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File #: 168019

November 20, 2018

VIA ELECTRONIC FILING

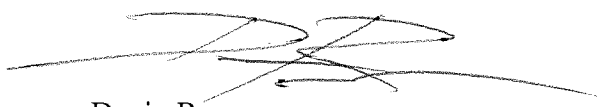
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, The Office of Consumer Advocate, The Office of Small Business Advocate, Michael Eifert v. The York Water Company - Docket Nos. R-2018-3000019, C-2018-3002564, C-2018-3002811, C-2018-3003908

Dear Secretary Chiavetta:

Enclosed please find the Joint Petition for Approval of Settlement in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Devin Ryan

DTR/jl
Enclosures

cc: Certificate of Service
Honorable Benjamin J. Myers

CERTIFICATE OF SERVICE

Docket No. R-2018-300019

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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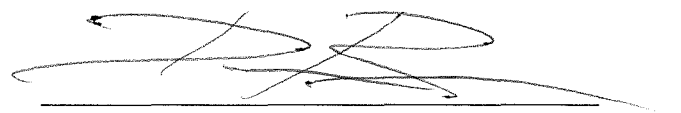
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Michael L. Eifert
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Fairfield, PA 17320

Date: November 20, 2018


Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Nos.	R-2018-3000019
Office of Consumer Advocate	:		C-2018-3002564
Office of Small Business Advocate	:		C-2018-3002811
Michael Eifert	:		C-2018-3003908
	:		
v.	:		
	:		
The York Water Company	:		

JOINT PETITION FOR APPROVAL OF SETTLEMENT

TO ADMINISTRATIVE LAW JUDGE BENJAMIN J. MYERS:

The York Water Company (“York Water” or the “Company”), the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”), parties in the above-captioned proceeding (hereinafter collectively referred to as the “Joint Petitioners”), hereby submit this Joint Petition for Approval of Settlement (“Settlement”) and respectfully request that Administrative Law Judge Benjamin J. Myers (“ALJ”) and the Commission approve this Settlement without modification.¹

As set forth and explained below, the Joint Petitioners have agreed to a settlement of all issues in the above-captioned proceeding. The Settlement provides for increases in rates, as set forth in the form of tariff supplements attached as Appendices “A” and “B” and the proof of revenues for the water and wastewater increases attached as Appendices “C” and “D” to this

¹ A formal customer complaint was filed in this proceeding by Michael Eifert at Docket No. C-2018-3003908. On or about October 15, 2018, counsel for the OCA reached out to Mr. Eifert and informed him of the Settlement. Mr. Eifert then authorized the counsel for OCA to represent that he did not oppose the cancellation of hearings. A copy of the Settlement will be served on Mr. Eifert and he will be provided an opportunity to join in, object to, or comment on the Settlement.

Petition, respectively, designed to produce a total increase in annual base-rate operating revenues of \$3,650,000, which consists of an increase in base rate water revenues of approximately \$3,361,375, and an increase in base rate wastewater revenues of approximately \$288,625.

In support of this Settlement, the Joint Petitioners state the following:

I. BACKGROUND

1. On May 30, 2018, York Water filed with the Commission Supplement No. 130 to its Tariff Water – Pa. P.U.C. No. 14 (“Supplement No. 130”) and Supplement No. 6 to Tariff Wastewater – Pa. P.U.C. No. 1 (“Supplement No. 6”), along with supporting testimony and information required by 52 Pa. Code §§ 53.52 and 53.53. In Supplement No. 130, York Water proposed a general increase in water base rates of \$6,398,961 per year, and in Supplement No. 6, the Company proposed a general increase in wastewater base rates of \$288,623 per year.

2. On June 7, 2018, the OCA filed a Notice of Appearance, Complaint, and Public Statement.

3. On June 11, 2018, I&E filed a Notice of Appearance.

4. On June 14, 2018, the Commission entered an Order suspending Supplement No. 130 and Supplement No. 6 by operation of law until March 1, 2019, unless otherwise directed by Order of the Commission.

5. On June 15, 2018, a Prehearing Conference Order was issued, scheduling the prehearing conference.

6. On June 19, 2018, the OSBA filed a Notice of Appearance, Complaint, Public Statement, and Verification.

7. The prehearing conference was held as scheduled on June 26, 2018, before the ALJ.

8. On June 27, 2018, the ALJ issued an Order consolidating the proceedings at Docket Nos. R-2018-3000019, C-2018-3002564, and C-2018-3002811.

9. On June 28, 2018, the ALJ issued a Scheduling Order setting forth the procedural schedule and certain procedural rules for the proceeding.

10. On July 10, 2018, York Water served supplemental written direct testimony and exhibits.

11. On July 16, 2018, York Water filed a Petition for Protective Order as well as a corrected Exhibit No. FIV-17-10.

12. On July 18, 2018, the ALJ issued an Order granting the Petition for Protective Order.

13. On August 9, 2018, Michael Eifert filed a Formal Complaint at Docket No. C-2018-3003908 against York Water's requested water revenue increase.

14. On August 20, 2018, York Water filed an Answer to Michael Eifert's Complaint.

15. On August 23, 2018, I&E, OCA, and OSBA served their written direct testimony and exhibits.

16. On August 27, 2018, the ALJ issued an Order consolidating the proceedings at Docket Nos. R-2018-3000019, C-2018-3002564, and C-2018-3002811 with the proceeding at Docket No. C-2018-3003908.

17. On September 7, 2018, Michael Eifert filed a Reply to York Water's Answer.

18. On September 20, 2018, York Water, OCA, and OSBA served their written rebuttal testimony and exhibits.

19. On October 4, 2018, I&E, OCA, and OSBA served their written surrebuttal testimony and exhibits.

20. On October 4, 2018, I&E served errata to its written direct testimony.

21. On October 10, 2018, York Water served its written rejoinder testimony and outlines.

22. On October 12, 2018, I&E served errata to its written surrebuttal testimony.

23. The Joint Petitioners held several settlement conferences in this proceeding. As a result of these conferences and the efforts of the Joint Petitioners to examine the issues raised by the parties, a settlement in principle was achieved by the Joint Petitioners prior to the date for the evidentiary hearings.

24. On October 15, 2018 the Joint Petitioners advised the ALJ of the settlement in principle and of their intent to file a joint petition for settlement and statements in support by the scheduled Reply Brief due date of November 21, 2018.

25. Thereafter, the ALJ advised the parties that the evidentiary hearings would be canceled and that the parties' written testimony and exhibits could be admitted into the record by stipulation.

26. The Joint Petitioners have been able to agree to a settlement of all issues. The Joint Petitioners have agreed to a base rate increase for both water and wastewater revenues in the proceeding and have agreed to a revenue allocation and class rate designs to recover said increase. The Joint Petitioners are in full agreement that the Settlement is in the best interests of York Water and its customers. The Settlement is set forth in the following Section.

II. SETTLEMENT

27. The Joint Petitioners agree as follows:

28. The settlement rates will be designed to produce \$3.65 million in additional annual base rate operating revenue, which consists of \$3,361,375 in additional water revenue and \$288,625 in additional wastewater revenue, based upon the pro forma level of operations for the

twelve (12) months ended February 29, 2020. York Water will be permitted to file tariff supplements to become effective March 1, 2019.

29. York Water will provide a refund to customers of \$2,117,143 via a reconcilable surcharge mechanism (“Federal Tax Adjustment Credit” or “FTAC”) over a one-year period. This amount resolves the Joint Petitioners’ positions regarding the return of the revenue requirement change associated with the reduction in federal income tax expense and Excess Deferred Income Taxes (“EDIT”) from January 1, 2018, through the effective date of new rates arising from the Tax Cuts and Jobs Act of 2017 (“TCJA”). This amount includes interest of \$119,051, which is calculated at the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41 P.S. §§ 101 *et seq.*) that was published on August 18, 2018. The refund amount will be provided entirely to water customers. The provision of this credit to customers will be subject to audit to ensure that the Company has returned the full amount of the credit to customers.

The Joint Petitioners agree that the surcharge mechanism will be added to the Company’s water tariff as follows:

Federal Tax Adjustment Credit (FTAC)

The FTAC will refund the difference in revenue requirement created by the Tax Cuts and Jobs Act (TCJA) plus interest. The amount to be returned shall be \$2,117,143. A credit value of 4.29% will apply to all charges except the DSIC during the period March 1, 2019 through February 29, 2020 to pass the January 1, 2018 through February 28, 2019 revenue requirement change created by the TCJA to customers.

After the twelve-month period elapses, the Company will prepare a reconciliation of the difference between the calculated refund of \$2,117,143 and the actual amount credited to customers by the FTAC as applied. Any such difference will be refunded/recouped over an additional one-month period commencing April 1, 2020.

