment is specifically approved and is reflected in the Settlement's base rate allowance:

<u>Description</u>	<u>Amortization Period</u>	<u>Annual Amortization</u>
Margaretta Mobile Home Park	10 years ending February 28, 2029	\$5,551.00

40. The following water amortizations for negative acquisition adjustments are specifically approved and are reflected in the Settlement's base rate allowance:

<u>Description</u>	<u>Amortization Period</u>	<u>Annual Amortization</u>
Lincoln Estates Mobile Home Park Negative Acquisition Adjustment	10 years ending February 28, 2029	(\$7,719.00)

<u>Description</u>	<u>Amortization Period</u>	<u>Annual Amortization</u>
The Meadows Negative Acquisition Adjustment	10 years ending February 28, 2029	(\$15,882.00)
Westwood Mobile Home Park Negative Acquisition Adjustment	10 years ending February 28, 2029	(\$7,547.00)

41. The following wastewater amortization for a positive acquisition adjustment is specifically approved and is reflected in the Settlement’s base rate allowance:

<u>Description</u>	<u>Amortization Period</u>	<u>Annual Amortization</u>
Felton Borough	10 years beginning with the effective date of rates in this proceeding	\$14,741

42. The Parties agree that they will not propose, in this or any future proceeding, to amortize or otherwise pass through to ratepayers the difference between depreciated original cost and acquisition cost (“negative acquisition adjustment”) with respect to the Letterkenny Township Municipal Authority wastewater system acquisition. The Parties agree, and the Company requests the Commission to find, pursuant to Section 1327(e) of the Public Utility Code, 66 Pa. C.S. § 1327(e), that matters of “substantial public interest” exist with respect to such acquisition, which justifies this ratemaking treatment.

43. The Parties agree that agreement to these specific acquisitions, in Paragraphs 38 through 41, cannot be construed as precedent for any future acquisitions by York Water of either water or wastewater systems, nor can this agreement be construed as precedent for any future acquisitions by any other water or wastewater utility.

44. The Company confirms it has not recorded any COVID-19 related deferrals for uncollectibles and COVID-19 related incremental expenses. Any future claim for similar deferred accounting treatment must be based on Commission action after the effective date of new rates in this proceeding.

45. The Company will continue to amortize the benefit of the catch-up deduction permitted under the Internal Revenue Service's tangible property regulations as established by the Commission-approved settlement of the Company's 2018 base rate case at Docket No. R-2018-300019. The amortization is without interest and without deduction of the unamortized balance from rate base. The amortization is subject to adjustment in future cases, in the event the IRS determines the Company is not entitled to the full amount of the catch-up deduction.
46. Rates under this Settlement will be presumed to provide for recovery of a cash contribution to pensions in the amount of \$1,556,000. York Water commits to deposit such amount into its pension trust on an annual basis during the period that rates under this Settlement remain effective, provided that such deposit does not exceed the deductibility limits under the Internal Revenue Code. If the minimum required contribution under Code Section 430 of the Internal Revenue Code exceeds \$1,556,000, York Water will contribute the minimum required contribution under Code Section 430. Until changed by agreement of the Joint Petitioners or Commission Order, York Water will continue to account for differences between the cash contribution and the pension cost calculated pursuant to FASB [Financial Accounting Standards Board] ASC [Accounting Standards Codification] 715-20 and FASB ASC 715-30 as follows:

The Company has calculated and accrued on its books of account its pension liability incurred for its present employees under the terms of FASB ASC 715-20 and FASB 715-30. The Company makes cash contributions into qualified trusts to fund its pensions. The amount contributed is determined annually pursuant to actuarial studies that use criteria which may be different from criteria used under FASB ASC 715-20 and FASB 715-30. For financial reporting purposes, the Company will record the amount accrued in excess of the cash contribution as a regulatory (deferred) asset in accordance with FASB ASC 980 until the cash amount equals or exceeds the accrual. When the cash contribution exceeds the accrual amount, the Company will correspondingly reduce the regulatory (deferred) asset. For ratemaking purposes in the future, the Company will continue to use cash contributions plus pension administrative costs as the basis for its ratemaking claim for pension expense.

47. The water Distribution System Improvement Charge (“DSIC”) for York Water shall be established at 0% of billed revenues effective with the effective date of Settlement Rates. The DSIC shall remain at 0% of billed revenues until the later of: (i) the end of the FPFTY [Fully Projected Future Test Year]; or (ii) the quarter following the point in time at which York Water’s total claimed account balances, net of plant funded with customer advances and customer contributions, exceed the levels projected by York Water as of February 29, 2024 (*i.e.*, the end of the FPFTY) per Exhibit Nos. FV-12-4 (\$529,635,106), FV-16-3 (\$41,859,847) and FV-16-4 (\$8,637,823) for a total of \$479,137,436 in utility plant in service. The foregoing provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing.
48. For purposes of calculating the DSIC, York Water shall use the equity return rate for water utilities contained in the Commission’s most recent Quarterly Report on the earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for water utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa. C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa. C.S. § 1358(b)(1).
49. On or before June 1, 2023, York Water will provide the Commission’s Bureau of Technical Utility Services (“TUS”), I&E, OCA and OSBA an update to York Water’s Exhibit Nos. FIV-12-1 and FIV-12-1W, which will include actual capital expenditures, plant additions and retirements for the twelve months ended December 31, 2022. On or before June 1, 2024, York Water will update Exhibit Nos. FIV-12-4 and FIV-12-4W, which will include actual capital expenditures, plant additions and retirements through February 29, 2024.
50. The Company’s proposed expansion of The York Water Cares Low Income Customer Assistance Program (“Cares Program”) to \$40,000 annually is approved. Within 30 days following the entry of a Commission Order approving this Settlement, York Water shall include information concerning the Cares Program and the arrears forgiveness program on its website. The Company will continue its current process of accepting required documentation for the Cares Program from customers via email and forwarding

those documents to the social service agencies that administer the program.

51. The Company agrees to undertake an analysis to estimate the number of low-income customers on its water and wastewater systems, as well as a usage profile of its known low-income customers to be presented as part of its next base rate case. The Company shall conduct an analysis of the estimated costs, potentially eligible customers, and impact on non-eligible customers, of a potential bill discount program within 18 months of the issuance of a final order in this proceeding. The Company will meet with the parties within 30 days after the analysis is completed.
52. In its next base rate proceeding, the Company will propose a pilot low-income bill discount program for residential water and wastewater service.
53. The Company agrees to take such action as required to meet its 2020 call center performance annual results prior to filing its next base rate case or within two years, whichever is sooner. The Company will provide a report 30 days prior to filing its next base rate case or within two years, whichever is sooner, that will show each year's annual call center performance compared to the 2020 call center performance results.
54. The Company agrees to update its training materials, including information relevant to the Discontinuance of Leased Premises Act, obligations and policies governing Protection from Abuse Orders, the customer's rights to dispute York Water's response to questions and concerns, and the policies that will be implemented when personal contact is initiated immediately prior to termination of service, within two (2) years of the issuance of a final order in this proceeding. As part of its commitment to develop more detailed training materials for its customer call center and other staff, York Water will make explicit its commitment to developing payment arrangements based on the customer's individual circumstances. The Company will also develop a process for oversight and compliance monitoring. The Company will submit the updated training materials within two (2) years of a final order in this proceeding. The Company further agrees to document how its training is conducted and how ongoing compliance is audited.
55. York Water will establish a database to document all customer disputes, and formal and informal complaints, as those terms are defined in 52 Pa. Code § 56.2, for both water and wastewater operations. The database shall include

customer account information, address, date of dispute or complaint, the type of issues raised by the dispute or complaint, and the resolution of the dispute or complaint. The Company shall document its development of the database in a compliance filing within twelve (12) months of a final order in this proceeding. The Company agrees to make the complaint log available to parties as part of discovery in its next base rate case.

56. York Water's water and wastewater tariffs shall be amended to include the essential consumer protections set forth in Chapter 56.<sup>5</sup> York Water will submit tariff supplements containing those amendments within twelve (12) months of a final order in this proceeding.
57. York Water will continue not to include any City of York refuse charges on its bills for York Water and wastewater service and will continue not to threaten termination of service for nonpayment of City of York refuse charges. Any charges collected for City of York refuse charges shall be remitted directly to the City of York without any impact on the amount due for York Water regulated services. York Water will disclose on its web portal and on its bills issued on behalf of the City of York that York Water will not threaten or undertake termination of water service for non-payment of City of York refuse charges.
58. Class revenue allocation and rate design are as set forth in Appendices "C" and "D" attached hereto, including that the proposed residential 5/8" by 3/4" water customer charge will be \$17.25 per month.
59. The Company shall, in its next base rate case, provide an analysis including, but not limited to, proof of revenue, bill frequency, and bill comparison showing a reduction in the existing 4,000-gallon usage allowance for wastewater customers to a 2,000-gallon allowance. This analysis shall be provided to support a rate design proposal that includes a maximum allowance of 2,000 gallons. Parties reserve the right to address the Company's analysis and rate proposals as part of the next base rate case.

Settlement ¶¶ 33-59.

The conditions of the Settlement are contained in Paragraphs 60 through 67, which are quoted *verbatim* below:

---

<sup>5</sup> See 52 Pa. Code Chapter 56 (Chapter 56).

60. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission modifies the Settlement, then any Joint Petitioner may elect to withdraw from this Settlement and may proceed with litigation and, in such event, this Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of an order modifying the Settlement. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated this proceeding and that the rates established hereunder are Commission-made, just and reasonable rates.
61. This Settlement is proposed by the Joint Petitioners to settle all issues in the instant proceeding. If the Commission does not approve the Settlement and the proceedings continue to further hearings, the Joint Petitioners reserve their respective rights to present additional testimony and to conduct full cross-examination, briefing and argument. The Settlement is made without any admission against, or prejudice to, any position which any Joint Petitioner may adopt in the event of any subsequent litigation of this proceeding.
62. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.
63. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner which is fair and reasonable. The Settlement is the product of compromise. This Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings except to the extent necessary to effectuate the terms and conditions of this Settlement. This Settlement does not preclude the Joint Petitioners from taking other positions in proceedings of other public utilities under Section 1308 of the Public Utility Code, 66 Pa. C.S. § 1308, or any other proceeding.
64. Attached as Appendices "E" through "H" are Statements of Support submitted by York Water, I&E, OCA and OSBA, setting forth the bases upon which they believe the Settlement is fair, just and reasonable and is, therefore, in the public interest.

65. Attached as Appendices “I” through “K” are the Joint Petitioners’ Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs.
66. If the ALJ adopts the Settlement without modification, the Joint Petitioners waive their rights to file Exceptions.
67. The Joint Petitioners recognize that the proposed Settlement does not bind Formal Complainants that do not choose to join herein. A copy of the proposed Settlement and attached Appendices hereto, including Statements in Support, are simultaneously being served upon all Formal Complainants in this proceeding.

Settlement ¶¶ 60-7.

## VI. SETTLED ISSUES

The Settlement concerns an agreement between the signatories on twelve (12) issues: (1) Revenue Requirement; (2) Stay-Out Provisions; (3) Settlement Amortizations; (4) Covid-19 Related Uncollectible Deferrals and Incremental Expenses; (5) Tangible Property Regulations; (6) Pension Contributions; (7) State Income Taxes and STAS<sup>6</sup>; (8) DSIC<sup>7</sup>; (9) FTY and FPFTY<sup>8</sup> Reporting Requirements; (10) Low-Income Programs; (11) Customer Service; and (12) Revenue Allocation and Rate Design.

### York Water Company’s Statement in Support

#### 1. Revenue Requirement

York Water Company notes, in Supplement No. 143, it proposed a general increase in water rates of \$18,853,738 per year, and in Supplement No. 14, it proposed a general increase in wastewater rates of \$1,456,792 per year, both based upon *pro forma* data for a FPFTY ending February 29, 2024. The Company notes, however, that it decreased the level of

---

<sup>6</sup> STAS is an acronym which stands for State Tax Adjustment Surcharge.

<sup>7</sup> DSIC is an acronym which stands for Distributed System Improvement Charge.

<sup>8</sup> FTY and FPFTY are acronyms which stand for Future Test Year and Fully Projected Future Test Year.

revenue deficiency in rebuttal testimony after YWC adopted some of the adjustments to payroll, employee benefits, and payroll taxes and the Pennsylvania corporate net income tax rate proposed by other parties. (York Water St. No. 103-R, pp. 2, 23). These adjustments resulted in a revised revenue deficiency of \$20,201,429, consisting of \$18,744,637 for water (including a wastewater allocation of \$2,696,796) and \$1,456,792 for wastewater.<sup>9</sup>

YWC asserts this provision reflects a reasonable compromise between the parties' original positions, noting BIE originally proposed a combined water and wastewater revenue increase of \$9,877,837,<sup>10</sup> while OCA proposed a water revenue increase of \$7,001,522 and a wastewater revenue increase of \$104,786 (*i.e.*, a combined water and wastewater revenue increase of \$7,211,079).<sup>11</sup> The Company contends the agreed-upon Settlement rates are designed to produce \$13.5 million in additional annual base rate operating revenue, consisting of \$11.6 million in additional water base revenues and \$1.9 million in additional wastewater base revenues. (Settlement ¶ 34). YWC argues the agreed-upon water and wastewater base rates are designed to produce total base revenues of approximately \$71,304,043,<sup>12</sup> will become effective on March 1, 2023 and will allow the Company to continue providing safe and reliable service to its customers and will provide York Water Company with an opportunity to earn a reasonable return on and of its investments.<sup>13</sup>

York Water Company also asserts the agreed-upon revenue requirement is a “black box” settlement, with certain exceptions. Under a “black box” settlement, parties do not specifically identify base rate, revenues, and expenses and return that are allowed or disallowed. York Water Company argues the “black box” concept facilitated the settlement agreement because the parties did not have to identify the specific return on equity, base rate, revenues, and/or expenses and returns that are allowed or disallowed. YWC argues this process allowed

---

<sup>9</sup> York Water St. No. 103-R, p. 23; York Water Exh. MEP-1R.

<sup>10</sup> I&E St. No. 1, pp. 5-6.

<sup>11</sup> OCA St. No. 1 (Revised), p. 7.

<sup>12</sup> YWC noted its DSIC and STAS will be reset to 0% as of the effective date of the new rates, under the Settlement.