30. The following amortizations are specifically approved and are reflected in the Settlement's base rate allowance:

<u>Description</u>	<u>Amortization Period</u>	<u>Annual Amortization</u>
York Starview, LP Positive Acquisition Adjustment	10 years ending December 31, 2023	\$3,590.00
Section A Positive Acquisition Adjustment	10 years ending December 31, 2023	\$3,473.00
Margaretta Mobile Home Park	10 years beginning with the effective date of rates in this proceeding	\$5,551.00
Legal and communication fees associated with lead testing and renewal	4 years beginning with the effective date of rates in this proceeding	\$22,281.00
Customer-Owned Lead Service line Replacement	4 years beginning with the effective date of rates in this proceeding.	\$67,174

31. The Joint Petitioners 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 water and wastewater following system acquisitions:

- Windy Brae Mobile Home Park
- Forest Lakes Water Association
- Paradise Homes Mobile Home Park
- Newberry Farms Mobile Home Park
- East Prospect Borough Authority (Wastewater)

The Joint Petitioners 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 acquisitions, which justifies this ratemaking treatment.

The Joint Petitioners agree that agreement to these specific acquisitions, in Paragraphs 28 and 29, 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.

The following amortizations 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 beginning with the effective date of rates in this proceeding	(\$7,719.00)
The Meadows Negative Acquisition Adjustment	10 years beginning with the effective date of rates in this proceeding	(\$15,882.00)
Westwood Mobile Home Park Negative Acquisition Adjustment	10 years beginning with the effective date of rates in this proceeding	(\$7,547.00)

32. The Company will amortize the benefit of the catch-up deduction permitted under the Internal Revenue Service’s tangible property regulations over a fifteen-year period commencing with the effective date of rates in this proceeding. The benefit totals \$1,302,030 in Pennsylvania income taxes and \$2,585,217 in federal income taxes. This amortization results in an annual reduction of \$259,150 to the Company’s claimed income tax expense. The amortization shall be 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 Internal Revenue Service determines the Company is not entitled to the full amount of the catch-up deduction.

33. Rates under this Settlement will be presumed to provide for recovery of a cash contribution to pensions in the amount of \$2,300,000. 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 \$2,300,000, 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 ASC 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.

34. In accordance with the provisions of 52 Pa. Code § 69.55, the STAS for York Water shall be established at 0% effective with the effective date of settlement rates in this proceeding.

35. 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; or (ii) 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, 2020 (*i.e.*, the end of the FPFTY) per Exhibit Nos. FV-12-4, FV-16-3 and FV-16-4. 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.

36. For purposes of calculating its 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).

37. The Joint Petitioners acknowledge that issues regarding the impact of 66 Pa. C.S. § 1301.1 on the treatment of federal and state income tax deductions in calculating DSIC charges are currently on appeal before the Commonwealth Court in *McCloskey v. Pennsylvania Public Utility Commission*, Case No. 697 C.D. 2018 (“*McCloskey*”). The Company will not contest the right of a party to raise issues regarding the impact of 66 Pa. C.S. § 1301.1 on the treatment of

federal and state income tax deductions in calculating DSIC charges by filing a complaint against the Company's first quarterly DSIC charge filed after the resolution of *McCloskey* or by filing a pleading to initiate a generic proceeding.

38. On or before June 1, 2019, 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. FV-12-1 and FV-12-1W, which will include actual capital expenditures, plant additions and retirements for the twelve months ended December 31, 2018. On or before June 1, 2020, York Water will update Exhibit Nos. FV-12-4 and FV-12-4W, which will include actual capital expenditures, plant additions and retirements through February 29, 2020.

39. The Company's proposed \$20,000 budget for The York Water Cares Low Income Customer Assistance Program is approved on a pilot basis until York Water's next base rate case on the condition that: (i) all of the program's annual expenditures funded by ratepayers will be for direct payment of customer assistance to York Water customers and will not include any payments for administrative, overhead, or other indirect costs or contributions related to administration of the program; (ii) York Water will work with I&E and OCA to develop the details of the program including eligibility, enrollment and customer education/outreach, and incorporate the results into the program before the effective date of new rates; (iii) at the end of each fiscal year, all unspent annual program funds will be rolled over to the program for spending in the next fiscal year; and (iv) at the end of the pilot and until base rates are reset in York Water's next base rate case, any unspent program funds will be refunded to ratepayers with interest. Additionally, York Water will evaluate the pilot and, in its next base rate case, York Water will: (i) provide a detailed accounting of all funds expended, including the information listed in Paragraph 12 of York Water Exhibit MEP-11R and (ii) make a recommendation to the

Commission regarding the operation of the program and appropriate level of funding supported by a needs assessment. The Joint Petitioners agree that this \$20,000 pilot budget is a settlement amount and has not been set pursuant to any need based determination.

40. Within 30 days of a final disposition of the tariff supplement filing of Pennsylvania-American Water Company at Docket Nos. R-2018-3002502 and R-2018-3002504, York Water shall file a tariff supplement consistent with the Commission's resolution in that proceeding of the issue of prospective cost responsibility for, and prospective ratemaking treatment of, income taxation of Contributions in Aid of Construction ("CIAC").

41. In future base rate proceedings, the Company will present a wastewater allocated cost of service study.

42. In future base rate proceedings, York Water will present separately amounts related to deferred taxes associated with accelerated depreciation and deferred taxes associated with excess accumulated deferred income tax and continue to reflect each category as a reduction to rate base in future base rate filings.

43. The Joint Petitioners acknowledge the issue raised by I&E in I&E Statement No. 3, pages 60-74, regarding the manner in which utilities should present financial results of operations adjusted on a ratemaking basis for future plant additions in their Quarterly Earnings Reports (the "QER Issue") but do not agree on the substantive issue or relevance to this proceeding. In the event the Commission issues a final order that adopts the I&E position on the QER Issue in any proceeding in which the Commission states that the I&E position will be applied to all regulated utilities or via a secretarial letter after notice to York Water and an opportunity to be heard, York Water will comply with the Commission's final directives with respect to the QER issue.

44. The Company agrees that it will not file another base rate case before May 1, 2020; 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.

45. The water revenue increase and rate design are as set forth in Appendix "C". The rate design includes an increase to the residential (5/8" meter) customer charge to \$16.25 per month, with equivalent percentage increases to other customer charges. The wastewater rates are as set forth in Appendix "D" and are as originally filed by the Company.

III. CONDITIONS OF SETTLEMENT

46. 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.

47. This Settlement is proposed by the Joint Petitioners to settle certain 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.

48. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

49. 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.

50. 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.

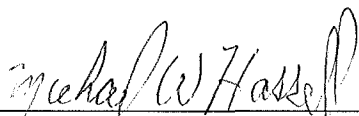
51. If the ALJ adopts the Settlement without modification, the Joint Petitioners waive their rights to file Exceptions.

IV. CONCLUSION

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request as follows:

1. That the Honorable Administrative Law Judge Benjamin J. Myers and the Pennsylvania Public Utility Commission approve this Settlement including all terms and conditions thereof;
2. That the Commission's Investigation at R-2018-3000019 be marked closed;
3. That the complaint of the Office of Consumer Advocate at C-2018-3002564 be marked closed;
4. That the complaint of the Office of Small Business Advocate at C-2018-3002811 be marked closed;
5. That the complaint of Michael Eifert at C-2018-3003908 be marked closed; and
6. That the Commission enter an order consistent with this Settlement, terminating the proceeding and authorizing The York Water Company to file the tariff supplements attached as Appendices "A" and "B" to become effective on or after February 29, 2020.

Respectfully submitted,



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Date: 11/20/2018



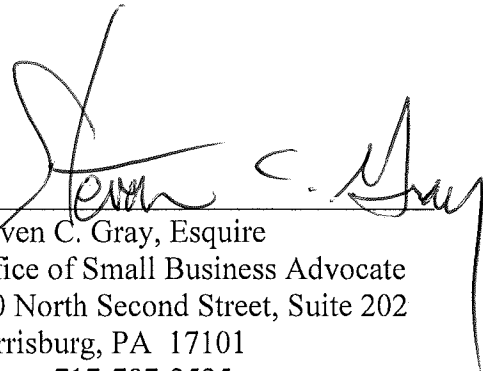
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Date: NOVEMBER 20, 2018



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Attorney for Office of Small Business Advocate

Date: 11/20/18

IV. CONCLUSION

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request as follows:

1. That the Honorable Administrative Law Judge Benjamin J. Myers and the Pennsylvania Public Utility Commission approve this Settlement including all terms and conditions thereof;
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5. That the complaint of Michael Eifert at C-2018-3003908 be marked closed; and
6. That the Commission enter an order consistent with this Settlement, terminating the proceeding and authorizing The York Water Company to file the tariff supplements attached as Appendices "A" and "B" to become effective on or after March 1, 2019.