<sup>13</sup> Settlement ¶ 34.

the parties to settle the dispute without abandoning or reversing their respective positions on important issues, which might impact their positions in later cases. Further, YWC notes the Commission encourages settlements and supports the use of black box settlements<sup>14</sup> and contends that, in this situation, the Administrative Law Judge does not need to decide the individual base rate, the revenue and expense adjustments proposed by the parties or the return on equity under the Settlement before determining the proposed revenue increase is reasonable.

Viewed within the context of the entire Settlement, York Water Company believes the revenue requirement is reasonable and will provide the Company with the additional revenues necessary to provide safe and reliable service to its customers. As such, YWC argues the Settlement appropriately balances the need for it to have an opportunity to earn a reasonable rate of return with the need of its customers to have reasonable rates.

## 2. Stay-Out Provisions

York Water Company asserts the parties agreed the Settlement should include a stay-out provision. York Water Company notes it agreed it would not file another base rate case for 24 months from the effective date of these proposed rates. YWC notes the parties agreed in Settlement ¶ 35, however, it is not prohibited from filing a tariff or tariff supplement proposing a general increase in rates in compliance with Commission orders or in response to fundamental changes in regulatory policies or federal tax policies which affect York Water Company's rates. YWC asserts this provision will provide its customers with considerable rate stability over the coming years and will provide the Company with flexibility if it experiences specific cost increases. Accordingly, YWC asks the Commission to approve this settlement provision without modification.

---

<sup>14</sup> 52 Pa. Code §§ 5.231, 69.401; *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-2011-2267958 (Opinion and Order entered June 7, 2012); *Pa. Pub. Util. Comm'n v. Peoples TWP LLC*, Docket No. R-2013-2355886 (Opinion and Order entered Dec. 19, 2013); *St. of Chairman Robert F. Powelson, Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Public Meeting, Aug. 2, 2012).

### 3. Settlement Amortizations

The Company notes that, while the overall Settlement amount is a “black-box” number, the Settlement does provide for certain specific amortizations. It notes that under procedures established in the Public Utility Code in Section 1327,<sup>15</sup> the excess of the acquisition cost over the depreciated original cost may be added to base rate, to be amortized over a reasonable length of time, if the acquiring public utility meets the criteria set forth in 66 Pa.C.S. § 1327(a). The Company notes that 66 Pa.C.S. § 1327(e) establishes the procedures for the treatment of acquisition costs lower than depreciated original cost (known as a negative acquisition adjustment), and it is this difference which should be amortized as an addition to income over a reasonable length of time, absent matters of substantial public interest.

York Water Company asserts the Settlement continues the positive acquisition adjustment associated with the acquisition of the Margaretta Mobile Home Park (Margaretta) water system as well as the negative acquisition adjustments associated with the acquisitions of the Lincoln Estates Mobile Home Park (Lincoln Estates), The Meadows, and Westwood Mobile Home Park (Westwood) water systems.<sup>16</sup> The Company also asserts the Settlement allows it to amortize a portion of the positive acquisition adjustment associated with the acquisition of Felton Borough’s (Felton) wastewater system.<sup>17</sup>

York Water Company explained the Felton Borough system served approximately 130 wastewater customers in York County, was not certificated by the Commission and had decided not to continue providing wastewater service due to increasing costs and the challenges of meeting regulatory oversight and reporting requirements.<sup>18</sup> During this proceeding, York

---

<sup>15</sup> See 66 Pa.C.S. § 1327. The Company notes Section 1327 establishes the treatment of water and wastewater acquisitions greater than, and lower than, the depreciated original cost of the assets acquired from another public utility, a municipal corporation or a person (known as a positive acquisition adjustment), and acquisition costs greater than depreciated original cost are addressed specifically in Section 1327(a).

<sup>16</sup> See Settlement ¶¶ 39, 40. The amortizations for Margaretta, Lincoln Estates, The Meadows, and Westwood were established in York Water’s 2018 base rate proceeding.

<sup>17</sup> See Settlement ¶ 41. The amortization of Felton Borough is being established in this proceeding.

<sup>18</sup> York Water St. No. 1, at 16.

Water Company provided information and documentation of the continuing difficulties Felton experienced with operating its wastewater system.<sup>19</sup> Some of those difficulties resulted in a Notice of Violation (NOV) in July 2018 from the Pennsylvania Department of Environmental Protection (DEP), an Inspection Compliance Report, subsequent NOVs, a finding of an effluent violation in August 2017, and Inflow and Infiltration (I&I) problems with the collection system.<sup>20</sup>

The Company asserted that, upon taking over the Felton Borough wastewater collection and treatment system, it improved the facilities by installing Supervisory Control and Data Acquisition (SCADA) equipment and backup power generation at the treatment plant and sanitary lift station.<sup>21</sup> As a result, YWC requested permission to amortize the \$294,808 positive acquisition adjustment over a 10-year period as part of base rate.<sup>22</sup> York Water Company noted OCA's opposition which contended the criteria set forth in Section 1327(e) of the Public Utility Code had not been met and the existence of an NOV did not prove Felton provided inadequate service because OCA asserted it is not unusual for wastewater systems to get an NOV that includes an effluent violation.<sup>23</sup> The Company continued to disagree with OCA and identified numerous deficiencies at the treatment plant, such as algae covered work platforms, decant tanks that were full, and influent floats indicated that flow and transfer were inoperable.<sup>24</sup>

The Company asserts the Settlement reflects a compromise of the Company's and OCA's positions on the Felton Borough positive acquisition adjustment. Instead of an annual amortization of \$29,481 for a 10-year period as initially proposed by York Water Company,

---

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 17.

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

<sup>22</sup> *Id.* at 18.

<sup>23</sup> OCA St. No. 6, pp. 14-15.

<sup>24</sup> York Water St. No. 1-R, p. 4.

YWC notes the signatories agreed to reduce the annual amortization by half to \$14,741 for a 10-year period beginning with the effective date of rates in this proceeding.<sup>25</sup>

YWC further notes there will be no future proposal to amortize or otherwise pass through to ratepayers the negative acquisition adjustment<sup>26</sup> with respect to the Letterkenny Township Municipal Authority (Letterkenny) wastewater system acquisition.<sup>27</sup> Instead, the signatories agreed that matters of substantial public interest exist with respect to this acquisition, which justifies the negative acquisition adjustment.<sup>28</sup> Specifically, Letterkenny was not certificated by the Commission and did not wish to continue providing wastewater service to its residents due to increasing costs and the challenges of meeting regulatory oversight and reporting requirements.<sup>29</sup> Letterkenny concluded its investment in maintaining the wastewater system in future years would be insufficient to provide reliable wastewater collection and treatment services.<sup>30</sup> Similar to the situation with Felton, the Company noted it installed SCADA equipment and backup power generation when it took over the Letterkenny wastewater collection and treatment system, and corrected problems that had been cited as violations previously.<sup>31</sup>

York Water Company notes the signatories agreed<sup>32</sup> to provide for the amortization of certain costs associated with customer-owned lead service line replacements

---

<sup>25</sup> Settlement ¶ 41.

<sup>26</sup> In *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00922168, 1992 Pa. PUC LEXIS 115, at \*40-41 (Opinion and Order entered Nov. 18, 1992), the Commission held that under the provisions of Section 1327(e) of the Public Utility Code, 66 Pa.C.S. § 1327(e), water companies are not required to amortize negative acquisition adjustments when “matters of substantial public interest” are involved. The Commission in that case defined “matters of substantial public interest” to include such factors as “unsafe and inadequate water supplies, inadequate fire flows and the inability to meet Safe Drinking Water Act requirements.” *Id.* at \*56.

<sup>27</sup> Settlement ¶ 42.

<sup>28</sup> *Id.*

<sup>29</sup> York Water St. No. 1, p. 18.

<sup>30</sup> *Id.* at 19.

<sup>31</sup> *Id.* at 19-20.

<sup>32</sup> Settlement ¶ 38.

because the Company incurred actual costs, totaling \$1,132,257, replacing customer-owned lead service lines since its last base rate case.<sup>33</sup> YWC pointed out the Commission allowed the regulatory asset to be amortized over a period of four years, as part of the settlement in the Company's 2018 base rate case at Docket No. R-2018-3000019.<sup>34</sup> The Company contends the annual amortization of these costs would be \$215,890, after subtracting the updated amortization of \$283,064 from the amortization recorded during the 12 months ended December 31, 2021, of \$67,174.<sup>35</sup> Because no party opposed this amortization, YWC points out the Settlement reflects the annual amortization of \$215,890.

Overall, York Water Company maintains the amortizations and the positive and negative acquisition adjustments, as modified by the Settlement, reflect a reasonable compromise of the various positions and, as such, these settlement provisions should be approved as in the public interest.

#### 4. Covid-19 Related Uncollectible Deferrals and Incremental Expenses

York Water Company notes it did not make an expense claim for COVID-19 related deferrals and incremental expenses, but it also noted BIE had recommended the Company should be prohibited from making a future claim for COVID-19 related uncollectible accounts expense or other COVID-19 related incremental expenses in future proceedings.<sup>36</sup> BIE's theory was that YWC should include COVID-19 related expenses for the FPFTY in its routine expense accounts, which would obviate any future requests for deferral treatment.<sup>37</sup>

The Company noted its disagreement with BIE's opinion on the basis the COVID-19 pandemic remains an ongoing problem, especially since new COVID-19 variants

---

<sup>33</sup> York Water St. No. 3, p. 55.

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

<sup>35</sup> *Id.*

<sup>36</sup> I&E St. No. 1, p. 25-26.

<sup>37</sup> *Id.* at 27.

might emerge which would require the Company to incur incremental expenses.<sup>38</sup> The Company points out that, in the Settlement,<sup>39</sup> the Company confirmed it has not recorded any COVID-19 related deferrals for uncollectible and COVID-19 related incremental expenses. YWC points out the signatories agreed that any future claim for similar deferred accounting treatment must be based on Commission action after the effective date of new rates in this proceeding. Accordingly, the Company asserts that, when viewed within the whole of the Settlement, these settlement provisions reflect a reasonable compromise of the parties' positions, and the Commission should approve these provisions without modification.

## 5. Tangible Property Regulations

York Water Company notes that it adopted a change to tax accounting in 2014 that allowed the Company to deduct the costs of certain assets that were previously capitalized and depreciated for tax purposes. The additional catch-up deduction produced retroactive tax savings for the years 2007-2013.

Under the Settlement, the signatories agreed the Company will continue to amortize the benefit of the catch-up deduction permitted under the Internal Revenue Service's tangible property regulations as established by the Commission-approved settlement of the Company's 2018 base rate case at Docket No. R-2018-300019.<sup>40</sup> The Company points out that the amortization is without interest and without deduction of the unamortized balance from base rate. It also notes the amortization is subject to adjustment in future cases, in the event the Internal Revenue Service (IRS) determines York Water Company is not entitled to the full amount of the catch-up deduction. York Water Company contends these settlement provisions are consistent with the Commission-approved settlement in York Water's 2018 base rate case and should be approved without modification

---

<sup>38</sup> York Water St. No. 3-R, p. 22.

<sup>39</sup> Settlement ¶ 44.

<sup>40</sup> Settlement ¶ 45.

## 6. Pension Contributions

YWC points out it and the signatories agreed to provisions that will commit York Water Company to make a specified level of pension contributions, subject to IRS and Employee Retirement Income Security Act (ERISA) restrictions. The Company contends this approach served effectively to provide assurance of adequate pension funding in exchange for rate allowances that support pension funding above minimum required levels. The Company notes that in its last rate case in 2018 it agreed to maintain an annual contribution of \$2,300,000 to the Company's defined benefit plan pension trusts.<sup>41</sup> In this rate case, York Water Company recommended a \$1,556,000 contribution to the plans to fund the service cost, the amortization of the net loss, and the amortization of the prior service cost that will maintain the fully funded status of the plans.<sup>42</sup> The Company asserts cash contributions to the plans is in the best interest of the plans, their participants, and York Water Company's customers because it will ensure that the plans are fully funded.<sup>43</sup>

In the end, the Company asserts the Settlement adopts this funding commitment of \$1,556,000 by the Company and the agreed-upon pension contribution amount is important because it ensures that sufficient funds will be contributed to York Water's pension plans to fund the current unfunded obligation and future pension liabilities. YWC asserts that these actions will benefit both York Water's employees and customers by appropriately funding York Water's ultimate pension liability at a level recognized in rates. Thus, the Company asserts the Commission should approve this settlement provision because it is reasonable and in the public interest.

---

<sup>41</sup> See *Pa. Pub. Util. Comm'n v. The York Water Co.*, Docket Nos. R-2018-3000019 (Recommended Decision dated Dec. 10, 2018), *adopted without modification* (Order entered Jan. 17, 2019).

<sup>42</sup> York Water St. No. 103, p. 88.

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

## 7. State Income Taxes and State Tax Adjustment Surcharge

York Water recognized that its state income tax expense claim needed to be updated to reflect the change in the Pennsylvania corporate net income tax rate. Initially, the Company's state income tax expense claim was based on the then-existing Pennsylvania corporate net income tax rate of 9.99%. YWC notes that, with the passage of House Bill 1342, the corporate net income tax rate decreased from 9.99% to 8.99% for the 2023 tax year.<sup>44</sup> However, BIE and the Company disagreed on how to approach the change.<sup>45</sup> The Company asserts BIE recommended reducing the state income tax expense claim due to the passage of House Bill 1342, which would reduce the corporate net income tax rate from 9.99% to 8.99% for the tax year 2023 and then would reduce the tax rate by an additional 0.5% every year until 2031, when the tax rate will be ultimately 4.99%.<sup>46</sup>

YWC contended that, instead of using I&E's proposed weighted corporate net income tax rate<sup>47</sup> of 8.91% for the FPFTY, it proposed to modify its state income tax expense claim by using the corporate net income tax rate of 8.99% that would be in effect for 2023.<sup>48</sup> While the Company acknowledged this rate would not factor in the decrease to 8.49% that would be in effect for the final two months of the FPFTY, the Company proposed utilizing the State Tax Adjustment Surcharge to account for that decrease as it would for all future decreases, not otherwise captured in a base rate case, through 2031.<sup>49</sup> The Company argued that approach would allow the Company to align the STAS with the change in rate when it is effective on January 1, 2024, rather than seek to make it effective on a pro rata basis on March 1, 2024, after the end of the FPFTY. Further, the Company argued this approach would not impact the

---

<sup>44</sup> I&E St. No. 1, p. 19.

<sup>45</sup> York Water St. No. 3-R, p. 19.

<sup>46</sup> I&E St. No. 1, pp. 19-20.

<sup>47</sup> For BIE's proposed reduction of the state income tax expense claim, it utilized a weighted corporate net income tax rate of 8.91% for the FPFTY. I&E St. No. 1, p. 20.

<sup>48</sup> York Water St. No. 3-R, p. 19.

<sup>49</sup> York Water St. No. 3-R, p. 19.

customer rates in total but would make the administration of the corporate net income tax rate changes easier.<sup>50</sup>

York Water Company notes the signatories accepted its position and memorialized the Company's proposal to modify the state income tax expense claim as outlined in its rebuttal testimony.<sup>51</sup> Specifically, the Settlement provides that the state income tax rate in this proceeding will be set at 8.99% and the tax rate has been reflected in the settlement revenue requirement. The Company notes it agreed to reflect subsequent state tax adjustments to the state income tax rate for the post-2023 tax years through the Company's State Tax Adjustment Surcharge or in future base rate proceedings. The Company also notes the Settlement provides that, in accordance with the provisions of 52 Pa. Code § 69.55, the STAS for YWC shall be established at 0% effective with the effective date of settlement rates in this proceeding.<sup>52</sup> The Company agreed, effective January 1, 2023, it will reflect the change in the state income tax rate from 9.99% to 8.99%. This STAS rate will be in effect until the effective date of rates under this Settlement. Accordingly, the Company asserts the settlement provisions are reasonable, in the public interest and should be approved by the Commission.

#### 8. Distribution System Improvement Charge

York Water Company notes the signatories agreed the water DSIC would be established at 0% of billed revenues effective with the effective date of Settlement Rates and would remain at 0% of billed revenues until either the end of the FPFTY or the quarter following the point in time at which York Water's total eligible account balances, net of plant funded with customer advances and customer contributions, exceed the levels projected by York Water as of February 29, 2024 (*i.e.*, the end of the FPFTY), whichever event occurs later.<sup>53</sup> The Company points out the signatories agreed, in (Settlement ¶ 47, the foregoing provision is included solely

---

<sup>50</sup> *Id.* at 19-20.

<sup>51</sup> Settlement ¶ 36.

<sup>52</sup> *Id.* ¶ 37.

<sup>53</sup> *See* levels in Exhibit Nos. FV-12-4 (\$529,635,106), FV-16-3 (\$41,859,847) and FV-16-4 (\$8,637,823) for a total of \$479,137,436 in utility plant in service. *See* Settlement ¶ 47.

for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in base rate in a FPFTY filing. Further, for purposes of calculating its DSIC, the signatories agreed York Water should use the equity return rate for water utilities (contained in the Commission’s most recent Quarterly Report on the earnings of Jurisdictional Utilities) and shall update the equity return rate each quarter consistent with any changes to the equity return rate for water utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa.C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1).<sup>54</sup> The Company asserts these Settlement provisions help resolve any ambiguity as to the base rate case’s impact on and the calculation of the DSIC. Accordingly, YWC requests the Commission approve these settlement provisions as reasonable and in the public interest.

#### 9. Future Test Year and Fully Projected Future Test Year Reporting Requirements

The Company notes the signatories agreed that, on or before June 1, 2023, York Water will provide TUS, BIE, OCA and OSBA with an update to York Water’s Exhibit Nos. FV-12-1 and FV-12-1W, which will include actual capital expenditures, plant additions and retirements for the 12 months ended December 31, 2022.<sup>55</sup> YWC points out it agreed to update Exhibit Nos. FV-12-4 and FV-12-4W, which will include actual capital expenditures, plant additions and retirements through February 29, 2024, on or before June 1, 2024.<sup>56</sup> The Company asserts this settlement provision mirrors Paragraph 38 from York Water’s 2018 base rate case settlement, which resolved BIE’s proposed reporting requirement on actual capital expenditures, plant additions, and retirements for the FTY and FPFTY.<sup>57</sup> YWC notes the signatories included the same commitment in this Settlement to help the parties evaluate the accuracy of the Company’s projections for the FTY and FPFTY. Accordingly, the Company requests the Commission approve this settlement provision as reasonable and in the public interest.

---

<sup>54</sup> Settlement ¶ 48.

<sup>55</sup> *Id.* ¶ 49.

<sup>56</sup> Settlement ¶ 49.

<sup>57</sup> *See Pa. Pub. Util. Comm’n v. The York Water Co.*, Docket No. R-2018-3000019 (Recommended Decision dated Dec. 10, 2018), *adopted without modification* (Order entered Jan. 17, 2019).

## 10. Low-Income Programs

York Water Company notes that, in its 2018 base rate case, the Commission approved \$20,000 in annual funding for its Cares Low Income Customer Assistance Program (Cares) on a pilot basis until the Company's next base rate case.<sup>58</sup> The Company asserts the Cares program successfully helped its low-income customers pay their water and wastewater bills, especially during the COVID-19 pandemic.<sup>59</sup> As a result, York Water proposed herein to establish the program permanently and to increase the annual funding to \$40,000.<sup>60</sup> In support of this proposal, the Company noted that: (1) the existing annual funding of \$20,000 has been fully expended every year of the program; and (2) York Water's customer base and service territory continues to grow.<sup>61</sup> YWC notes no party opposed the proposal to increase the annual funding of the Cares program to \$40,000.

The Company notes, however, that OCA raised a series of issues and proposals related to the Company's low-income customers. In particular, OCA argued the Cares program did not go far enough and recommended YWC should implement a bill discount program similar to one in effect for Community Utilities of Pennsylvania.<sup>62</sup> OCA did not provide any estimated costs for this proposal but recommended the Company should consult with the available agencies and utilities which have knowledge of YWC's service territory and propose a budget for this program.<sup>63</sup>

---

<sup>58</sup> York Water St. No. 2, p. 11.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> OCA asserted Community Utilities of Pennsylvania provides a 35% monthly discount on the rate for the metered consumption charge. OCA St. No. 5, pp. 19-20.

<sup>63</sup> OCA St. No. 5, p. 21.

York Water contends it was premature to implement a bill discount program because critical aspects of the proposal, such as the estimated costs, are not known at this time.<sup>64</sup> York Water maintained the bill discount program, if it is to be implemented, should only be implemented as part of the next base rate case, after York Water has had an opportunity to conduct a proper analysis of the program's estimated costs, potentially eligible customers, and the impact on other customers.<sup>65</sup> Further, York Water clarified it does participate in the Pennsylvania Homeowners Assistance Fund (PAHAF), in addition to the Low-Income Household Water Assistance Program (LIHWAP), the Emergency Rental Assistance Program (ERAP), and the South Central Community Action Program (SCCAP).<sup>66</sup>

After further discussions between OCA and YWC, the signatories agreed to request the Commission approve the Company's proposed expansion of the Cares program to \$40,000 annually. York Water Company agreed that it will include information concerning the Cares program and the arrears forgiveness program on its website within 30 days following the entry of a Commission Order approving the Settlement. In addition, YWC agreed to continue its current process of accepting required documentation for the Cares program from customers via email and forwarding those documents to the social service agencies that administer the program. Further, YWC agreed to undertake an analysis to estimate the number of low-income customers on its water and wastewater systems, as well as a usage profile of its known low-income customers to be presented as part of its next base rate case, in response to OCA's recommendation for a bill discount program. The Company pointed out it will conduct an analysis of the estimated costs, potentially eligible customers, and impact on non-eligible customers, of a potential bill discount program within 18 months of the issuance of a final order in this proceeding and then meet with the parties within 30 days after the analysis is completed. Lastly, the Company asserts it agreed to propose a low-income bill discount pilot program for residential water and wastewater service, in its next base rate proceeding.<sup>67</sup>

---

<sup>64</sup> York Water St. No. 2-R, pp. 4-6.

<sup>65</sup> *Id.* at 6-7.

<sup>66</sup> *Id.* at 8.

<sup>67</sup> Settlement ¶ 51.

As a result of the negotiated Settlement, YWC contends these settlement provisions reflect a reasonable compromise of the signatories' positions and requests its proposed annual funding increase for the Cares program be approved, while the Company makes commitments to analyze the impacts of a low-income bill discount pilot program and present a proposal in its next base rate case. Accordingly, the Company requests the Commission approve these settlement provisions as reasonable and in the public interest.

## 11. Customer Service

The Company notes OCA raised several customer service-related issues and recommendations concerning: (1) call center performance; (2) training of customer service representatives; (3) customer complaint procedures; (4) customer service provisions in York Water's water and wastewater tariffs; and (5) York Water's billing and termination practices regarding the City of York's wastewater and refuse service charges.<sup>68</sup> YWC notes that, during the rebuttal phase and negotiations, it accepted many of OCA's customer service-related recommendations, including updating the Company's written training materials for customer service representatives, and developing a comprehensive database for customer complaints and disputes.<sup>69</sup> The Company also agreed to present a complaint log in its next base rate case containing important information about each of the disputes, including the customer, account number, address, date, and type of issues raised by the customer.<sup>70</sup>

However, YWC notes it disagreed with other issues and recommendations raised by OCA. Regarding the call center performance, the Company argued that holding York Water's call center performance to the same standard as the major electric distribution companies and natural gas distribution companies was not fair or reasonable, given that York Water is a much smaller company with more limited resources.<sup>71</sup> Moreover, the Company

---

<sup>68</sup> OCA St. No. 5, pp. 5-7, 9, 11-16, 21-22, 24-26; OCA St. No. 6, pp. 5-6.

<sup>69</sup> York Water St. No. 6-R, pp. 13, 15, 17, 19.

<sup>70</sup> *Id.* at 20.

<sup>71</sup> *Id.* at 6-7.

maintained that establishing a call center performance standard was premature because the Company fully expects its call center performance to return to pre-2020 levels over the coming months for several reasons, including the fact that York Water stopped providing wastewater billing services for City of York wastewater customers in June 2022.<sup>72</sup>

Although the Company did agree to update its written training materials for customer service representatives, York Water disputed any claim that its current training was deficient and provided details about the training representatives are required to undertake.<sup>73</sup> The Company also explained that updating its written training materials will take a substantial amount of time to develop and finalize, so the more prudent course of action would be to submit those materials in the next base rate case for the other parties to review.<sup>74</sup> Additionally, York Water disagreed – as being unnecessary and redundant – OCA’s recommendation that YWC should amend its water and wastewater tariffs so the tariffs restate what is set forth in Chapter 56 of the Commission’s regulations, which regulations the Company notes are publicly available and explain those customer protections.<sup>75</sup>

Finally, York Water rebutted OCA’s claims regarding billing and termination of service related to the City of York’s wastewater and refuse charges, noting specifically that: (1) all of York Water’s actions were consistent with the Public Utility Code, the Commission’s regulations, and the Company’s Commission-approved Billing Services Agreement and Sewer Shut-Off Agreement with the City of York; (2) York Water never included charges for the City of York’s wastewater and refuse service on the Company’s own water service bills; (3) York Water separately identified and set forth the City of York’s charges for wastewater and refuse service on the City of York’s customers’ bills; (4) York Water stopped billing for the City of

---

<sup>72</sup> *Id.* at 7-10.

<sup>73</sup> *Id.* at 10-15.

<sup>74</sup> *Id.* at 15.

<sup>75</sup> York Water St. No. 2-R, pp. 9-10.

York's wastewater service in June 2022; and (5) York Water never terminated a customer for failure to pay the City of York's refuse service charges.<sup>76</sup>

After negotiations, York Water agreed to OCA's proposal that the Company should be held to the 2020 customer call center performance.<sup>77</sup> However, the Company asserted it needed sufficient time to implement that standard due to several other commitments made in response to OCA's recommendations. York Water recommended being subject to that standard beginning in 2025.<sup>78</sup> The Company explained the Billing Services Agreement's partial payment provisions comply with Section 56.273 of the Commission's regulations and the Company plans to file an amendment to the agreement by the end of 2022, which, subject to negotiations with the City of York, may include the language proposed by OCA.<sup>79</sup> The Company noted the termination notices sent to the City of York's wastewater customers were required by the Commission-approved Sewer Shut-Off Agreement, and nothing in that agreement permitted York Water to question the City of York's direction to issue the termination notices.<sup>80</sup> York Water recommended the updated training materials and customer dispute tracking mechanism be completed within two years of a final order in this proceeding, not within six months of that final order.<sup>81</sup>

The Company asserts the Settlement (at Settlement ¶ 53) reflects a reasonable compromise of the Company's and OCA's positions. For the call center performance, the Company agrees to take such action as required to meet its 2020 call center performance annual results prior to filing its next base rate case or within two years, whichever is sooner. The Company will provide a report thirty 30 days prior to filing its next base rate case or within two

---

<sup>76</sup> York Water St. No. 6-R, pp. 22-26.

<sup>77</sup> York Water St. No. 6-RJ, p. 5.

<sup>78</sup> *Id.* at 6.

<sup>79</sup> *Id.* at 3.

<sup>80</sup> York Water St. No. 6-RJ, pp. 4-5.

<sup>81</sup> *Id.* at 6-7.

years, whichever is sooner, that will show each year's annual call center performance compared to the 2020 call center performance results.<sup>82</sup>

At Settlement ¶ 54, the Company agrees to update its training materials, including information relevant to the Discontinuance of Leased Premises Act, obligations and policies governing Protection from Abuse Orders, the customer's rights to dispute York Water's response to questions and concerns, and the policies that will be implemented when personal contact is initiated immediately prior to termination of service, within two (2) years of the issuance of a final order in this proceeding. As part of its commitment to develop more detailed training materials for its customer call center and other staff, York Water will make explicit its commitment to developing payment arrangements based on the customer's individual circumstances. The Company will also develop a process for oversight and compliance monitoring. The Company will submit the updated training materials within two (2) years of a final order in this proceeding. The Company further agrees to document how its training is conducted and how ongoing compliance is audited.<sup>83</sup>

The Company contends the Settlement addresses OCA's issues and recommendations about the identification, tracking, and evaluation of customer disputes and complaints. Specifically, York Water agrees in Settlement ¶ 55 to establish a database to document all customer disputes, and formal and informal complaints, as those terms are defined in 52 Pa. Code § 56.2, for both water and wastewater operations. The database shall include customer account information, address, date of dispute or complaint, the type of issues raised by the dispute or complaint, and the resolution of the dispute or complaint. The Company shall document its development of the database in a compliance filing within twelve (12) months of a final order in this proceeding. The Company agrees to make the complaint log available to parties as part of discovery in its next base rate case.<sup>84</sup>

---

<sup>82</sup> Settlement ¶ 53.