APPENDIX “A”

Supplement No.
To
Water-Pa. P.U.C. No. 14

THE YORK WATER COMPANY
RATES, RULES AND REGULATIONS
GOVERNING THE DISTRIBUTION OF WATER IN
THE CITY OF YORK

BOROUGHS OF EAST PROSPECT, GLEN ROCK, HALLAM, JACOBUS, JEFFERSON, LOGANVILLE, MANCHESTER, MOUNT WOLF, NEW FREEDOM, NEW SALEM, NORTH YORK, RAILROAD, SEVEN VALLEYS, SHREWSBURY, SPRING GROVE, WEST YORK, YORK HAVEN AND YORKANA, AND TOWNSHIPS OF CODORUS, CONEWAGO, EAST MANCHESTER, HELLAM, HOPEWELL, JACKSON, LOWER WINDSOR, MANCHESTER, NEWBERRY, NORTH CODORUS, NORTH HOPEWELL, PARADISE, SHREWSBURY, SPRINGETTSBURY, SPRINGFIELD, SPRING GARDEN, WEST MANCHESTER, WEST MANHEIM, WINDSOR AND YORK, IN YORK COUNTY, PENNSYLVANIA, AND THE BOROUGHS OF ABBOTTSTOWN AND CARROLL VALLEY, AND TOWNSHIPS OF BERWICK, CUMBERLAND, OXFORD, HAMILTON, READING, MOUNT PLEASANT AND UNION IN ADAMS COUNTY, PENNSYLVANIA

ISSUED:

EFFECTIVE: March 1, 2019

By: Jeffrey R. Hines
President and CEO
130 East Market Street
York, Pennsylvania



NOTICE

THIS TARIFF MAKES INCREASES AND DECREASES IN EXISTING RATES

(See One Hundred Twentieth Revised Page No. 2)

Supplement No.
To
Water-Pa. P.U.C. No. 14
One Hundred Twentieth Revised Page No. 2

The York Water Company
York, Pennsylvania

Canceling
One Hundred Nineteenth Revised Page No. 2

LIST OF CHANGES MADE BY THIS SUPPLEMENT

INCREASES

Base rates for water service are increased by approximately 7.2% overall. Average residential customer base rates are increased by approximately 7.3%, average commercial customer base rates are increased by approximately 7.3%, average industrial customer base rates are increased by approximately 9.7%, public fire service rates in the gravity service area are increased by approximately 1.4%, and private fire service rates are increased by approximately 5.7%.

DECREASES

The Distribution System Improvement Charge is decreased to 0.00% from 4.82% on page 66.

CHANGES

A Federal Tax Adjustment Credit (FTAC) is established at a rate of (4.29%) on page 69.

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3.11.1 Definitions	12 First Revised	
3.11.2 Extension of Service to Bona Fide Service Applicant	13 First Revised	
3.11.3 Financing of Customer Advance	14 First Revised	

(C) Indicates Change

ISSUED:

EFFECTIVE: March 1, 2019

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13. Rate Schedules		
Meter Rates		
Schedule "A" - Gravity System	41	Fourth Revised
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Schedule "B" - Repumping System	43	Fifteenth Revised
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Flat Rates - Gravity System		
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Schedule "D" - Fire Service	46	Twenty-fourth Revised (I)
Flat Rates - Repumping System		
Schedule "E" - Building, Construction and Miscellaneous	47	Ninth Revised
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This page left blank intentionally for future use	50	Original
14. Drought Contingency Plan	51	Second Revised
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16. Rider DS - Demand Based Service	67	First Revised
17. Federal Tax Adjustment Credit (FTAC)	69	Original (C)

(I) Indicates Increase

(D) Indicates Decrease

(C) Indicates Change

13. Rate Schedules (Continued) Schedule

"A" - Meter Rates (Continued)

Gravity System (Continued)

RATES

Customer Charges

Size of Meter

All Classes

5/8"	\$16.25
3/4"	22.30
1"	31.50
1-1/2"	48.50
2"	63.00
3"	151.80
4"	225.90
6"	250.90
8"	481.40
10"	619.50
12"	762.70

(l) ↓

Output Charges

Rate per 1,000 Gallons

	Residential		Commercial		Industrial
Up to 5,000 Gallons Per Month	\$5.012	(l)	\$4.554	(l)	\$4.554 (l)
Next 45,000 Gallons Per Month	5.012	(l)	3.261	(l)	3.261 (l)
Next 1,950,000 Gallons Per Month	5.012	(l)	2.541	(l)	2.831 (l)
Over 2,000,000 Gallons Per Month	5.012	(l)	2.541	(l)	2.437 (l)

(l) Indicates Increase

13. Rate Schedules (Continued)

Schedule "B" - Meter Rates (Continued)

Repumping System (Continued)

RATES

Customer Charges

Size of Meter	All Classes	
5/8"	\$16.25	(l) ↓
3/4"	22.30	
1"	31.50	
1-1/2"	48.50	
2"	63.00	
3"	151.80	
4"	225.90	
6"	250.90	
8"	481.40	
10"	619.50	
12"	762.70	

Output Charges

	Rate per 1,000 Gallons					
	Residential		Commercial		Industrial	
Up to 5,000 Gallons Per Month	\$8.111	(l)	\$7.401	(l)	\$7.401	(l)
Next 45,000 Gallons Per Month	8.111	(l)	6.288	(l)	6.288	(l)
Next 1,950,000 Gallons Per Month	8.111	(l)	3.386	(l)	5.824	(l)
Over 2,000,000 Gallons Per Month	8.111	(l)	3.386	(l)	3.574	(l)

(l) Indicates Increase

ISSUED:

EFFECTIVE: March 1, 2019

13. Rate Schedules (Continued) Schedule

"D" - Fire Service Rates

Gravity System

Applicable for separate water service for fire purposes, from the gravity system in the City of York, Boroughs of Hallam, North York, West York, Townships of Hellam, Springettsbury, Spring Garden, Manchester and West Manchester, in York County, Pennsylvania.

RATES

	Per Month	
Public:		
Public Fire Hydrant (billed to a municipality or other Customer)	\$21.50	(I)
Private:		
Sprinkler or Fire Service Systems:		
2-inch Connection	27.87	(I)
3-inch Connection	37.11	↓
4-inch Connection	46.38	↓
6-inch Connection	92.93	↓
8-inch Connection	185.87	↓
10-inch Connection	278.85	↓
12-inch Connection	414.74	↓
Fire Hydrant, Private:		
Direct Connection to Company Owned Mains:	37.11	↓
Direct Connection to Customers Owned Mains:		
First Hydrant	37.11	↓
Each Additional Hydrant	27.87	↓

(I) Indicates Increase

The York Water Company
York, Pennsylvania

Supplement No.
to
Water-Pa. P.U.C. No. 14
Thirty-fourth Revised Page No. 48
Canceling
Thirty-third Revised Page No. 48

13. Rate Schedules (Continued)

Schedule "F" - Fire Service Rates

Repumping System

Applicable for separate water service for fire purposes, in the City of York, Boroughs of East Prospect, Glen Rock, Jacobus, Jefferson, Loganville, New Freedom, New Salem, North York, Railroad, Seven Valleys, Shrewsbury, Spring Grove, West York, Manchester, Mount Wolf, York Haven and Yorkana, and Townships of Codorus, Conewago, Hellam, Hopewell, Jackson, North Hopewell, Paradise, Shrewsbury, Springettsbury, Springfield, Spring Garden, Manchester, Newberry, North Codorus, West Manchester, East Manchester, West Manheim, Windsor, York and Lower Windsor, York County, Pennsylvania, and the Boroughs of Abbottstown and Carroll Valley, and the Townships of Berwick, Cumberland, Oxford, Hamilton, Reading, Mount Pleasant and Union in Adams County, Pennsylvania where water is repumped.

RATES

	Per Month	
Public:		
Public Fire Hydrant (billed to a municipality or other Customer)	\$30.76	
Private:		
Sprinkler or Fire Service Systems:		
2-inch Connection	40.15	(l) ↓
3-inch Connection	53.50	
4-inch Connection	66.92	
6-inch Connection	133.82	
8-inch Connection	267.77	
10-inch Connection	401.74	
12-inch Connection	599.29	
Fire Hydrant, Private:		
Direct Connection to Company Owned Mains:	48.60	
Direct Connection to Customers Owned Mains:		
First Hydrant	48.60	
Each Additional Hydrant	36.48	

(l) Indicates Increase

ISSUED:

EFFECTIVE: March 1, 2019

The York Water Company
York, Pennsylvania

Supplement No.
to
Water-Pa. P.U.C. No. 14
Sixty-eighth Revised Page No. 66
Canceling
Sixty-seventh Revised Page No. 66

15. Distribution System Improvement Charge (DSIC)

- 15.1 In addition to the charges provided in this tariff, a distribution system improvement charge of 0.00% will apply to all charges for service on or after March 1, 2019. (D)
(C)

(D) Indicates Decrease (C) Indicates Change

ISSUED:

EFFECTIVE: March 1, 2019

17. Federal Tax Adjustment Credit (FTAC)

Federal Tax Adjustment Credit (FTAC)

The FTAC will refund the difference in revenue requirement created by the Tax Cuts and Jobs Act (TCJA) plus interest. The amount to be returned shall be \$2,117,143. A credit value of 4.29% will apply to all charges except the DSIC during the period March 1, 2019 through February 29, 2020 to pass the January 1, 2018 through February 28, 2019 revenue requirement change created by the TCJA to customers.