<sup>83</sup> *Id.* ¶ 54.

<sup>84</sup> Settlement ¶ 55.

YWC notes it agrees, in Settlement ¶ 56, to amend those tariffs to include the essential consumer protections set forth in Chapter 56, concerning OCA’s proposed amendments to the Company’s water and wastewater tariffs. York Water will submit tariff supplements containing those amendments within twelve (12) months of a final order in this proceeding.<sup>85</sup> Lastly, York Water will continue not to include any City of York refuse charges on its bills for York Water water and wastewater service and will continue not to threaten termination of service for nonpayment of City of York refuse charges.<sup>86</sup> The Company points out that any charges collected for City of York refuse charges will be remitted directly to the City of York without any impact on the amount due for York Water regulated services.<sup>87</sup> Further, York Water agrees to disclose on its web portal and on its bills issued on behalf of the City of York that York Water will not threaten or undertake termination of water service for non-payment of City of York refuse charges.<sup>88</sup>

As a result, York Water Company asserts the Settlement addresses a wide variety of customer service issues and recommendations raised by OCA. The provisions incorporate OCA’s recommendations and properly balance the parties’ competing positions. For these reasons, YWC requests the Commission approve the settlement provisions without modification as reasonable and in the public interest.

## 12. Revenue Allocation and Rate Design.

The Company asserts the revenue allocation and rate design incorporated in the Settlement reflect a reasonable compromise of these issues. The Company originally proposed to increase public fire hydrant rates to recover 25% of the cost of service and to increase all remaining customer charges and consumption charges to move revenues by classification toward

---

<sup>85</sup> *Id.* ¶ 54.

<sup>86</sup> *Id.* ¶ 57.

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

<sup>88</sup> *Id.*

the cost of service, as determined by the Company's cost of service study.<sup>89</sup> Also, the Company presented its analysis of water customer costs and, based on that analysis, proposed increasing the customer charge for a 5/8-inch (5/8") meter to \$20.71.<sup>90</sup> Further, the Company proposed consolidating wastewater rates across the rate zones and capping the increase to the West York wastewater rates at two times the average increase or 70%.<sup>91</sup> Moreover, pursuant to Act 11 of 2012,<sup>92</sup> the Company proposed allocating \$2,670,877 of the wastewater revenue increase to residential and commercial gravity and repumped water customers.<sup>93</sup>

The Company contends the revenue allocation for the water revenue requirement under the Settlement reflects a compromise of the parties' positions. YWC notes that, under provisions at Settlement ¶ 58, class revenue allocation and rate design include a proposed 5/8-inch water customer charge of \$17.25. YWC asserts this design is a reasonable compromise between the competing positions of York Water and BIE (which supported an increase of the charge to \$20.71) and OCA (which advocated retaining the charge at its existing amount of \$16.25.) All other charges were scaled back from the Company's as-filed proposed rates, consistent with the settlement revenue increases by customer class agreed upon by the signatories. Furthermore, in response to BIE's proposal to eliminate the 4,000-gallon usage allowance, the Settlement provides the Company shall, in its next base rate case, provide an analysis including, but not limited to, proof of revenue, bill frequency, and bill comparison showing a reduction in the existing 4,000-gallon usage allowance for wastewater customers to a 2,000-gallon allowance.<sup>94</sup> The Company asserts it agreed to provide this analysis to support a rate design proposal that includes a maximum allowance of 2,000 gallons, with the signatories

---

<sup>89</sup> York Water St. No. 108, pp. 10-11; York Water Exh. No. FVIII.

<sup>90</sup> York Water St. No. 108, p. 11.

<sup>91</sup> *Id.* at 15; York Water Exh. No. FVIII-WA.

<sup>92</sup> 66 Pa.C.S. §§ 1350–1360 (Act 11).

<sup>93</sup> York Water St. No. 108, p. 8.

<sup>94</sup> Settlement ¶ 59.

reserving the right to address the Company's analysis and rate proposals as part of the next base rate case.<sup>95</sup>

York Water notes the Commission has recognized many times that cost allocation is not a precise science.<sup>96</sup> York Water contends the proposed class allocation is reasonable based on YWC's prior rate design, issues raised in other signatories' testimony, the resulting class allocations which produced the agreement and compromise between the signatories. Further, the Company asserts the class allocations fall within the range of allocations proposed by the parties in this proceeding, demonstrating that the proposed allocations and rates are consistent with cost of service.

A. BIE's Statement in Support

1. Revenue Requirement

BIE notes the Settlement provides for an increase of a \$13.5 million to the Company's annual overall revenue, which amount consists of \$11.6 million in additional water base revenues and \$1.9 million in additional wastewater revenues. BIE points out that the listed revenue amounts reflect the allocation of \$1.3 million from the water rates to the wastewater revenue requirement and represents an increase of \$5.4 million less than the \$18.9 million requested by York Water initially. BIE asserts it agreed to the amount of \$13.5 million during negotiations only after it conducted an extensive investigation of the Company's filing and related information obtained through the discovery process to determine the amount of revenue York Water needs to provide safe, effective, and reliable service to its customers. BIE contends the additional revenue is base rate revenue and has been agreed to in the context of a "Black Box" settlement with limited exceptions.

---

<sup>95</sup> *Id.*

<sup>96</sup> *Metro. Edison Co. NUG Audit*, Docket No. D-2009-2093381 (Final Order entered January 30, 2012); *Pa. Pub. Util. Comm'n v. Pa. Power & Light Co.*, 55 PUC 4th 185 (1983).

BIE noted the Commission explained previously that black box settlements are beneficial because of the difficulties in reaching an agreement on each component of a company's revenue requirement calculation.<sup>97</sup> BIE asserts the increased level of "Black Box" revenue adequately balances the interests of ratepayers and York Water, because the Company will receive sufficient operating funds to provide safe and adequate service while ratepayers are protected since the resulting increase minimizes the impact of the initial request. BIE contends mitigation of the level of the rate increase benefits ratepayers and results in rates that are just and reasonable in accordance with the Public Utility Code, regulatory standards, and governing case law.<sup>98</sup>

## 2. Stay-Out Provisions

BIE notes the Company agreed in the Settlement not to file for an increase in distribution water or wastewater base rate revenues for 24 months from the effective date of rates; provided however, that the foregoing provision will not prevent York Water from filing a tariff or tariff supplement proposing a general increase in rates in compliance with Commission orders or in response to fundamental changes in regulatory policies or federal tax policies affecting York Water's rates. BIE points out that utilities are not restricted in when or how often utilities can seek to increase rates, so the presence of this stay out provision benefits customers by providing for a specified time period with rate stability. BIE asserts that York Water will not be prejudiced, as it would be able to seek rate relief if it experiences unforeseeable hardship beyond its own control. For these reasons, BIE requests the Commission approve the stay out provision of the Settlement as in the public interest.

---

<sup>97</sup> See, Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm'n v. Wellsboro Electric Co.*, Docket No. R-2010-2172662, Public Meeting, Jan. 13, 2011, in which he said the "[d]etermination of a company's revenue requirement is a calculation that involves many complex and interrelated adjustments affecting revenue, expenses, rate base and the company's cost of capital. To reach an agreement on each component of a rate increase is an undertaking that in many cases would be difficult, time-consuming, expensive and perhaps impossible. Black box settlements are an integral component of the process of delivering timely and cost-effective regulation." See also, Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm'n v. Citizens' Electric Co. of Lewisburg*, Docket No. R-2010- 2172665, Public Meeting, Jan. 13, 2011.

<sup>98</sup> 66 Pa.C.S. § 1301.

3. Settlement Amortizations

BIE notes the Settlement addresses several water amortizations which are to be reflected in the base rate allowance but points out it did not submit any testimony regarding pension expense. However, BIE contends it supports this Settlement term as it was necessary to facilitate a collective resolution of this case.

4. Covid-19 Related Uncollectible Deferrals and Incremental Expenses

BIE contends the Settlement clarifies that YWC did record COVID-19 related deferrals for uncollectibles and COVID-19 related incremental expenses. BIE asserts any future claim for similar deferred accounting treatment must be based on Commission action after the effective date of new rates in this proceeding. Through its witness Walker, BIE argued YWC should not be allowed to make any future claims for COVID-19 related uncollectible accounts expense or other COVID-19 related incremental expenses in future proceedings except for claims based on Commission action.<sup>99</sup> BIE asserted it supports this Settlement term as it resolves BIE's concern and is in the public interest.

5. Tangible Property Regulations

BIE notes the signatories agree the Company will continue to amortize the benefit of the catch-up deduction permitted under the Internal Revenue Service's tangible property regulations established by the Commission-approved settlement of the Company's 2018 base rate case. BIE points out the amortization is without interest and without deduction of the unamortized balance from base rate, and this term originated from a previous settlement and is simply memorialized in the instant Settlement.

---

<sup>99</sup> I&E Statement No. 1-SR, p. 22.

## 6. Pension Contributions

BIE notes the signatories presume the rates should provide for recovery of a cash contribution to pensions in the amount of \$1,556,000. BIE points out York Water Company commits to deposit such amount into its pension trust on an annual basis during the period that rates under this Settlement remain effective, provided that such deposit does not exceed the deductibility limits under the Internal Revenue Code. BIE also notes York Water agrees to contribute the minimum required contribution under IRC Section 430 if the minimum required contribution under Section 430 of the Internal Revenue Code exceeds \$1,556,000. BIE points out York Water Company will continue to account for differences between the cash contribution and the pension cost calculated pursuant to FASB ASC 715-20 and FASB ASC 715-30, until changed by agreement of the signatories or by Commission Order, as follows:

The Company has calculated and accrued on its books of account its pension liability incurred for its present employees under the terms of FASB ASC 715-20 and FASB 715-30. The Company makes cash contributions into qualified trusts to fund its pensions. The amount contributed is determined annually pursuant to actuarial studies that use criteria which may be different from criteria used under FASB ASC 715-20 and FASB 715-30. For financial reporting purposes, the Company will record the amount accrued in excess of the cash contribution as a regulatory (deferred) asset in accordance with FASB ASC 980 until the cash amount equals or exceeds the accrual. When the cash contribution exceeds the accrual amount, the Company will correspondingly reduce the regulatory (deferred) asset. For ratemaking purposes in the future, the Company will continue to use cash contributions plus pension administrative costs as the basis for its ratemaking claim for pension expense.

Settlement ¶¶ 46

BIE acknowledges it did not submit any testimony regarding pension expense, however, it contends it supports this Settlement term as it was necessary to facilitate a collective resolution of this case.

## 7. State Income Taxes and STAS

BIE notes the signatories agreed the state income tax rate will be set at 8.99% and has been reflected in the settlement revenue requirement. Further, the Company agreed to reflect subsequent state tax adjustments to the state income tax rate for the post-2023 tax years through the Company's State Tax Adjustment Surcharge or future base rate proceedings. BIE points out that, pursuant to the provisions of 52 Pa. Code § 69.55, the STAS for York Water Company will be reset to 0.00% effective with the effective date of rates. Future changes to state tax rates will be reflected either through the STAS or base rate changes.

BIE asserts this term addresses BIE's concerns that the Company change its Pennsylvania income tax rate to reflect the rate that would be in effect for the Company's FPFTY in compliance with Pennsylvania House Bill 1342 or Act 53 of 2022.<sup>100</sup> BIE contends it supports this term as it is within the public interest and is consistent with BIE testimony.

## 8. DSIC

BIE points out the signatories agreed the water Distribution System Improvement Charge for York Water Company would be established at 0% of billed revenues effective with the effective date of Settlement Rates. The DSIC shall remain at 0% of billed revenues until the later of: (i) the end of the FPFTY; or (ii) the quarter following the point in time at which York Water's total claimed account balances, net of plant funded with customer advances and customer contributions, exceed the levels projected by York Water as of February 29, 2024 (*i.e.*, the end of the FPFTY).<sup>101</sup> for a total of \$479,137,436 in utility plant in service. The signatories included the foregoing provision solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in base rate in a FPFTY filing.

---

<sup>100</sup> I&E Statement No. 1, p. 20.

<sup>101</sup> *See*, Exhibit Nos. FV-12-4 (\$529,635,106), FV-16-3 (\$41,859,847) and FV-16-4 (\$8,637,823).

For purposes of calculating the DSIC, BIE notes the signatories agree York Water Company will use the equity return rate for water utilities contained in the Commission's most recent Quarterly Report on the earnings of Jurisdictional Utilities and will update the equity return rate each quarter consistent with any changes to the equity return rate for water utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa.C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1).

BIE acknowledges it did not submit testimony regarding the above DSIC issues. However, BIE was involved in discussion of these issues, and fully vetted the issues during settlement negotiations. Accordingly, BIE contends it fully supports these negotiated settlement terms.

#### 9. FTY and FPFTY Reporting Requirements

BIE notes York Water Company agreed it will provide TUS, BIE, OCA and OSBA, on or before June 1, 2023, an update to York Water's Exhibit Nos. FIV-12-1 and FIV-12-1W, which will include actual capital expenditures, plant additions and retirements for the twelve months ended December 31, 2022 (i.e., York Water's Future Test Year). In addition, YWC agreed that, on or before June 1, 2024, York Water will update Exhibit Nos. FIV-12-4 and FIV-12-4W, which will include actual capital expenditures, plant additions and retirements through February 29, 2024 (i.e., York Water's Fully Projected Future Test Year).

BIE believes such information is important to verify projections and such data allows the Commission to gauge the accuracy of projected investments in future proceedings. York Water agreed to report this information, and BIE supports this settlement provision.

#### 10. Low-Income Programs

BIE points out the signatories' agreement to increase funding from \$20,000 to \$40,000 annually to the Cares Program should be approved consistent with the Company's proposal. As part of that agreement, YWC agrees it will include information about the Cares

Program and the arrears forgiveness program on its website within 30 days following the entry of a Commission Order approving this Settlement.