After the twelve-month period elapses, the Company will prepare a reconciliation of the difference between the calculated refund of \$2,117,143 and the actual amount credited to customers by the FTAC as applied. Any such difference will be refunded/recouped over an additional one-month period commencing April 1, 2020.

APPENDIX “B”

THE YORK WATER COMPANY

RATES, RULES AND REGULATIONS GOVERNING

THE PROVISION OF WASTEWATER COLLECTION, TREATMENT

AND/OR DISPOSAL SERVICE TO THE PUBLIC IN

THE BOROUGHS OF EAST PROSPECT AND WEST YORK

AND THE

TOWNSHIPS OF EAST MANCHESTER (ASBURY POINTE RESIDENTIAL SUBDIVISION)

AND LOWER WINDSOR IN YORK COUNTY, PENNSYLVANIA

ISSUED:

EFFECTIVE: March 1, 2019

By: Jeffrey R. Hines
President and CEO
130 East Market Street
York, Pennsylvania



NOTICE

THIS TARIFF MAKES INCREASES IN EXISTING RATES
(SEE SEVENTH REVISED PAGE NO. 2)

LIST OF CHANGES

INCREASES

The flat rate per residential dwelling unit is increased 25% from \$50.00 per month to \$62.50 per month for Asbury Pointe Area.

The metered rate (based on water consumption) for the 1st 4,000 gallons is increased 25% from \$50.00 per month to \$62.50 per month for the East Prospect and Lower Windsor Area.

The metered rate (based on water consumption) over 4,000 gallons is increased 25% from \$2.00 per 1,000 gallons per month to \$2.50 per 1,000 gallons per month for the East Prospect and Lower Windsor Area.

The flat rate per residential dwelling unit is increased 25% from \$26.1667 per month to \$32.71 per month for West York Borough Area.

The flat rate per commercial/industrial dwelling unit is increased 25% from \$32.3334 per month to \$40.42 per month for West York Borough Area.

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(C) Indicates Change

PART I: SCHEDULE OF RATES AND CHARGES

Asbury Pointe Area (I)

A flat rate of \$62.50 per month per equivalent dwelling unit.

East Prospect and Lower Windsor Area (I)

A metered rate (based on water consumption) as follows:

	<u>Per Month</u>	<u>Rate</u>	(I)
East Prospect and Lower Windsor area	1 st 4,000 Gals.	\$62.50	
Over	4,000 Gals.	\$2.50 per 1,000 Gals.	

West York Borough Area Rate per Month (I)

A flat rate per equivalent dwelling unit.

Residential	\$32.71
Commercial/Industrial	\$40.42

(I) Indicates Increase

APPENDIX “C”

THE YORK WATER COMPANY

**COMPARISON OF PRO FORMA COST OF SERVICE WITH REVENUES UNDER PRESENT AND SETTLEMENT RATES
FOR THE TWELVE MONTHS ENDED FEBRUARY 29, 2020**

Customer Classification	Pro Forma Cost of Service 12 Months. Ending 2/29/2020		Pro Forma Revenues, 12 Months Ending 2/29/2020				Settlement Increase	
	Amount (Schedule D)	Percent of Total	Under Present Rates*		Under Settlement Rates		Amount	Percent Increase
			Amount (Schedule J)	Percent of Total	Amount (Schedule K)	Percent of Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Residential								
Gravity	\$ 10,263,422	19.5%	\$ 8,910,814	19.3%	\$ 9,594,000	19.3%	\$ 683,186	7.7%
Repumped	24,139,972	45.9%	21,129,246	45.7%	22,650,303	45.6%	1,521,057	7.2%
Total	<u>34,403,394</u>	<u>65.4%</u>	<u>30,040,060</u>	<u>65.0%</u>	<u>32,244,303</u>	<u>64.9%</u>	<u>2,204,243</u>	<u>7.3%</u>
Commercial								
Gravity	3,795,823	7.2%	3,334,992	7.2%	3,590,544	7.2%	255,552	7.7%
Repumped	6,868,128	13.0%	6,079,930	13.1%	6,515,287	13.1%	435,357	7.2%
Total	<u>10,663,952</u>	<u>20.2%</u>	<u>9,414,922</u>	<u>20.3%</u>	<u>10,105,831</u>	<u>20.3%</u>	<u>690,909</u>	<u>7.3%</u>
Industrial								
Gravity	934,481	1.8%	818,072	1.8%	884,146	1.8%	66,074	8.1%
Repumped	3,368,801	6.4%	2,863,753	6.2%	3,155,197	6.4%	291,444	10.2%
Total	<u>4,303,283</u>	<u>8.2%</u>	<u>3,681,825</u>	<u>8.0%</u>	<u>4,039,343</u>	<u>8.2%</u>	<u>357,518</u>	<u>9.7%</u>
Private Fire								
Gravity	698,217	1.3%	654,010	1.4%	683,191	1.4%	29,181	4.5%
Repumped	1,243,055	2.4%	1,132,943	2.4%	1,205,566	2.4%	72,623	6.4%
Total	<u>1,941,273</u>	<u>3.7%</u>	<u>1,786,953</u>	<u>3.8%</u>	<u>1,888,757</u>	<u>3.8%</u>	<u>101,804</u>	<u>5.7%</u>
Public Fire								
Gravity	258,860	0.5%	255,368	0.6%	258,860	0.5%	3,492	1.4%
Repumped	1,073,832	2.0%	1,073,832	2.3%	1,073,832	2.2%	-	0.0%
Total	<u>1,332,692</u>	<u>2.5%</u>	<u>1,329,200</u>	<u>2.9%</u>	<u>1,332,692</u>	<u>2.7%</u>	<u>3,492</u>	<u>0.3%</u>
Total Sales	<u>\$ 52,644,593</u>	<u>100.0%</u>	<u>\$ 46,252,960</u>	<u>100.0%</u>	<u>\$ 49,610,926</u>	<u>99.9%</u>	<u>\$ 3,357,966</u>	<u>7.3%</u>
Other Revenue	<u>749,073</u>		<u>745,712</u>		<u>749,073</u>		<u>3,361</u>	<u>0.5%</u>
Total	<u>\$ 53,393,665</u>		<u>\$ 46,998,672</u>		<u>\$ 50,359,999</u>		<u>\$ 3,361,327</u>	<u>7.2%</u>

* Present base rate revenue from Schedule J (excludes DSIC and STAS surcharges).

THE YORK WATER COMPANY

**APPLICATION OF SETTLEMENT RATES TO CONSUMPTION ANALYSIS
FOR THE TWELVE MONTHS ENDED FEBRUARY 29, 2020**

<u>Rate Block, 100 Gallons</u> (1)	<u>Pro Forma Number of Bills</u> (2)	<u>Pro Forma Consumption, 100 Gallons</u> (3)	<u>Settlement Base Rates</u> (4)	<u>Revenue at Settlement Base Rates</u> (5)
<u>RESIDENTIAL GRAVITY</u>				
Customer Charges				
5/8	237,094		\$16.25	\$3,852,778
3/4	10,953		22.30	244,252
1	2,951		31.50	92,957
1-1/2	564		48.50	27,354
2	36		63.00	2,268
	251,598	<u>0</u>		<u>4,219,609</u>
All Usage		<u>10,723,048</u>	0.5012	<u>5,374,391</u>
Subtotal Gravity	251,598	10,723,048		9,594,000
<u>RESIDENTIAL REPUMPED</u>				
Customer Charges				
5/8	488,455		16.25	7,937,394
3/4	11,585		22.30	258,346
1	4,395		31.50	138,443
1-1/2	197		48.50	9,555
2	60		63.00	3,780
3	0		151.80	0
	504,692	<u>0</u>		<u>8,347,518</u>
All Usage		<u>17,633,812</u>	0.8111	<u>14,302,785</u>
Subtotal Repumped	504,692	17,633,812		22,650,303
Total Residential	<u>756,290</u>	<u>28,356,860</u>		<u>32,244,303</u>