In addition, BIE notes the Company agrees to undertake an analysis to estimate the number of low-income customers on its water and wastewater systems, as well as a usage profile of its known low-income customers to be presented as part of its next base rate case. BIE points out the Company agrees to conduct an analysis of the estimated costs, potentially eligible customers, and impact on non-eligible customers, of a potential bill discount program within 18 months of the issuance of a final order in this proceeding. Further, BIE notes the Company will meet with the parties within 30 days after the analysis is completed, and the Company agrees to propose a pilot low-income bill discount program for residential water and wastewater service in its next base rate proceeding.

BIE acknowledges it did not take a position on York Water's customer assistance programming but contends BIE supports these terms and opines the terms are in the public interest for several reasons. First, BIE asserts that ensuring low-income customers have access to financial assistance is in the public interest because it will better facilitate these customers' access to water and wastewater service. Increasing low-income customers' access to water and wastewater service is consistent with the Code's policy of ensuring that service remains available to all customers on reasonable terms and conditions.<sup>102</sup> BIE contends that improving outreach to better inform customers of available assistance opportunities will help ensure that York Water's programming is known to those in need. Accordingly, BIE avers that York Water's low-income customer assistance program commitments are in the public interest.

## 11. Customer Service

BIE notes York Water Company agrees to increase its customer service as part of the Settlement. First, the Company agrees to take such action as required to meet its 2020 call center performance annual results prior to filing its next base rate case or within two years, whichever is sooner, including to provide a report 30 days prior to filing its next base rate case or

---

<sup>102</sup> 66 Pa.C.S. § 1402(3).

within two years, whichever is sooner, that will show each year's annual call center performance compared to the 2020 call center performance results.

Second, the Company agrees to update its training materials, including information relevant to the Discontinuance of Leased Premises Act, obligations and policies governing Protection from Abuse Orders, the customer's rights to dispute York Water's response to questions and concerns, and the policies that will be implemented when personal contact is initiated immediately prior to termination of service, within two (2) years of the issuance of a final order in this proceeding. BIE points out YWC agrees to make explicit its commitment to developing payment arrangements based on the customer's individual circumstances as part of its commitment to develop more detailed training materials for its customer call center and other staff. The Company will also develop a process for oversight and compliance monitoring. The Company will submit the updated training materials within two (2) years of a final order in this proceeding and further agrees to document how its training is conducted and how ongoing compliance is audited.

BIE points out York Water Company agrees to establish a database to document all customer disputes, and formal and informal complaints, as those terms are defined in 52 Pa. Code § 56.2, for both water and wastewater operations. The database shall include customer account information, address, date of dispute or complaint, the type of issues raised by the dispute or complaint, and the resolution of the dispute or complaint. The Company shall document its development of the database in a compliance filing within twelve (12) months of a final order in this proceeding. The Company agrees to make the complaint log available to parties as part of discovery in its next base rate case. Further, York Water's water and wastewater tariffs will be amended to include the essential consumer protections set forth in Chapter 56. York Water will submit tariff supplements containing those amendments within twelve (12) months of a final order in this proceeding.

Finally, BIE notes York Water agrees to continue not to include any City of York refuse charges on its bills for York Water, water and wastewater service and will continue not to threaten termination of service for nonpayment of City of York refuse charges. Any charges

collected for City of York refuse charges shall be remitted directly to the City of York without any impact on the amount due for York Water regulated services. York Water will disclose on its web portal and on its bills issued on behalf of the City of York that York Water will not threaten or undertake termination of water service for non-payment of City of York refuse charges.

While BIE acknowledges it did not address these matters in testimony, BIE notes it supports these Settlement terms as important terms that will both improve York Water's customer service and improve customers' access to quality service from York Water. Accordingly, BIE opines these terms are in the public interest.

## 12. Revenue Allocation and Rate Design.

BIE notes the agreed-upon Settlement rates will allocate a portion of York Water Company's wastewater revenue requirement to its water customers in accordance with Section 1311(c) of the Public Utility Code.<sup>103</sup> The Company originally proposed to limit wastewater customer rates at 35%.<sup>104</sup> BIE points out it argued that limiting wastewater customer rates at 35% was unfounded as the Company did not provide any studies, analysis, supporting back-up information and decreased the allocation by increasing wastewater rates.<sup>105</sup> For that reason, BIE argues it supports the revenue allocation put forward by the Settlement as it reduces the allocation to water customers but also limits the wastewater customers' rate increase to 45.6%. BIE opines the settled upon revenue allocation is within the public interest.

BIE notes the signatories agree the residential customer charge for the 5/8" by 3/4" meter size (5/8" customer charge) will be set at \$17.25 per month. BIE points out York Water originally proposed an increase to the 5/8" customer charge to \$20.71 per month, an increase of \$4.46 per month to the current charge, while BIE recommended the customer charge

---

<sup>103</sup> 66 Pa.C.S. § 1311(c).

<sup>104</sup> York Water Statement No. 103, pp.10-11.

<sup>105</sup> I&E Statement No. 3, pp. 5-6.

be included in any scale back of rates.<sup>106</sup> BIE asserts the Settlement represents a compromise between the parties as the customer charge increase is limited and the Company receives an increase in order to maintain safe and reliable water service.

BIE notes the Company agrees to provide an analysis including, but not limited to, proof of revenue, bill frequency, and bill comparison showing a reduction in the existing 4,000-gallon usage allowance for wastewater customers to a 2,000-gallon allowance in its next base rate case. This analysis would be provided to support a rate design proposal that includes a maximum allowance of 2,000 gallons. BIE believes that this term is within the public interest and moves the Company closer to eliminating the usage allowance in future base rate proceedings consistent with BIE testimony. BIE contends these issues were addressed by BIE in testimony and were thoroughly vetted in settlement negotiations. York Water's proposed distribution of revenue among customer classes and rate design generally was a matter of interest to all parties in the proceeding. Settlement discussions in these matters were extensive and these settlement terms reflect compromise among all interested parties. Accordingly, BIE fully supports all settlement terms related to revenue allocation and rate design.

### 13. Conclusion

Overall, BIE contends acceptance of this proposed Settlement is in the public interest and by resolving these issues by settlement rather than continued litigation, the parties are avoiding the additional time and expense involved in formally pursuing all issues in this proceeding. Increased litigation expenses may have impacted the increase in revenue agreed to in the Settlement. As litigation of this rate case is a recoverable expense, curtailment of these charges is in the public interest.

BIE further contends the Settlement will negate the need to engage in additional litigation including the preparation of Main Briefs, Reply Briefs, Exceptions and Reply Exceptions. BIE asserts the avoidance of further rate case expense by settlement of these provisions in this Base Rate Investigation proceeding best serves the interests of York

---

<sup>106</sup> I&E Statement No. 3, p. 20.

Water and its customers. The Settlement is conditioned upon the Commission's approval of all terms and conditions contained therein and should the Commission fail to approve or otherwise modify the terms and conditions of the Settlement, BIE notes the signatories may withdraw the Settlement. BIE agrees to settle the disputed issue as to the proper level of additional base rate revenue through a "Black Box" agreement with limited exceptions. BIE argues its agreement to settle this case is made without any admission or prejudice to any position that BIE might adopt during subsequent litigation or in the continuation of this litigation in the event the Settlement is rejected by the Commission or otherwise properly withdrawn by any of the signatories.

BIE notes if the ALJ recommends that the Commission adopt the Settlement Agreement as proposed, BIE has agreed to waive the right to file Exceptions with respect to the agreed upon terms in the Settlement. However, BIE asserts it has not waived its rights to file Exceptions with respect to any modifications to the terms and conditions of the Settlement, or any additional matters, that may be proposed by the presiding officer in a Recommended Decision. BIE also reserves the right to file Reply Exceptions to any Exceptions that may be filed by any active party to this proceeding.

B. OCA's Statement in Support

1. Revenue Requirement

OCA supports the Settlement provisions concerning revenue requirements and notes York Water Company originally sought an increase of \$18,853,737 for the water utility, and \$1,456,793 for the wastewater utility.<sup>107</sup> OCA asserts it advocated for and supported a revenue requirement increase of \$7,001,522 for the water utility and \$104,786 for the wastewater utility.<sup>108</sup> However, it agreed with the other signatories to a total revenue requirement increase

---

<sup>107</sup> OCA St. 1 (REVISED) at 7.

<sup>108</sup> *Id.*; Exh. Errata MEG-2.

of \$13.5 million, with \$11.6 million of that increase being additional water base rate revenues, and \$1.9 million being wastewater base rate revenues.

OCA argues this reduction in revenue requirement, from the as-filed position of the Company, will benefit consumers because, while the agreed-upon revenue requirement is higher than the amount OCA supported and proposed in litigation, this negotiated resolution is still in the interest of consumers. OCA contends – with the uncertainty of litigation – the result for the Revenue Requirement was likely to have been higher than either what OCA had proposed or than what was settled upon. OCA believes that this settlement, both as a whole and concerning this portion, is in the public interest, having factored in this uncertainty with the other benefits gained from the Settlement.

## 2. Stay-Out Provisions

OCA notes the Company agreed to a stay-out period of 24-months (from the date of effective rates) which means the Company cannot file a rate case prior to March 1, 2025. OCA argues it supports this stay-out period, as the stay-out promise from the Company is in favor of the consumers and ensures the consumers will not face a rate increase within the 24-month period. OCA contends this stay-out period benefits consumers, is something that would not have resulted had the case been litigated and is in the public interest.

## 3. Settlement Amortizations

OCA notes the Settlement modifies the Company's as-filed proposed accounting treatment for some of the water and wastewater systems acquired since YWC's last base rate case.<sup>109</sup> OCA points out the Company identified positive acquisition adjustments for the Wrightsville Municipal Authority (Wrightsville), Felton Borough, and West Manheim Township (West Manheim), and negative acquisition adjustments for the Jacobus Borough Sewer Authority

---

<sup>109</sup> Settlement ¶¶ 41-42.

(Jacobus) and Letterkenny Municipal Authority.<sup>110</sup> OCA had opposed the positive acquisition adjustments for Wrightsville and Felton, and the negative acquisition adjustment for Jacobus. Further, OCA notes that it presented the testimony of two witnesses who identified how the Company had not met the positive acquisition adjustment standard for Wrightsville.<sup>111</sup> OCA avers the Company withdrew its request for a positive acquisition adjustment for Wrightsville in response. OCA contends the Settlement addresses the remaining positive acquisition adjustment for Felton and the negative acquisition adjustments for Letterkenny and Jacobus.<sup>112</sup>

OCA opposed the inclusion of the Company's claimed positive acquisition adjustment for Felton because OCA contended the adjustment did not meet the requirements of 66 Pa. Code § 1327(a)(3).<sup>113</sup> OCA notes the signatories agreed to cut in half the proposed wastewater positive acquisition adjustment for Felton<sup>114</sup> and OCA believes this reduced adjustment is a reasonable compromise, is in the public interest given the evidence presented by the parties, and is a likely litigation outcome.

OCA also opposed YWC's proposed negative acquisition adjustment for the Jacobus acquired system on the basis that YWC did not show the purchase was a matter of substantial public interest and eligible for such accounting treatment, pursuant to 66 Pa. Code §1327(e). OCA points out the Settlement does not include the disputed Jacobus negative acquisition adjustment, and the Jacobus acquisition will be included in rates at the lower purchase price, rather than the higher depreciated original cost. OCA contends the inclusion of the acquisition is a proper result.

OCA submits the proposed positive and negative acquisitions at issue should be approved by the Commission.

---

<sup>110</sup> OCA did not oppose the negative acquisition treatment for Letterkenny. OCA St. 2 at 1, 7.

<sup>111</sup> OCA St. 2 at 5-6; OCA St. 6 at 13.

<sup>112</sup> Settlement ¶¶ 41-42.

<sup>113</sup> OCA St. 2 at 6-7; OCA St. 6 at 12, 14-16.

<sup>114</sup> Settlement ¶¶ 41-42.

#### 4. Covid-19 Related Uncollectible Deferrals and Incremental Expenses

OCA acknowledged it did not address in testimony the treatment of COVID-19 related uncollectible deferrals and incremental expenses. In the settlement, York Water Company confirmed it had not recorded any COVID-19 related deferrals for uncollectibles, or any COVID-19 related incremental expenses, and the Company agreed that any future claim for similar deferred accounting must be based on Commission action after the effective date of the new rates of this proceeding. OCA contends it supports this provision as a part of the settlement, as in the public interest.

#### 5. Tangible Property Regulations

OCA acknowledges it did not address in testimony the treatment of tangible property regulations but points out that, in the Settlement, York Water Company agreed to continue to amortize the benefit of the catch-up deduction permitted by the tangible property regulations, as established by the Commission-approved 2018 base rate case for the Company. YWC agreed this amortization is without interest and without deduction of the amortized balance from the rate case, and the amortization is subject to adjustment in future cases if the IRS determines YWC is not eligible for the full deduction. As such, OCA asserts it supports this section as a part of the Settlement, which as a whole, is in the public interest.

#### 6. Pension Contributions

OCA acknowledges that it did not address in testimony any relevant pension contribution issues.<sup>115</sup> OCA points out YWC agreed, within the Settlement, that the rates will be presumed to provide the recovery of a cash contribution to pensions in the amount of \$1,556,000, and that YWC will deposit such amount into the pension trust annually during the period for which these settlement rates remain effective, provided that the deposit does not exceed Internal

---

<sup>115</sup> OCA notes its witness Mark Garrett made adjustments to remove vacant positions from payroll costs, and these adjustments may have had an effect on the pension expense. OCA St. 1 (REVISED) at 12-13. OCA notes the adjustment in employee vacancy rates was accepted, making the possible adjustment no longer relevant.

Revenue Code deductibility limits. OCA contends the Settlement allows for an increased contribution to the pension trust if the minimum required exceeds \$1,556,000, in which event YWC agreed to make whatever the minimum required amount is under Internal Revenue Code Section 430. OCA asserts it supports the treatment of pension contributions as a part of the Settlement as in the public interest.

#### 7. State Income Taxes and STAS

OCA acknowledges it did not submit testimony regarding state income taxes or STAS which are still relevant. OCA notes the Settlement set the income tax rate at 8.99%, and YWC agreed to reflect subsequent state tax adjustments for the post-2023 tax year through the State Income Tax Adjustment Surcharge or future base rate proceedings.<sup>116</sup> OCA points out York Water Company agreed, in accordance with 52 Pa. Code § 69.55, the STAS will be set reset at 0%.<sup>117</sup> As such, OCA contends it supports the treatment of income taxes and STAS as a part of the Settlement to be in the public interest.