THE YORK WATER COMPANY

**APPLICATION OF SETTLEMENT RATES TO CONSUMPTION ANALYSIS
FOR THE TWELVE MONTHS ENDED FEBRUARY 29, 2020**

<u>Rate Block, 100 Gallons</u> (1)	<u>Pro Forma Number of Bills</u> (2)	<u>Pro Forma Consumption, 100 Gallons</u> (3)	<u>Settlement Base Rates</u> (4)	<u>Revenue at Settlement Base Rates</u> (5)
<u>COMMERCIAL GRAVITY</u>				
Customer Charges				
5/8	913		\$16.25	\$14,836
3/4	16,118		22.30	359,431
1	5,874		31.50	185,031
1-1/2	3,832		48.50	185,852
2	2,604		63.00	164,052
3	667		151.80	101,251
4	428		225.90	96,685
6	108		250.90	27,097
	<u>30,544</u>	<u>0</u>		<u>1,134,235</u>
First 50		1,336,794	0.4554	608,776
Next 450		2,482,785	0.3261	809,636
Over 500		<u>4,084,602</u>	0.2541	<u>1,037,897</u>
Subtotal Gravity	30,544	7,904,181		3,590,544
<u>COMMERCIAL REPUMPED</u>				
Customer Charges				
5/8	1,030		\$16.25	\$16,738
3/4	9,349		22.30	208,483
1	4,875		31.50	153,563
1-1/2	4,642		48.50	225,137
2	2,944		63.00	185,472
3	1,033		151.80	156,809
4	486		225.90	109,787
6	120		250.90	30,108
8	24		481.40	11,554
10	12		619.50	7,434
	<u>24,515</u>	<u>0</u>		<u>1,105,085</u>
First 50		2,533,601	0.7401	1,875,118
Next 450		2,582,978	0.6288	1,624,177
Over 500		<u>5,643,553</u>	0.3386	<u>1,910,907</u>
Subtotal Repumped	<u>24,515</u>	<u>10,760,133</u>		<u>6,515,287</u>
Total Commercial	<u><u>55,059</u></u>	<u><u>18,664,314</u></u>		<u><u>\$10,105,831</u></u>

THE YORK WATER COMPANY

**APPLICATION OF SETTLEMENT RATES TO CONSUMPTION ANALYSIS
FOR THE TWELVE MONTHS ENDED FEBRUARY 29, 2020**

<u>Rate Block, 100 Gallons</u> (1)	<u>Pro Forma Number of Bills</u> (2)	<u>Pro Forma Consumption, 100 Gallons</u> (3)	<u>Settlement Base Rates</u> (4)	<u>Revenue at Settlement Base Rates</u> (5)
<u>INDUSTRIAL GRAVITY</u>				
Customer Charges				
5/8	0		\$16.25	\$0
3/4	360		22.30	8,028
1	288		31.50	9,072
1-1/2	349		48.50	16,927
2	493		63.00	31,059
3	205		151.80	31,119
4	180		225.90	40,662
6	84		250.90	21,076
12	12		762.70	9,152
	1,971	<u>0</u>		<u>167,095</u>
First 50		73,229	0.4554	33,348
Next 450		427,790	0.3261	139,502
Next 19,500		1,861,856	0.2831	527,091
Over 20,000		<u>70,210</u>	0.2437	<u>17,110</u>
Subtotal Gravity	1,971	2,433,085		884,146
<u>INDUSTRIAL REPUMPED</u>				
Customer Charges				
5/8	10		16.25	163
3/4	227		22.30	5,062
1	324		31.50	10,206
1-1/2	422		48.50	20,467
2	338		63.00	21,294
3	192		151.80	29,146
4	60		225.90	13,554
6	96		250.90	24,086
8	24		481.40	11,554
	1,693	<u>0</u>		<u>135,532</u>
First 50		69,046	0.7401	51,101
Next 450		288,250	0.6288	181,252
Next 19,500		2,378,251	0.5824	1,385,093
Over 20,000		<u>3,923,389</u>	0.3574	<u>1,402,219</u>
Subtotal Repumped	1,693	6,658,936		3,155,197
Total Industrial	<u>3,664</u>	<u>9,092,021</u>		<u>4,039,343</u>

THE YORK WATER COMPANY

**APPLICATION OF SETTLEMENT RATES TO CONSUMPTION ANALYSIS
FOR THE TWELVE MONTHS ENDED FEBRUARY 29, 2020**

<u>Rate Block, 100 Gallons</u> (1)	<u>Pro Forma Number of Bills</u> (2)	<u>Pro Forma Consumption, 100 Gallons</u> (3)	<u>Settlement Base Rates</u> (4)	<u>Revenue at Settlement Base Rates</u> (5)
<u>PRIVATE FIRE PROTECTION GRAVITY</u>				
Private Fire Lines:				
2-inch Connection	19		\$27.87	\$6,410
3-inch Connection	5		37.11	2,227
4-inch Connection	138		46.38	76,713
6-inch Connection	268		92.93	299,235
8-inch Connection	111		185.87	247,951
10-inch Connection	4		278.85	13,385
12-inch Connection	2		414.74	9,954
Private Fire Hydrant:				
First Fire Hydrant	57		37.11	25,309
Each Additional	<u>6</u>		27.87	<u>2,007</u>
Subtotal Gravity	<u>610</u>			<u>683,191</u>
<u>PRIVATE FIRE PROTECTION REPUMPED</u>				
Private Fire Lines:				
2-inch Connection	5		40.15	2,409
3-inch Connection	5		53.50	3,210
4-inch Connection	78		66.92	62,905
6-inch Connection	187		133.82	299,757
8-inch Connection	149		267.77	479,308
10-inch Connection	46		401.74	219,350
12-inch Connection	4		599.29	28,766
Private Fire Hydrant:				
First Fire Hydrant	187		48.60	109,058
Each Additional	<u>2</u>		36.48	<u>803</u>
Subtotal Repumped	<u>663</u>			<u>1,205,566</u>
Total Private Fire Protection	<u>1,273</u>			<u>1,888,757</u>
<u>PUBLIC FIRE PROTECTION</u>				
Fire Hydrants - Gravity	1,003.33		\$21.50	\$258,860
Fire Hydrants - Repumped	<u>2,909.17</u>		30.76	<u>1,073,832</u>
Total Public Fire Protection	<u>3,913</u>			<u>1,332,692</u>

APPENDIX “D”

**THE YORK WATER COMPANY
COMPARISON OF REVENUES UNDER PRESENT AND SETTLEMENT RATES
FOR THE TWELVE MONTHS ENDED FEBRUARY 29, 2020**

<u>Customer Classification</u>	<u>Pro Forma Revenues, 12 Months Ending 2/29/2020</u>				<u>Settlement Increase</u>	
	<u>Under Present Rates</u>		<u>Under Settlement Rates</u>		<u>Amount</u>	<u>Percent Increase</u>
	<u>Amount</u>	<u>Percent of Total</u>	<u>Amount</u>	<u>Percent of Total</u>		
<u>Metered</u>						
Residential	250,257	21.7%	312,823	21.7%	62,566	25.0%
Commercial	10,778	0.9%	13,472	0.9%	2,694	25.0%
Total	261,035	22.6%	326,295	22.6%	65,260	
<u>Unmetered</u>						
Residential	677,248	58.7%	846,593	58.7%	169,345	25.0%
Commercial/Industrial	215,985	18.7%	270,003	18.7%	54,018	25.0%
Total	893,233	77.4%	1,116,596	77.4%	223,363	
Total Sales	1,154,268	100.0%	1,442,891	100.0%	288,623	25.0%
Other Revenue	2,436		2,436		-	0.0%
Total	1,156,704		1,445,327		288,623	25.0%

THE YORK WATER COMPANY
 APPLICATION OF SETTLEMENT RATES TO CONSUMPTION ANALYSIS
 FOR THE TWELVE MONTHS ENDED FEBRUARY 29, 2020

RATE BLOCK 100 GAL (1)	NUMBER OF EDU'S (2)	CONSUMP TION 100 GAL (3)	PROPOSED BASE RATES (4)	REVENUE AT PROPOSED BASE RATES (5)
<u>RESIDENTIAL METERED - EAST PROSPECT AND LOWER WINDSOR AREA</u>				

CUSTOMER CHARGE

Flat Rate	4883		62.50	305188
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OUTPUT CHARGE

OVER 40		30540	0.2500	7635
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TOTAL RESIDENTIAL METERED	4883	30540		312823
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COMMERCIAL METERED - EAST PROSPECT AND LOWER WINDSOR AREA

CUSTOMER CHARGE

Flat Rate	167		62.50	10438
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OUTPUT CHARGE

OVER 40		12139	0.2500	3035
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TOTAL COMMERCIAL METERED	167	12139		13472
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TOTAL METERED	5050	42679		326295
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THE YORK WATER COMPANY
 APPLICATION OF SETTLEMENT RATES TO CONSUMPTION ANALYSIS
 FOR THE TWELVE MONTHS ENDED FEBRUARY 29, 2020

RATE BLOCK 100 GAL (1)	NUMBER OF EDU'S (2)	CONSUMP TION 100 GAL (3)	PROPOSED BASE RATES (4)	REVENUE AT PROPOSED BASE RATES (5)
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RESIDENTIAL UNMETERED - ASBURY POINTE AREA

CUSTOMER CHARGE

Flat Rate	2815		62.50	175938
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RESIDENTIAL UNMETERED - WEST YORK BOROUGH AREA

CUSTOMER CHARGE

Flat Rate	20503		32.71	670656
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TOTAL RESIDENTIAL UNMETERED	23318			846593
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COMMERCIAL UNMETERED - WEST YORK BOROUGH AREA

CUSTOMER CHARGE

Flat Rate	6680		40.42	270003
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TOTAL COMMERCIAL UNMETERED	6680			270003
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TOTAL UNMETERED	29998			1116596
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APPENDIX “E”

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Nos.	R-2018-3000019
Office of Consumer Advocate	:		C-2018-3002564
Office of Small Business Advocate	:		C-2018-3002811
Michael Eifert	:		C-2018-3003908
	:		
v.	:		
	:		
The York Water Company	:		

**THE YORK WATER COMPANY'S
STATEMENT IN SUPPORT OF SETTLEMENT PETITION**

TO ADMINISTRATIVE LAW JUDGE BENJAMIN J. MYERS:

I. INTRODUCTION

The York Water Company (“York Water” or the “Company”) hereby submits this Statement in Support of the Settlement Petition (“Settlement”) entered into by York Water, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”), parties in the above-captioned proceeding (hereinafter collectively referred to as the “Joint Petitioners”). York Water respectfully requests that the Commission approve the Settlement, including the terms and conditions thereof, without modification.

In this base rate proceeding, York Water presented a combined water and wastewater revenue requirement, which included an allocation of a portion of the wastewater revenue requirement increase to water customers. The Settlement, if approved, will resolve all issues raised by the Joint Petitioners. Given the diverse interests of the Joint Petitioners and the active role they have taken in this proceeding, the fact that they have resolved their respective issues in

this proceeding, in and of itself, provides strong evidence that the Settlement is reasonable and in the public interest. The Settlement was achieved after a thorough review of York Water's proposal in this proceeding. The Company responded to many interrogatories, and all of the Joint Petitioners filed multiple rounds of testimony. The Joint Petitioners participated in a number of settlement discussions that ultimately led to the Settlement.

It is to be further emphasized that the Joint Petitioners, through their counsel and experts, have considerable experience in rate proceedings. I&E, OCA and OSBA are all tasked with representing the public interest. This responsibility, combined with their and the Company's knowledge, experience, and ability to evaluate the strengths and weaknesses of their respective litigation positions, provided a strong base upon which to build a consensus resolving the disparity between the parties' positions on the revenue requirement for York Water. The revenue increase in the Settlement falls within the range of outcomes bounded by the Company's proposed increase and the revenue requirements identified in the testimony of I&E and OCA.

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231(a). Settlements reduce the time and expense the parties must expend litigating a case and, at the same time, conserve precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. *See* 52 Pa. Code § 69.401. The Commission has explained that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *See Pa. PUC v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861, 2013 Pa. PUC LEXIS 789, 310 P.U.R.4th 58 (Order entered Dec. 5, 2013). In order to approve a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *See Pa. PUC v. Windstream Pa., LLC*, Docket No. M-2012-2227108, 2012 Pa. PUC

LEXIS 1535 (Order entered Sept. 27, 2012); *Pa. PUC v. C.S. Water and Sewer Assoc.*, Docket No. R-881147, 74 Pa. PUC 767 (Order entered July 22, 1991).

The Settlement reflects a carefully balanced compromise of the interests of the Joint Petitioners in this proceeding. Therefore, for the reasons explained in this Statement in Support, York Water believes that the Settlement is just, reasonable, and in the public interest and, therefore, should be approved without modification.

In support thereof, York Water states as follows:

II. DISCUSSION

A. REVENUE REQUIREMENT

On May 30, 2018, York Water filed with the Commission Supplement No. 130 to its Tariff Water – Pa. P.U.C. No. 14 (“Supplement No. 130”) and Supplement No. 6 to Tariff Wastewater – Pa. P.U.C. No. 1 (“Supplement No. 6”), along with supporting testimony and information required by 52 Pa. Code §§ 53.52 and 53.53. In Supplement No. 130, York Water proposed a general increase in water base rates of \$6,398,961 per year, and in Supplement No. 6, the Company proposed a general increase in wastewater base rates of \$288,623 per year.

The Company’s revenue deficiency decreased in rebuttal testimony due to the adoption of certain of the other parties’ proposed adjustments to wastewater system remediation expenses, health insurance expense, and credit card rebates. (York Water Statement No. 103-R, p. 3, lines 3-6) These adjustments resulted in a revised revenue deficiency of \$6,327,225, consisting of \$288,623 for wastewater and \$6,038,602 for water (including a wastewater allocation of \$906,967). (York Water Statement No. 103-R, p. 39, lines 20-21; York Water Exhibit MEP-1R)

The Settlement reflects a reasonable compromise between the parties’ positions. I&E originally proposed a combined water and wastewater revenue increase of \$1,740,618 (I&E Statement No. 1, p. 3, lines 7-8), while the OCA originally proposed a combined water and

wastewater revenue decrease of \$3,094,712, which was later corrected to a proposed decrease of \$343,732 (OCA Statement No. 1, p. 6, lines 10-12; OCA Statement No. 1-SR, p. 3, lines 12-15).

The Settlement rates are designed to produce \$3.65 million in additional annual base rate operating revenue, which consists of \$3,361,375 in additional water revenue and \$288,625 in additional wastewater revenue. (Settlement ¶ 28) Accordingly, York Water's water and wastewater base rates are designed to produce total revenues of approximately \$51,805,326.¹ New rates will become effective March 1, 2019. The agreed-upon amount will allow the Company to continue to provide safe and reliable service to its customers and provide an opportunity to earn a reasonable return.

Attached to this Statement in Support as Attachment "1" is a comparison of current, proposed, and settled base rates for water service at various usage levels and for the several customer classes. All wastewater rates are increased by 25% from current rates, which was the increase originally proposed by the Company.

It is important to note that the revenue requirement under the Settlement is a "black box" settlement, with certain exceptions discussed below. Under a "black box" settlement, parties do not specifically identify rate base, revenues, and expenses and return that are allowed or disallowed. York Water believes that the "black box" concept often facilitates settlement agreements because parties are not required to identify a specific return on equity or specifically identify rate base, revenues, and/or expenses and return that are allowed or disallowed. This process allows a settlement without requiring parties to abandon or reverse their positions on important issues, which could impact their positions in later cases.

¹ As noted later in this Statement in Support, York Water's Distribution System Improvement Charge and State Tax Adjustment Surcharge will be reset to 0% as of the effective date of rates under the Settlement.

The Commission encourages black box settlements. *See, e.g., Pa. PUC v. Aqua Pa., Inc.*, Docket No. R-2011-2267958, at 26-27 (Order entered June 7, 2012); *Pa. PUC v. Peoples TWP LLC*, Docket No. R-2013-2355886, at 27-28 (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). Under a “black box” settlement, it is not necessary for the Administrative Law Judge to decide individual rate base or revenue and expense adjustments proposed by the parties or determine the return on equity under the Settlement in order to determine the reasonableness of the proposed revenue increase under the Settlement.

Viewed in the context of the entire Settlement, York Water believes that 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, the Settlement appropriately balances the need for the Company to have an opportunity to earn a reasonable rate of return with its customers’ need for reasonable rates.

B. TAX CUTS AND JOBS ACT OF 2017

The Settlement also resolves issues related to 2018 federal income taxes due to the Tax Cuts and Jobs Act of 2017 (“TCJA”). For water, York Water proposed to include a negative surcharge on the water customers’ bills that would return the excess income taxes of \$1,693,763 to the ratepayers over a one-year period. (York Water Statement No. 103-S, p. 3, line 24 to p. 5, line 14) For wastewater, York Water proposed to include a surcharge on the wastewater customers’ bills that would bill the increased income taxes of \$144,930 to the ratepayers over a one-year period. (York Water Statement No. 103W-S, p. 3, line 24 to p. 5, line 14)

Both I&E and OCA recommended certain adjustments to the Company’s proposal. OCA recommended that: (1) the balances be calculated based on the actual effective date of the new rates to include any tax expense savings realized in 2019 before the new rates take effect; (2) the

refund balance should accrue interest at the residential mortgage lending rate specified by the Secretary of Banking; (3) the refund should be trued up to actual as soon as possible and any differences settled within the negative surcharge in the thirteenth month; and (4) interest should also accrue on the reconciliation. (OCA Statement No. 1, p. 37, line 12 to p. 38, line 7) I&E recommended that: (1) the refund should be reconciled and the difference be settled in the thirteenth month; and (2) the refund balance should accrue interest at the residential mortgage lending rate. (I&E Statement No. 1, p. 12, line 2 to p. 13, line 6)

In rebuttal, York Water agreed with OCA that the refund amount should include tax savings or deficiencies through the actual effective date of the new rates. (York Water Statement No. 103-R, p. 22, lines 6-7) As a result, the Company recalculated the savings for water customers to be \$1,976,057 and the deficiency for wastewater customers to be \$169,085. (York Water Statement No. 103-R, p. 22, lines 7-9) York Water also agreed with both the OCA and I&E that the refund balances and recoupment should accrue interest at the residential mortgage lending rate specified by the Secretary of Banking. (York Water Statement No. 103-R, p. 22, lines 9-12) Further, although York Water agreed to settling the over/under amount as soon as possible, the Company averred that such reconciliation should occur in the fourteenth month, instead of the thirteenth month, due to the practical consideration that the Company will be reconciling the account and making a final determination of the over/under billing in the thirteenth month. (York Water Statement No. 103-R, p. 22, lines 12-18) York Water also proposed that the total net amount of the refund be set at a fixed amount of \$1,914,637, which included interest. (York Water Statement No. 103-R, p. 22, lines 18-22)