#### 8. DSIC

OCA notes the Company agreed not to charge a DSIC until the end of the FPFTY or the “quarter following the point at which York’s Water’s total claimed account balances, net of plant funded with customer advances and customer contributions, exceed the levels projected by York Water as of February 29, 2024 (*i.e.*, the end of the FPFTY).”<sup>118</sup> OCA points out the Settlement specifies the level of total aggregate plant costs that must be reached before a DSIC may be implemented, as well as the rate of return on equity that the Company will use only for the purposes of calculating the DSIC.<sup>119</sup> Further, OCA notes the Company agreed to provide the actual capital expenditures, plant additions and retirements of the twelve months ending

---

<sup>116</sup> Settlement ¶ 36.

<sup>117</sup> *Id.* ¶ 37.

<sup>118</sup> Settlement ¶ 47.

<sup>119</sup> *Id.* ¶¶ 47, 48.

December 31, 2022, on or before June 1, 2023, and provide a further update through February 29, 2024.<sup>120</sup> OCA argues these provisions help to ensure the DSIC will be calculated properly and prevent duplicate recovery of DSIC-eligible expenditures in base rates and the DSIC.

#### 9. FTY and FPFTY Reporting Requirements

OCA notes the Company agreed to update its exhibits to include actual capital expenditures, retirement, and plant additions for the twelve months ending December 31, 2022. Further, it points out the Company agreed to update these exhibits on or before June 1, 2023, and agreed to further update exhibits to include actual capital expenditures, retirement, and plant additions for the twelve months ending December 31, 2023 by June 1, 2024. OCA contends it supports these updates, as the updates will help to show the accuracy of the FTY and the FPFTY. OCA argues this improved accuracy, and additional data, benefits consumers by ensuring the projections, used to set rates and negotiate settlements, are accurate. Accordingly, OCA supports the reporting requirements listed in the Settlement and submits that these requirements are in the public interest

#### 10. Low-Income Programs

OCA discussed two low-income program issues in its Statement in Support: the CARES Program, and the Low-Income Discount Program.

##### a. Low Income Customer Assistance Program

First, OCA notes the Company agreed to implement its proposal to expand the CARES Program from \$20,000 to \$40,000 in Settlement ¶ 50. OCA points out the Settlement provides that, within 30 days of the entry of final Commission Order approving the Settlement, York Water Company will include information about the CARES Program and the Company's existing arrearage forgiveness program on its website. OCA asserts YWC agreed it will continue

---

<sup>120</sup> *Id.* ¶ 49.

its current process of accepting the required documentation for the Cares program from customers via email and forwarding documents to the social services agencies that administer the program.<sup>121</sup>

OCA explains the CARES Program consists of a one-time bill credit up to \$200 for eligible low-income customers, plus the Company operates a small arrearage forgiveness program to reduce water usage.<sup>122</sup> OCA acknowledges it agreed with the Company's proposal to increase the CARES Program budget, but it argued the program should be a *supplement* to a larger bill discount program.<sup>123</sup> OCA also notes it identified concerns the CARES Program and the arrearage forgiveness program were not advertised on the Company's website and the program was limited to only those individuals who could appear in person at one of the two social service agencies in the service territory.<sup>124</sup>

OCA submits the proposed Settlement provisions, combined with the proposal to develop a low-income discount bill pilot program in the next base rate proceeding and to perform a low-income customer analysis, will work together to develop a more robust assistance program for low-income customers in the future. OCA also contends the Settlement addresses OCA's specific concerns regarding publication of the program information on the Company's website and clarifying that customers can apply for assistance via email if they are unable to go to one of the two social services agencies in person. OCA submits the Settlement provisions are in the public interest and should be approved

---

<sup>121</sup> Settlement ¶ 50.

<sup>122</sup> OCA St. 5 at 18.

<sup>123</sup> *Id.* at 20.

<sup>124</sup> *Id.* at 19-20.

b. Low-Income Discount Program

OCA contends the existing CARES Program was not enough to address the needs of the Company's low-income customer population<sup>125</sup> and that, while the CARES Program helped a small group of customers by halting terminations, the program did not address the overall affordability of the Company's water and wastewater rates for low-income customers. OCA argues it recommended York Water Company implement a low-income bill discount program similar to the program developed by Community Utilities and other Pennsylvania water and wastewater utility companies.<sup>126</sup> OCA notes it recommended the Company should complete an analysis of its low-income customer population to determine better what the needs of the low-income community were.

OCA contends the Settlement directly addresses its recommendations and provides the Company will complete an analysis to estimate better the number of low-income customers on its water and wastewater systems plus provide a usage profile of the known low-income customers.<sup>127</sup> OCA asserts the Settlement calls for the analysis to be presented within the Company's next base rate proceeding, as well as requiring YWC to conduct an analysis of the "estimated costs, potentially eligible customers, and impact on non-eligible customers, of a potential bill discount program within 18 months of the issuance of a final order in this proceeding."<sup>128</sup> OCA points out the Company agreed to meet with the signatories within 30 days after the analysis is completed.

Further, OCA points out the Settlement provides for the Company to propose a pilot low-income discount program for residential water and wastewater service in Settlement ¶ 52. OCA asserts the proposed analysis, with a meeting after the analysis is completed, will help the Company to assess the needs of its low-income customer community and work towards

---

<sup>125</sup> OCA St. 5 at 19-20.

<sup>126</sup> *Id.* at 20.

<sup>127</sup> Settlement ¶ 51.

<sup>128</sup> Settlement ¶ 51.

providing more affordable water and wastewater bills for low-income customers. OCA contends the analysis and discussion will help to inform the pilot bill discount program the Company develops for the next base rate proceeding, and a low-income discount program will help York's low-income water and wastewater customers to improve affordability for these essential services. Lastly, OCA argues the proposed analysis of the low-income customer community in the service territory and the pilot discount program are in the public interest and should be approved.

## 11. Customer Service

OCA discussed four customer service issues in its Statement in Support: the Call Center performance; the handling of customer complaints and dispute; tariff updates; and City of York refuse charges.

### a. Call Center Performance

OCA contends Call Center performance is a critical component of the customer service provided by YWC, and the performance is crucial for customers to have access to a reasonable level of customer service, including the consumer protections and complaint handling requirements included in the Commission's Chapter 56 regulations.<sup>129</sup> OCA points out YWC primarily relies upon a small call center, staffed by ten full time customer service representatives, as the primary method by which customers can communicate with the Company and has one office located in downtown York where customers can conduct business in person.<sup>130</sup> OCA notes YWC's customers can pay bills via mail, the online web portal or via the interactive voice response system (IVR), but OCA notes only 14% of YWC's customers are enrolled in automatic bill pay.<sup>131</sup>

---

<sup>129</sup> OCA St. 5 at 6.

<sup>130</sup> OCA St. 5 at 6.

<sup>131</sup> *Id.*

OCA contends it examined the ability of YWC's Call Center to answer calls in a timely manner and its ability to avoid a significant caller abandonment rate (the percentage of calls in the queue to be answered that are abandoned due to a long wait time).<sup>132</sup> After reviewing the Company's performance statistics from 2020 through the first half of 2022, OCA argues it identified concerns with the deterioration in performance, from 2021 through the first half of 2022, provided by this critical core utility service.<sup>133</sup> OCA contends the Settlement addresses its modified recommendation, after negotiations between the signatories, in Settlement ¶ 53, which provides:

[t]he Company agrees to take such action as required to meet its 2020 call center performance annual results prior to filing its next base rate case or within two years, whichever is sooner. The Company will provide a report 30 days prior to filing its next base rate case or within two years, whichever is sooner, that will show each year's annual call center performance compared to the 2020 call center performance results.

Settlement ¶ 53.

OCA submits, based on the Company's historic performance, the 2020 call center performance standard should be an achievable goal for the Company and will greatly improve the Call Center performance from 2021 and 2022 to date. OCA argues it is crucial that YWC's customers have the ability to reach the call center and for the call center to address customer concerns in a timely manner. Accordingly, OCA submits the Settlement provision is in the public interest and should be adopted.

b. Handling of Customer Complaints and Disputes

OCA contends it raised concerns regarding how the Company handles customer complaints and disputes and the Settlement provisions include a mechanism to improve the Company's training materials and the development of a customer complaint log, in Settlement ¶¶

---

<sup>132</sup> *Id.* at 6-7.

<sup>133</sup> *Id.*; Exh. BA-2.

54-55.<sup>134</sup> OCA asserts it examined the Company’s performance regarding customer complaints, including reviewing the Company’s data presented in the Bureau of Consumer Services’ quarterly Consumer Activities and Report Evaluation for Pennsylvania electric, gas, telephone and water utilities, and reviewing the Company’s training materials.<sup>135</sup> OCA asserts it found the training materials did not include information about how to handle a customer dispute or take action in response to a dispute. OCA’s witness specified the missing materials included “a table of contents and an outline of training topics that does not identify disputes or complaints as a training topic.”<sup>136</sup> OCA also contends YWC did not maintain any internal complaint dispute performance metrics, but instead relied upon its low incidence of BCS complaints and violations as compared to larger Pennsylvania water utilities.<sup>137</sup>

OCA notes it initially recommended York Water Company should be required to adopt revised and updated training materials with revisions to its database to ensure all disputes and complaints are identified, tracked and evaluated on a regular basis.<sup>138</sup> OCA also recommended the Company should revise its current database system to identify a dispute and track the resolution through the process of management review and resolution.<sup>139</sup> OCA points out it particularly suggested the complaint analysis should include payment arrangement disputes because payment arrangements are an essential component of adequate and reasonable service.

Further OCA asserts it claimed the Company did not maintain a detailed customer complaint log and, since the Commission requires utilities to maintain records of complaints for five years, OCA recommended YWC should submit a complaint log that: (1) “includes all complaints or records of customer disputes received by phone, online, and in writing, (not just those filed with the Commission),” and (2) “submit the listing of complaints in live Excel format,

---

<sup>134</sup> OCA St. 5 at 11-13; Exh. BA-4.

<sup>135</sup> OCA St. 5 at 11.

<sup>136</sup> *Id.* at 11-12; Exh. BA-4.

<sup>137</sup> OCA St. 5 at 12.

<sup>138</sup> *Id.* at 13.

<sup>139</sup> *Id.*

including providing more specific details of the complaints as discussed above, and also indicating the final disposition of the complaint.”<sup>140</sup> OCA also argued the Company should maintain records of water system complaints and wastewater system complaints to include certain data that can be sorted by date and location.<sup>141</sup>

Further, OCA recommended the Company should undertake a review and reform of its training materials and oversight policies to ensure that a proper level of detail is provided to inform customer service representatives and customers about the rights, remedies and responsibilities set forth in Chapter 56. OCA argued “the current training program is insufficient, inadequate, particularly when considered in light of the failure to properly identify, track and resolve customer disputes and complaints.”<sup>142</sup>

OCA contends herein that Settlement ¶ 54 addresses its concerns regarding the Company’s handling of customer complaints and disputes in two ways. First, under Settlement ¶ 54, the Company agrees to update its training materials, “including information relevant to the Discontinuance of Leased Premises Act, obligations and policies governing Protection from Abuse Orders, the customer’s rights to dispute York Water’s response to questions and concerns.” Further, the Settlement provides the new policies will be implemented, when personal contact is initiated immediately prior to termination of service, within two years of the issuance of the Commission’s final Order in this proceeding. Moreover, OCA points out the Settlement specifies, in Settlement ¶ 54, that:

[a]s part of its commitment to develop more detailed training materials for its customer call center and other staff, York Water will make explicit its commitment to developing payment arrangements based on the customer’s individual circumstances. The Company will also develop a process for oversight and compliance monitoring. The Company will submit the updated training materials within two (2) years of a final order in this

---

<sup>140</sup> OCA St. 6 at 6.

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

<sup>142</sup> *Id.* at 14.

proceeding. The Company further agrees to document how its training is conducted and how ongoing compliance is audited.

Settlement ¶ 54.

Second, the Company agrees to establish a database to document all customer disputes, and formal and informal complaints, as those terms are defined in 52 Pa. Code § 56.2, for both water and wastewater operations, in response to the concerns raised by OCA about the tracking of customer complaints.<sup>143</sup> Consistent with OCA’s recommendations, the Company agrees the database shall include “customer account information, address, date of dispute or complaint, the type of issues raised by the dispute or complaint, and the resolution of the dispute or complaint.” Further, OCA notes the Settlement, at Settlement ¶ 55, provides the Company shall document its development of the database in a compliance filing within twelve months of a final order in this proceeding. OCA also notes the Company agrees to make the complaint log available to the signatories as part of discovery in its next base rate case.

Accordingly, OCA submits that the proposed Settlement provisions are in the public interest and should be approved.

c. Tariff Updates

OCA contends it identified a concern that York Water Company did not include the actual tariff language concerning payment arrangements, dispute resolution, medical emergency, Protection from Abuse Orders, or provisions of the applicable landlord/tenant law and policies, choosing instead to only incorporate by reference Chapter 56.<sup>144</sup> OCA notes it initially recommended YWC revise its tariff to reflect the essential consumer protections included in Chapter 56 and, under the Settlement, York Water Company agrees to amend the water and wastewater tariffs – to include the essential consumer protections set forth in Chapter

---

<sup>143</sup> Settlement ¶ 55.

<sup>144</sup> OCA St. 6 at 22.

56 – within 12 months of a final Commission Order in this proceeding.<sup>145</sup> The addition of this language, combined with the changes to the Company’s training materials, will provide important clarity for consumers regarding the protections available to customers under Chapter 56 of the Commission’s regulations. The Settlement should be approved as in the public interest.

d. City of York Refuse Charges

OCA notes it had concerns with the impact the Company’s agreement with the City of York (to bill and collect charges for water and wastewater service) would have on the call center performance.<sup>146</sup> OCA notes York Water Company experienced a significant increase in the terminations the Company issued, in part, due its agreement with the City of York.<sup>147</sup> OCA points out its identified concerns regarded whether YWC customers were being terminated as a result of the non-utility refuse charges.<sup>148</sup> OCA points out YWC’s agreement with the wastewater service terminated in July 2022 due to Pennsylvania-American Water Company’s acquisition of the City of York’s operations, but York Water Company retains an agreement with the City of York to terminate for refuse contracts.<sup>149</sup>

OCA contends the Settlement addresses OCA’s concerns regarding the potential impact of refuse terminations on YWC’s water and wastewater customers in Settlement ¶ 57, which Settlement provision provides that:

York Water will continue not to include any City of York refuse charges on its bills for York Water, water and wastewater service and will continue not to threaten termination of service for nonpayment of City of York refuse charges. Any charges collected for City of York refuse charges shall be remitted directly to the City of York without any impact on the amount

---

<sup>145</sup> Settlement ¶ 56.