In surrebuttal, I&E and OCA agreed with the Company's revised refund calculation and agreed with truing up in the fourteenth month. (I&E Statement No. 1-SR, p. 20, lines 9-15; OCA

Statement No. 1-SR, p. 15, lines 3-7) OCA also agreed that the interest amount in the calculation should be fixed. (OCA Statement No. 1-SR, p. 15, lines 7-11) However, I&E argued that the Company's final determination of the refund amount should use the residential mortgage rate in effect on the last day of the month prior to the start of the refund (not the September 2018 rate). (I&E Statement No. 1-SR, p. 20, line 15 to p. 21, line 5) Moreover, OCA continued to recommend that the estimated refund calculation should be trued up to the actual tax liability, not a fixed amount. (OCA Statement No. 1-SR, p. 15, lines 3-14) OCA also recommended that the Company flow back Excess Deferred Income Taxes ("EDIT") of \$202,506. (OCA Statement No. 1-SR, p. 16, lines 8-11) Consequently, OCA recommended a total refund of \$2,117,143 (\$1,914,637 + 202,506). (OCA Statement No. 1-SR, p. 17, lines 11-16)

Under the Settlement, the Joint Petitioners have agreed to a total refund of \$2,117,143 to water customers, via a reconcilable surcharge mechanism ("Federal Tax Adjustment Credit" or "FTAC") over a one-year period beginning March 1, 2019. (Settlement ¶ 29) The amount to be returned under the Settlement is fixed and will not be recalculated for actual tax liability. The reconciliation will compare actual refunds to the amount of \$2,117,143, and any difference will be refunded or recouped over a one-month period beginning April 1, 2020.² The refund amount of \$2,117,143 also resolves the Joint Petitioners' positions regarding the return of the revenue requirement change associated with the reduction in federal income tax expense and EDIT from January 1, 2018, through the effective date of new rates arising from TCJA. (Settlement ¶ 29) This amount includes interest of \$119,051, which is calculated at the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41 P.S. §§ 101 *et seq.*) that was published on August 18, 2018. (Settlement

² The one month between the end of the refund period and the reconciliation refund/recoupment will enable the Company to calculate the reconciliation amount. (York Water Statement No. 103-R, p. 22, lines 12-18)

¶ 29) The provision of this credit to customers will be subject to audit to ensure that the Company has returned the full amount of the credit to customers. (Settlement ¶ 29)

These settlement provisions represent a reasonable compromise of their positions on the refund's calculation and reconciliation. Thus, the settlement provisions are in the public interest and should be approved.

C. SETTLEMENT AMORTIZATIONS

Although the overall Settlement amount is a "black-box" number, the Settlement does provide for certain specific amortizations. The Settlement continues to allow York Water to amortize the positive acquisition adjustment³ for the acquisitions of the York Starview, LP ("York Starview"), and Section A Water Corporation ("Section A") water systems and also allows the Company to amortize the positive acquisition adjustment associated with the acquisition of Margaretta Mobile Home Park ("Margaretta"). (Settlement ¶ 30) The amortizations for York Starview and Section A were established in York Water's 2013 base rate proceeding. The amortization for Margaretta is being established in this proceeding.

In direct testimony, York Water explained that the Margaretta system served approximately 65 mobile homes, all within the confines of the mobile home park, and obtained all of its water supplies from wells. (York Water Statement No. 1, p. 11, lines 2-5) Margaretta restricted water usage to its residents and allowed limited outdoor water usage because the wells supplying the distribution system could not meet the current demand. (York Water Statement No. 1, p. 11, lines 5-7) Margaretta was not certificated by the Commission and did not wish to continue providing water service to the residents due to increasing costs and the challenges of meeting regulatory oversight and reporting requirements. (York Water Statement No. 1, p. 11,

³ A positive acquisition adjustment results when the acquisition cost of assets exceeds the depreciated original cost of the acquired assets.

lines 9-11) By interconnecting the Company's water distribution system with Margareta, York Water is able to provide the residents of Margareta with a more reliable and plentiful supply of water. (York Water Statement No. 1, p. 11, lines 15-17) York Water also improved the system by installing meters and an automated meter reading system. (York Water Statement No. 1, p. 11, lines 18-19)

The Settlement also provides that the Joint Petitioners 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")⁴ with respect to the water and wastewater following system acquisitions:

Windy Brae Mobile Home Park
Forest Lakes Water Association
Paradise Homes Mobile Home Park
Newberry Farms Mobile Home Park
East Prospect Borough Authority (Wastewater)

(Settlement ¶ 31)

Under the Settlement, the Joint Petitioners agree that matters of substantial public interest exist with respect to the Windy Brae Mobile Home Park ("Windy Brae"), Forest Lakes Water Association ("Forest Lakes"), Paradise Homes Mobile Home Park ("Paradise Homes"), Newberry Farms Mobile Home Park ("Newberry Farms"), and East Prospect Borough Authority (Wastewater) ("East Prospect") acquisitions. (Settlement ¶ 31)

Specifically, Windy Brae served approximately 135 mobile homes, all within the confines of the mobile home park, and obtained all of its water supplies from wells. (York

⁴ A negative acquisition adjustment results when the depreciated original cost of acquired property is greater than the acquisition price. In *Pa. PUC v. York Water Co.*, Docket No. R-922168, 1992 Pa. PUC LEXIS 115, at *40-41 (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.

Water Statement No. 1, p. 20, lines 6-8) Windy Brae restricted water usage to its residents and allowed very limited outdoor water usage because the wells supplying the distribution system could not meet the current demand. (York Water Statement No. 1, p. 20, lines 9-11) Windy Brae was not certificated by the Commission and did not wish to continue providing water service to the residents due to increasing costs and the challenges of meeting regulatory oversight and reporting requirements. (York Water Statement No. 1, p. 20, lines 15-17) By interconnecting the Company's water distribution system with Windy Brae, York Water is able to provide the residents of Windy Brae with a more reliable and plentiful supply of water. (York Water Statement No. 1, p. 20, lines 21-23) York Water also improved the system by installing meters and an automated meter reading system. (York Water Statement No. 1, p. 21, lines 1-2)

Forest Lakes served approximately 70 homes and obtained all of its water supplies from wells. (York Water Statement No. 1, p. 21, lines 17-19) Forest Lakes was no longer able to serve its residents with adequate water pressures, as the static pressure was routinely below normal and a buildup of manganese in the pipes was further restricting the water pressure. (York Water Statement No. 1, p. 21, lines 20-23) Forest Lakes was not certificated by the Commission and did not wish to continue providing water service to the residents due to increasing costs and the challenges of meeting regulatory oversight and reporting requirements. (York Water Statement No. 1, p. 22, lines 2-4) By interconnecting the Company's water distribution system with Forest Lakes, York Water is able to provide the residents of Forest Lakes with a more reliable and plentiful supply of water. (York Water Statement No. 1, p. 22, lines 7-10) Moreover, the Company improved the system by installing meters and an automated meter reading system. (York Water Statement No. 1, p. 22, lines 10-11) York Water also replaced the distribution system due to the manganese buildup in the pipes, looped the system by eliminating

the two separate ends that existed before the acquisition, and eliminated a utility crossing over the dam on the lake. (York Water Statement No. 1, p. 22, lines 11-14)

Paradise Homes served approximately 90 mobile homes, all within the confines of the mobile home park, and obtained all of its water supplies from wells. (York Water Statement No. 1, p. 26, lines 4-6) Paradise Homes restricted water usage to its residents and allowed limited outdoor water usage because the wells supplying the distribution system could not meet the current demand. (York Water Statement No. 1, p. 26, lines 7-9) Paradise Homes was not certificated by the Commission and did not wish to continue providing water service to the residents due to increasing costs and the challenges of meeting regulatory oversight and reporting requirements. (York Water Statement No. 1, p. 26, lines 13-16) By interconnecting the Company's water distribution system with Paradise Homes, York Water is able to provide the residents of Paradise Homes with a more reliable and plentiful supply of water. (York Water Statement No. 1, p. 26, lines 20-23) York Water also improved the system by installing meters and an automated meter reading system, and the Company was able to provide public water and fire protection to Paradise Elementary School. (York Water Statement No. 1, p. 26, line 23 to p. 27, line 2)