<sup>146</sup> OCA St. 5 at 15-17.

<sup>147</sup> *Id.* at 14-15.

<sup>148</sup> OCA St. 5-SR at 7.

<sup>149</sup> *Id.* at 5-7.

due for York Water regulated services. York Water will disclose on its web portal and on its bills issued on behalf of the City of York that York Water will not threaten or undertake termination of water service for non-payment of City of York refuse charges.

Settlement ¶ 57.

OCA asserts the Settlement specifically provides YWC's customers will not be terminated due to the City of York refuse charges and the charges collected for the City of York will not impact YWC's regulated services. OCA further points out the Company agrees to disclose this information on its website and on bills and agrees to improve its Call Center performance. OCA submits these clarifications to the Company's policies regarding the City of York contract and the other commitments to improve call center performance are in the public interest and should be approved.

12. Revenue Allocation and Rate Design.

a. Combined Water and Wastewater Revenue Allocation

OCA points out the signatories agree in Settlement ¶ 32 that, pursuant to 66 Pa.C.S. § 1311 (c) and the Commission's Implementation Order in Docket No. R-2013-235576, the Settlement rates will allocate a portion of York's wastewater revenue requirement to its water customers.<sup>150</sup> OCA notes the allocation of the annual revenue increase among York's water and wastewater operations is set forth in Appendix C of the Settlement, and under the revenue allocation agreed to by the signatories, the residential customer class will receive an increase of the water revenue requirement of approximately \$6,718,752, or an increase of 19.5%. OCA notes that residential customers will receive a wastewater revenue requirement increase of approximately \$1,663,297, or an increase of 44.8%.

OCA points out that in its original filing, the Company proposed to shift approximately \$2.67 million, or approximately 32% of wastewater revenues to water customers,

---

<sup>150</sup> Settlement ¶ 58, App. C.

pursuant to Act 11. OCA notes it recommended the allocation of the wastewater revenue requirement assigned to water customers be reduced by 25%, or by \$625,000 from \$2,670,856 to \$2,045,856.<sup>151</sup> OCA also notes BIE and OSBA also proposed alternative allocations of the wastewater revenue requirement to the water revenue requirement. In addition to its concerns about the allocation of the wastewater revenue requirement to the water revenue requirement, OCA identified concerns with the systemwide maximum day demand and maximum hour demand factors utilized in the Company's water Class Cost of Service Study (COSS), in addition to identifying concerns with the Company's proposed allocation of the revenue increase to Industrial and Private Fire customer classes.<sup>152</sup> OCA's witness, Mr. Mierzwa proposed his own water COSS to address the issues identified.<sup>153</sup>

OCA points out several parties, including OCA, proposed varied revenue allocations, including recommendations regarding a shift of the as-filed \$2.67 million wastewater revenue requirement to the water revenue requirement. OCA contends the Settlement represents a compromise of a contentious issue and the proposed revenue allocation is a "black box" settlement that does not reflect the position of any party or establish precedent for future proceedings. Based on its review of the cost of service studies presented, OCA contends the Settlement is within the range of reasonable outcomes that would result from full litigation of this case. In addition, OCA contends the Settlement is consistent with the objective of moving rate classes toward their cost of service. Accordingly, OCA submits the Settlement is reasonable, and when accompanied by other important conditions in the proposed Settlement, yields a result that is just and reasonable and in the public interest.

b. Water Rate Design

OCA notes YWC initially proposed to increase the residential customer charge for a customer with a 5/8-inch meter from \$16.25 to \$20.71, but OCA opposed the proposed

---

<sup>151</sup> OCA St. 4 at 23.

<sup>152</sup> *Id.* at 13-15.

<sup>153</sup> *Id.* at 15.

increase because the increase exceeded the Company's per customer direct cost. In the alternative, OCA had recommended no increase to the residential customer charge.<sup>154</sup> OCA notes the signatories agreed, in Settlement ¶ 58, the residential customer service charge would increase from \$16.25 to \$17.25. OCA notes this agreed-upon customer charge (i.e., \$17.25) is significantly lower than the Company's proposed customer charge of \$20.71 and OCA contends the amount is within the range of likely outcomes in the event this case had been fully litigated. OCA submits the \$17.25 customer charge is a reasonable compromise and consistent with sound ratemaking principles and, further, when combined with the lower revenue requirement increase than YWC sought, this rate design results in rates that are significantly below the rates originally proposed by the Company and, therefore, are in the public interest.

c. Wastewater Rate Design

OCA notes BIE initially proposed to eliminate the minimum 4,000-gallon usage allowance for wastewater customers,<sup>155</sup> but OCA expressed concerns about the proposed elimination because the proposed rate structure changes did not provide for appropriate movement toward cost of service rates for the wastewater customer classes served by York Water Company.<sup>156</sup> OCA contended "the minimum allowance should eventually be eliminated; however, it may be appropriate to eliminate the allowance over several rate proceedings so that appropriate movement towards cost of service rates is accomplished in this proceeding."<sup>157</sup> OCA had argued elimination over several rate proceedings would be more consistent with the principles of gradualism. OCA notes the Company's witness (Heppenstall) agreed that BIE's proposal would result in "rate shock" and had recommended reducing the minimum usage allowance by half in this rate case and to eliminate it altogether in the next rate case to avoid rate shock.<sup>158</sup>

---

<sup>154</sup> OCA St. 4 at 18-19, Sch. JDM-3.

<sup>155</sup> I&E St. 3 at 7, 10.

<sup>156</sup> OCA St. 4-R at 8-9.

<sup>157</sup> OCA St. 3-R at 9.

<sup>158</sup> York St. 108-R at 5.

OCA notes the Settlement provides the Company will provide an analysis including the proof of revenue, bill frequency and a bill comparison showing a reduction of the current 4,000-gallon usage allowance for wastewater customers to a 2,000-gallon minimum allowance in its next base rate proceeding.<sup>159</sup> OCA submits the Settlement represents a reasonable compromise and will allow the parties to understand the rate impact on customers of phasing out the minimum rate allowance. OCA expressed concerns about the complete elimination of the minimum rate allowance and recommended a phase-out to avoid rate shock for customers. OCA asserts this proposal addresses those concerns in this proceeding and the next base rate proceeding, while reserving the right of all parties to address the issue as a part of the next base rate proceeding.

### 13. Conclusion

Overall, OCA contends it supports the proposed Settlement and respectfully requests the ALJ and the Commission approve the Settlement in its entirety, for the reasons set forth in the Settlement, as well as the additional factors set forth in its statement. OCA asserts that if the Commission approves the Settlement, the Settlement will do the following:

- Allow York to increase annual water revenues by \$13.5 million above current levels. The Company originally proposed to increase annual water revenues by \$18.9 million. Settlement ¶ 34. Under the Settlement proposal, effective March 1, 2023, the typical monthly water bill for residential gravity customers using 4,525 gallons per month would increase from \$38.93 to \$47.26 per month, or by 21.39%. The typical water bill for residential repumped customers using 3,784 gallons of water per month would increase from \$46.94 to \$55.88 per month, or by 19.05%. Not all customers have typical usage and so actual increases will necessarily vary based on actual customer usage. Settlement ¶ 34.
- Allow the Company to increase annual wastewater revenues by \$1.9 million. Under the Settlement proposal, the typical monthly wastewater bill for customers using 4,000 gallons a

---

<sup>159</sup> Settlement ¶ 59.

month would increase from \$62.50 to \$86.90 per month, or by 39%.

- Under the Settlement, the current monthly fixed customer charge of \$16.25 will increase to \$17.25. York proposed to increase residential water customer charges for customers with from \$16.25 to \$20.71 per month. Lower fixed customer charges increase customers' ability to control their bills through conservation. Settlement ¶ 58.
- Under the Settlement, York will not file for an increase in distribution water or wastewater base rate revenues for at least 24 months from the effective date of rates. ¶ 35.
- The Company confirms it has not recorded any COVID-19 related deferrals for uncollectibles and COVID-19 related incremental expenses. Any future claims related to these must be based on Commission action after the effective date of new rates in this proceeding. Settlement ¶ 44.
- York will undertake an analysis to estimate the number of low-income customers on its water and wastewater systems as well as an analysis of the estimated cost, potentially eligible customers, and impact on non-eligible customers of a potential bill discount program within 18 months of the final order in this proceeding. Settlement ¶ 51.
- In York's next base rate proceeding, the Company will propose a pilot low-income bill discount program for residential water and wastewater customers. Settlement ¶ 52.
- The Company agrees to take actions as required to meet its 2020 call center performance annual results prior to filing its next base rate case or within two years, whichever is sooner. Settlement ¶ 53.
- York will update its training materials, including information relevant to the Discontinuance of Leased Premises Act, obligations and policies governing Protection from Abuse Orders, the customer's rights to dispute York Water's response to questions and concerns, and the policies that will be implemented when personal contact is initiated immediately prior to termination of service, within two years of the issuance of a final order in this proceeding. Settlement ¶ 54.
- The Company will establish a database to document all customer disputes, and formal and information complaints. Settlement ¶ 55.
- The difference between the depreciated original cost and acquisition cost ("negative acquisition adjustment") with

respect to York's acquisition of the Letterkenny Township Municipal Authority will not be amortized or otherwise passed through to ratepayers in this or any future proceeding. Settlement ¶ 42.

Settlement App. G, pp. 2-3.

C. OSBA's Statement in Support

1. Revenue Requirement

OSBA did not specify support for the Settlement terms about this issue in its Statement in Support.

2. Stay-Out Provisions

OSBA did not specify support for the Settlement terms about this issue in its Statement in Support.

3. Settlement Amortizations

OSBA did not specify support for the Settlement terms about this issue in its Statement in Support.

4. Covid-19 Related Uncollectible Deferrals and Incremental Expenses

OSBA did not specify support for the Settlement terms about this issue in its Statement in Support.

5. Tangible Property Regulations

OSBA did not specify support for the Settlement terms about this issue in its Statement in Support.

6. Pension Contributions

OSBA did not specify support for the Settlement terms about this issue in its Statement in Support.

7. State Income Taxes and STAS

OSBA did not specify support for the Settlement terms about this issue in its Statement in Support.

8. DSIC

OSBA did not specify support for the Settlement terms about this issue in its Statement in Support.

9. FTY and FPFTY Reporting Requirements

OSBA did not specify support for the Settlement terms about this issue in its Statement in Support.

10. Low-Income Programs

OSBA did not specify support for the Settlement terms about this issue in its Statement in Support.

11. Customer Service

OSBA did not specify support for the Settlement terms about this issue in its Statement in Support.

12. Revenue Allocation and Rate Design.

OSBA contends when the Commission compares the water revenue increases to the Company’s Commercial class customers proposed by York Water Company, OSBA and OCA to the increase proposed by the Settlement, the Commission will see that the proposed increase in the Settlement reflects a compromise between the signatories’ litigation positions. OSBA points out the water revenue increases reflected in Table 1 include the Settlement’s Act 11 revenue requirement of \$1.3 million.

**Table 1**  
Comparison of York, OSBA and OCA Proposed Commercial Water Increases  
at Joint Petition Revenue Level  
(\$000)

<i>Class</i>	<i>Per Joint Petition</i>	<i>York</i>	<i>OSBA</i>	<i>OCA</i>
Commercial	<b>\$3,072.4</b>	\$2,863.5	\$3,048.1	\$3,326.1

Source: Joint Petition at Appendix C and the  
OSBA’s internal settlement analysis.

OSBA asserts Table 1 shows the Settlement’s proposed increase for the Commercial class water customers is only \$24,300 or 0.2% greater than OSBA’s litigation position. If the Commission had adopted OCA’s litigation position, the overall water increase to the Commercial class (assuming an overall water increase of \$11.6 million) would have been \$3.326 million, which is \$0.254 million greater than proposed by the Settlement. As a result, OSBA concludes the Settlement’s water revenue allocation is a just and reasonable resolution of this issue, is consistent with OSBA’s testimony in this proceeding, and provides a meaningful benefit to the Company’s small business customers, as it eliminates any litigation risk associated with OCA’s proposed increase to commercial customers.

OSBA notes the Company originally proposed to recover \$2.7 million of its claimed wastewater revenue requirement from water service customers under Act 11.<sup>160</sup> OSBA asserts the figure of \$2.7 million represented the difference between York Water Company's total claimed wastewater revenue requirement of \$8.3 million and the Company's total proposed wastewater revenues of \$5.6 million.<sup>161</sup> OSBA contends it opposed the overall magnitude of the proposed shift in wastewater revenue responsibility to the Company's water customers.<sup>162</sup>

OSBA contends it argued for a significantly lower recovery of York Water Company's wastewater revenue requirement from the Company's water customers, in OSBA Statement No. 1, 15-19, but asserts Settlement ¶ 34, affirms OSBA's position and proposes to allocate only \$1.3 million to York Water's water customers. OSBA asserts the Settlement's proposed resolution of this issue is consistent with OSBA's testimony in this proceeding and, accordingly, OSBA submits the Settlement provides a just and reasonable outcome for this issue.

### 13. Conclusion

Overall, OSBA notes the Settlement sets forth a comprehensive list of issues that were resolved through the negotiation process contends it supports the proposed Settlement and respectfully requests the ALJ and the Commission approve the Settlement in its entirety, for the reasons set forth in the Settlement, as well as the additional factors set forth in its statement.

## VII. ANALYSIS

### Analysis of Settlement

Water Supplement No. 143 to Tariff Water – Pa. PUC No. 14 requested an increase to water rates of \$18,853,738 per year and Wastewater Supplement No. 14 to Tariff

---

<sup>160</sup> OSBA St. No. 1, at 10.

<sup>161</sup> OSBA St. No. 1, at 10-11.

<sup>162</sup> *Id.*, at 13.

Wastewater – Pa. PUC No. 1 requested a general increase to wastewater rates of \$1,456,792 per year. Under the Settlement, the signatories agree York Water Company should be permitted to increase annual base rate operating revenue for both water and wastewater service by \$13.5 million, which consists of \$11.6 million in additional water base revenues and \$1.9 million in additional wastewater base revenues, based upon the *pro forma* level of operations for the twelve months ended February 29, 2024.

The signatories request the Commission authorize York Water Company to earn a net increase in annual water revenue of \$11.6 million. Under the Settlement, the average residential water customer using 4,500 gallons per month will see their monthly bill increase from \$38.93 to \$47.26, or a 21.4% increase. Further, under the Settlement, the average commercial water customer using 26,000 gallons per month will see their monthly bill increase from \$116.10 to \$156.05, or a 34.4% increase.

It should be noted that York Water Company provides water and wastewater services to various townships, municipalities and subdivisions, and these rates are separate and distinct from each other. On November 17, 2022 and November 21, 2022, the signatories provided a detailed list of the impact of the new rates for customers in those various locations. A complete list of the impacts is attached hereto and marked as “Attachment A.”<sup>163</sup>

The Settlement is a “black box” settlement, which the Commission usually supports because it encourages parties to reach a resolution without engaging in expensive litigation.<sup>164</sup> By resolving the disputes without litigation, the parties are able to save money and the cost to the ratepayers is not as great as it would be if the matter were litigated fully. However, the Commission must first determine if the proposed terms and conditions within the Settlement are in the public interest. Settlements can eliminate or significantly reduce the time,

---

<sup>163</sup> See Attachment 1, York Water Statement of Support; *see also* Attachment A herein.

<sup>164</sup> *Pa. Pub. Util. Comm’n v. Aqua Pa., Inc.*, Docket No. R-2011-2267958 (Opinion and Order entered June 7, 2012); *Pa. Pub. Util. Comm’n v. Peoples TWP LLC*, Docket No. R-2013-2355886 (Opinion and Order entered December 19, 2013); Statement of Chairman Robert F. Powelson, *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611, Public Meeting, August 2, 2012.

effort, and expense of litigating a proceeding to a final conclusion.<sup>165</sup> This time, effort and expense can be extensive if the proceeding, with the resulting Commission decision, includes review by the Pennsylvania appellate courts. Such savings, by settling, directly benefit the individual parties to a proceeding, the Commission, and the utility's ratepayers by reducing expenses the utility could claim in future rate cases.

It is a well-accepted principle that York Water Company, as a certificated utility, is entitled to recover all reasonably incurred expenses,<sup>166</sup> including such items as the normal cost of operations, maintenance, labor, fuel, administrative costs, depreciation, taxes and improvements made to the water or wastewater facilities.<sup>167</sup> The determination herein is whether the Settlement is in the public interest, and the burden is on the signatories to prove, by substantial evidence, that the Settlement is in the public interest.<sup>168</sup>

Pursuant to Section 1311(c) of the Public Utility Code, York Water Company is permitted, as a certificated utility company, to combine the revenue requirements for both the water and wastewater services it provides and allocate a portion of the wastewater revenue requirement to the water customers, if to do so is in the "public interest."<sup>169</sup>

The presiding officer recommends the Settlement should be approved as the signatories have shown the Settlement is in the public interest and justified as a fair, just, lawful and reasonable resolution of the litigated disputes between the parties. Through the Settlement, the Company agrees to expand the CARES program, to assist its ratepayers who struggle with making payments. Further, the Company has additional costs associated with the acquisition of water and/or wastewater assets when the acquisition costs are greater than or lower than the depreciated original cost of the assets. Pursuant to 66 Pa.C.S. § 1327(a), the excess of the

---

<sup>165</sup> 52 Pa. Code § 5.231(a).

<sup>166</sup> *UGI Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923 (Pa. Cmwlth. 1980).

<sup>167</sup> *Pa. Power Co. v. Pa. Pub. Util. Comm'n*, 561 A.2d 43, 47 (Pa. Cmwlth. 1989).

<sup>168</sup> 66 Pa.C.S. § 704; *Pa. Pub. Util. Comm'n v. Pike County Light & Power*, Docket No. R-2013-2397237 (Opinion and Order entered September 11, 2014).

<sup>169</sup> 66 Pa.C.S. § 1311.

acquisition cost over the depreciated original cost may be added to base rate and be amortized over a reasonable period of time. The signatories dealt with these issues and found a resolution which would permit York Water Company to provide the water and wastewater services to its customers in an adequate and safe manner, while balancing the needs of the ratepayers with the needs of the utility. Further, the signatories showed sufficient justification for transferring a portion of the water rate increase to pay for deficiencies in revenue for the wastewater service, a transfer which is permitted pursuant to 66 Pa.C.S. § 1311 when a water utility provides both water and wastewater services.

Accordingly, the presiding officer recommends the Commission approve the Settlement without modification as it promotes the public interest and is a fair, just, lawful, and reasonable resolution of this proceeding.

#### VIII. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. §§ 701, 1301, 1308(d).

2. To determine whether a settlement should be approved, one must decide whether the settlement promotes the public interest. *See Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991); *Pa. Pub. Util. Comm'n v. Philadelphia Elec. Co.*, 60 Pa.P.U.C. 1 (1985).

3. Every rate made, demanded, or received by any public utility, shall be just and reasonable, and in conformity with regulations or orders of the commission. 66 Pa.C.S. § 1301; *Pa. Pub. Util. Comm'n v. Pa. Gas & Water Co.*, 424 A.2d 1213 (Pa. 1980).

4. The burden of proving the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility. 66 Pa.C.S. § 315(a); *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n*, 409 A.2d 505 (Pa. Cmwlth. 1980); *Pa. Pub. Util.*

*Comm'n v. Pike County Light & Power*, Docket No. R-2013-2397237 (Opinion and Order entered September 11, 2014).

5. While the burden of proof remains with the public utility throughout the rate proceeding, the Commission has stated that where a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00072711 (Opinion and Order entered July 17, 2008).

6. The Commission must consider the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates in exchange for customers paying rates for service, which include the cost of utility plant in service and a rate of return. 66 Pa.C.S. § 523.

7. In exchange for the utility's provision of safe, adequate and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service including reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return for the utility's investors. *Pa. Pub. Util. Comm'n v. Pa. Gas & Water Co.*, 61 Pa.P.U.C. 409 (1986); 66 Pa.C.S. § 1501.

8. The Commission has the discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds the service rendered by the public utility is inadequate. 66 Pa.C.S. § 526(a); *Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d 808 (Pa. 1995).

9. A denial of rate relief, in whole or in part, is warranted where the Commission finds serious deficiencies in the utility's service. *Pa. Pub. Util. Comm'n v. Pa. Gas & Water Co.*, 61 Pa.P.U.C. 409 (1986).

10. The base rate is the value of the property of the utility that is used and useful in providing utility service. *Pa. Power Co. v. Pa. Pub. Util. Comm'n*, 561 A.2d 43 (Pa. Cmwlth. 1989). In the area of adjustment to base rate, the Commission has wide discretion. *Pa.*

*Power & Light Co. v. Pa. Pub. Util. Comm'n*, 516 A.2d 426 (Pa. Cmwlth. 1985); *UGI Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923 (Pa. Cmwlth. 1980); *Duquesne Light Co. v. Pa. Pub. Util. Comm'n*, 99 A.2d 61 (Pa. Super. 1953). However, the adjustments must be supported by sound reasons. *Philadelphia Suburban Water Co. v. Pa. Pub. Util. Comm'n*, 394 A.2d 1063 (Pa. Cmwlth. 1978).

11. The Commission is charged with the duty of protecting the rights of the public. A public utility, whose facilities and assets have been dedicated to public service, are entitled to *no more than* a reasonable opportunity to earn a fair rate of return on shareholder investment. It is the function of the Commission in fixing a fair rate of return to consider not only the interest of the utility but that of the general public as well because the Commission stands between the public and the utility. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 126 A.2d 777 (Pa. Super. 1956).

12. The basic factor in allocating revenue is to have the rates reflect the cost of service. *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010 (Pa. Cmwlth. 2006).

13. A utility which provides both water and wastewater services is permitted to combine the revenue requirements of both water and wastewater services and allocate a portion of the wastewater revenue requirement to the water customers base if in the public interest. 66 Pa.C.S. § 1311.

14. York Water Company's proposed base rate increase and tariff, as modified by the terms of the Settlement, complies with the requirements of the Pennsylvania Public Utility Code. 66 Pa.C.S. §§ 1301, 1308(d); 315(a).

15. The terms of the Joint Petition for Approval of Settlement of All Issues in both base rate cases promotes the public interest and is a fair, just, lawful, and reasonable resolution of this proceeding. 66 Pa.C.S. § 315(a); *See also, Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991); *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, 60 Pa.P.U.C. 1 (1985).

IX. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Pennsylvania Public Utility Commission approve without modification the Joint Petition for Approval of Settlement of All Issues filed on November 4, 2022.

2. That York Water Company – Water, shall not place into effect the rules, rates and regulations contained in Supplement No. 143 to Tariff Water-Pa. P.U.C. No. 14.

3. That York Water Company - Wastewater, shall not place into effect the rules, rates and regulations contained in Supplement No. 14 to Tariff Wastewater-Pa. P.U.C. No. 1.

4. That, upon entry of a final Commission Order in this proceeding, York Water Company - Water, is authorized to file the *pro forma* tariff supplements attached to the Joint Petition for Approval of Settlement of All Issues as Appendices “A” and “B” consistent with the findings herein, to produce annual revenues not in excess of \$65,241,877 which is an increase of \$11.6 million over present revenues.

5. That, upon entry of a final Commission Order in this proceeding, York Water Company - Wastewater, is authorized to file the *pro forma* tariff supplements attached to the Joint Petition for Approval of Settlement of All Issues as Appendices “A” and “B” consistent with the findings herein, to produce annual revenues not in excess of \$6,062,166 which is an increase of approximately \$1,456,792 million over present revenues.

6. That said tariffs or tariff supplements agreed to in the Settlement, may be filed to become effective upon at least one day's notice after entry of the Commission’s Order approving the Settlement, for service rendered on and after March 1, 2023.



**ATTACHMENT A**

Class - Water	Average Usage	Current rate/x gallons	Proposed rate/x gallons	% change from current rate to proposed rate	Settled rate/x gallons	% change from current rate to settled rate
Residential - Gravity	4,525	38.93	53.07	36.3%	47.26	21.4%
Residential - Repump	3,784	46.95	62.33	32.8%	55.89	19.1%
Commercial - Gravity	26,783	116.10	173.35	49.3%	156.05	34.4%
Commercial - Repump	39,021	273.23	397.13	45.3%	357.75	30.9%
Industrial - Gravity	133,186	453.51	673.45	48.5%	611.86	34.9%
Industrial - Repump	308,115	1871.73	2645.94	41.4%	2412.03	28.9%

Class - Wastewater	Average Usage	Current rate/x gallons	Proposed rate/x gallons	% change from current rate to proposed	Settled rate/x gallons	% change from current rate to settled rate
Residential - Asbury Pointe Subdivision	Flat Rate	62.50	80.55	28.9%	86.90	39.0% <sup>1</sup>
Residential - East Prospect Borough and Lower Windsor Township	3,586	62.50	80.55	28.9%	86.90	39.0% <sup>2</sup>
Commercial - East Prospect Borough and Lower Windsor Township	5,491	66.23	91.00	37.4%	98.18	48.2% <sup>2</sup>
Felton Borough	Flat Rate	79.50	80.55	1.3%	86.90	9.3% <sup>1</sup>
Residential - Jacobus Borough	3,570	55.00	80.55	46.5%	86.90	58.0% <sup>2</sup>
Commercial - Jacobus	5,534	62.67	91.31	45.7%	98.50	57.2% <sup>2</sup>
Letterkenny Township	Flat Rate	45.00	80.55	79.0%	86.90	93.1% <sup>1</sup>
Residential - Straban Township	3,465	62.50	80.55	28.9%	86.90	39.0% <sup>2</sup>
Commercial - Straban Township	2,500	62.50	80.55	28.9%	86.90	39.0% <sup>2</sup>
Residential - West Manheim Township	3,333	61.67	75.87	23.0%	83.06	34.7%
Commercial - West Manheim Township	21,383	276.78	291.82	5.4%	316.06	14.2%
Residential - West York Borough	Flat Rate	32.71	55.61	70.0%	60.00	83.4%
Commercial - West York Borough	Flat Rate	40.42	68.71	70.0%	69.55	72.1%

1 - These previously separate rates were combined into a single rate block as part of this base rate case.

2 - These previously separate rates were combined into a single rate block as part of this base rate ca

CUSTOMER CHARGES:

Meter Size	Present Base Rate Per Month	Settlement Base Rate Per Month
5/8	16.25	17.25
3/4	22.30	23.70
1	31.50	33.40
1-1/2	48.50	51.50
2	63.00	66.90
3	151.80	161.10
4	225.90	239.80
6	250.90	266.30
8	481.40	511.00
10	619.50	657.60
12	762.70	809.60

FIRE SERVICE CHARGES:

Type of Connection	Per Month	
	Present	Settlement
<b>GRAVITY SYSTEM:</b>		
Public Fire Hydrant	21.50	25.97
Private Fire Lines:		
2-inch Connection	27.87	34.11
3-inch Connection	37.11	45.42
4-inch Connection	46.38	56.77
6-inch Connection	92.93	113.75
8-inch Connection	185.87	227.50
10-inch Connection	278.85	341.31
12-inch Connection	414.74	507.64
Private Fire Hydrant:		
First Fire Hydrant	37.11	45.42
Each Additional	27.87	34.11
<b>REPUMPED SYSTEM:</b>		
Public Fire Hydrant	30.76	36.36
Private Fire Lines:		
2-inch Connection	40.15	46.47
3-inch Connection	53.50	61.93
4-inch Connection	66.92	77.46
6-inch Connection	133.82	154.90
8-inch Connection	267.77	309.94

10-inch Connection	401.74	465.01
12-inch Connection	599.29	693.68
Private Fire Hydrant:		
First Fire Hydrant	48.60	56.25
Each Additional	36.48	42.23