Newberry Farms served approximately 160 mobile homes, all within the confines of the mobile home park, and obtained all of its water supplies from wells. (York Water Statement No. 1, p. 27, lines 17-19) Newberry Farms restricted water usage to its residents and allowed very limited outdoor water usage because the wells supplying the distribution system could not meet the current demand. (York Water Statement No. 1, p. 27, lines 20-22) Additionally, in July 2012, the prior owner of Newberry Farms, along with other affiliated companies, entered into a consent decree with the U.S. Department of Justice, U.S. Environmental Protection Agency, and

the Pennsylvania Department of Environmental Protection (“DEP”) to resolve numerous water and wastewater violations at several mobile home parks, including Newberry Farms, for allegedly failing to safety reporting obligations. (York Water Statement No. 1, p. 28, lines 1-6) Under the Consent Decree, the prior owner was obligated to perform various audits and inspections, among other things. (York Water Statement No. 1, p. 28, lines 6-7) Newberry Farms was not certificated by the Commission and did not wish to continue providing water service to the residents due to increasing costs and the challenges of meeting regulatory oversight and reporting requirements. (York Water Statement No. 1, p. 28, lines 9-12) By interconnecting the Company’s water distribution system with Newberry Farms, York Water is able to provide the residents of Newberry Farms with a more reliable and plentiful supply of water. (York Water Statement No. 1, p. 28, lines 16-19) York Water also improved the system by installing meters and an automated meter reading system. (York Water Statement No. 1, p. 28, lines 19-20) The Company also was released from the terms of the Consent Decree due to its long, proven record of compliance with drinking water requirements. (York Water Statement No. 1, p. 28, lines 21-22)

East Prospect served approximately 400 wastewater customers. (York Water Statement No. 1, p. 31, lines 1-2) East Prospect was not certificated by the Commission and did not wish to continue providing wastewater service to the residents due to increasing costs and the challenges of meeting regulatory oversight and reporting requirements. (York Water Statement No. 1, p. 31, lines 4-6) The treatment plant was experiencing a major issue with running low on capacity. (York Water Statement No. 1-R, p. 11, lines 21-22) As a result, the system could not accommodate any additional customer growth. (York Water Statement No. 1-R, p. 11, line 23 to p. 12, line 1) Further, East Prospect did not have the financial resources to undertake

construction at its plant to increase capacity, or to extend its collection system to a residential development, pursuant to a DEP permit. (York Water Statement No. 1-R, p. 12, lines 1-9) Upon taking over the system, York Water installed Supervisory Control and Data Acquisition equipment and backup power generation. (York Water Statement No. 1, p. 31, lines 9-12) The Company also rebuilt two of the pumping stations and has committed to rebuilding the third. (York Water Statement No. 1, p. 31, lines 12-13) Moreover, York Water has begun to rehabilitate the manholes that were beginning to deteriorate and has rebalanced the hydraulics at the treatment plant to better manage the treatment capacity and to improve the quality of the discharge. (York Water Statement No. 1, p. 31, lines 14-16) York Water also is undertaking construction to increase the capacity of the treatment plant, to serve an additional residential development. (York Water Statement No. 1-R, p. 12, lines 1-5, 12-13)

For the negative acquisition adjustments associated with the Lincoln Estates Mobile Home Park, The Meadows, and Westwood Mobile Home Park, the Joint Petitioners have agreed to amortize them over 10 years beginning with the effective date of rates in this proceeding. (Settlement ¶ 31)

In addition, the Settlement provides for amortizations of certain costs associated with lead testing and renewal and customer-owned lead service line replacements. (Settlement ¶ 30) York Water proposed to amortize over four years the legal fees and communication costs that were incurred during the twelve months ended December 31, 2017, and during the twelve months ended December 31, 2016, to ensure proper handling and communication of lead testing issues and removal of lead service lines. (York Water Statement No. 4, p. 51, lines 20-23) The annual amortization of these costs would be \$22,281. (York Water Statement No. 4, p. 52, lines

1-3) No parties opposed this amortization, and the Settlement reflects the annual amortization of \$22,281.

Moreover, under the Commission Order entered at Docket No. P-2016-2577404, the Company was permitted to record the cost of all customer-owned lead service line replacements as a regulatory asset. (York Water Statement No. 103, p. 112, lines 12-14) The Commission also permitted York Water to amortize the amounts booked to the regulatory asset account in a base rate proceeding over a reasonable period to be not less than four years and not to exceed six years. (York Water Statement No. 103, p. 112, lines 14-16)

Pursuant to that Order, York Water proposed to amortize the cost of replacing the customer-owned lead service lines incurred as of December 31, 2017, as well as the projected costs through the end of the Fully Projected Future Test Year (“FPFTY”) ended February 29, 2020. (York Water Statement No. 103, p. 112, line 10 to p. 113, line 2) OCA and I&E maintained that the Company should only be permitted to recover the costs incurred in 2017 to replace customer-owned lead service lines, resulting in an annual amortization amount of \$47,834. (OCA Statement No. 1, p. 27, lines 4-19; I&E Statement No. 1, p. 35, lines 5-21)

In rebuttal, York Water updated the total costs incurred, which through August 2018 was \$244,695. (York Water Statement No. 103-R, p. 16, lines 4-7) The Company also identified known future replacements at 216 properties that would cost approximately \$259,200. (York Water Statement No. 103-R, p. 16, lines 17-19) Accordingly, York Water revised its proposed annual amortization amount to reflect the total cost of completed replacements and known future replacements of \$503,895 (\$244,695 + \$259,200), which would be \$125,974 each year over four years. (York Water Statement No. 103-R, p. 16, lines 19-23) Although OCA and I&E agreed that the Company should be able to amortize the updated cost incurred through August 2018 of

\$244,695, they continued to dispute any amortization of future costs. (OCA Statement No. 1-SR, p. 11, line 21 to p. 12, line 7; I&E Statement No. 1-SR, p. 43, line 11 to p. 44, line 13) Therefore, OCA and I&E's recommendation would result in an annual amortization amount of \$61,174 ($\$244,695 / 4$). (OCA Statement No. 1-SR, p. 12, lines 5-7; I&E Statement No. 1-SR, p. 44, lines 1-6)

Under the Settlement, the Joint Petitioners have agreed that the Company should be permitted to amortize the cost incurred through August 2018 of \$244,695 over four years, which results in an annual amortization of \$61,174. (Settlement ¶ 30) Therefore, the Settlement expressly incorporates the position expressed by OCA and I&E in their surrebuttal testimony. Thus, the settlement provision is reasonable and in the public interest and should be approved.

York Water maintains that the amortizations and the positive and negative acquisition adjustments, as modified by the Settlement, reflect a reasonable compromise of the Joint Petitioners' positions. Thus, these settlement provisions are in the public interest and should be approved.

D. TANGIBLE PROPERTY REGULATIONS

Under the Settlement, the Company will amortize the benefit of the catch-up deduction permitted under the Internal Revenue Service's ("IRS") tangible property regulations over a fifteen-year period commencing with the effective date of rates in this proceeding. (Settlement ¶ 32) In 2014, York Water adopted a change to tax accounting 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. The resulting tax benefit totals \$1,302,030 in Pennsylvania income taxes and \$2,585,217 in federal income taxes. (Settlement ¶ 32) This amortization results in an annual reduction of \$259,150 to the Company's claimed income tax expense. (Settlement ¶ 32) The

amortization shall be without interest and without deduction of the unamortized balance from rate base. (Settlement ¶ 32) The amortization is subject to adjustment in future cases, in the event the Internal Revenue Service determines the Company is not entitled to the full amount of the catch-up deduction. (Settlement ¶ 32) These settlement provisions are consistent with the Company's calculation of the catch-up deduction that was presented in York Water's direct testimony and that no party opposed in this proceeding. (See York Water Statement No. 103, p. 160, line 3 to p. 161, line 17; York Water Statement No. 103-R, p. 18, lines 8-9) Consequently, these settlement provisions are reasonable and in the public interest and should be approved.

E. PENSION CONTRIBUTION

In a series of settlements, York Water and the parties have agreed to provisions that commit York Water to make a specified level of pension contributions, subject to IRS and Employee Retirement Income Security Act ("ERISA") restrictions. This approach has served effectively to provide assurance of adequate pension funding in exchange for rate allowances that support funding above minimum required levels. In York Water's last rate case in 2013, York Water agreed to contribute \$2,300,000 annually to its defined benefit plan pension trusts. See *Pa. PUC v. The York Water Co.*, Docket Nos. R-2012-2336379, *et al.*, at 11 (Dec. 6, 2013) (Recommended Decision), *adopted without modification* (Order entered Jan. 9, 2014). Since that settlement, York Water's unfunded pension obligation has decreased, but still exceeds \$3 million. (York Water Statement No. 103, p. 118, lines 7-10) The instant Settlement maintains this funding commitment of \$2,300,000 by the Company. (Settlement ¶ 33) The Settlement 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, benefitting both York Water's employees and customers by appropriately

funding York Water's ultimate pension liability. Thus, this settlement provision is reasonable and in the public interest and, therefore, should be approved.

F. STAS AND DSIC CHARGES

The Settlement provides that, in accordance with the provisions of 52 Pa. Code § 69.55, the State Tax Adjustment Surcharge ("STAS") for York Water shall be established at 0% effective with the effective date of settlement rates in this proceeding. (Settlement ¶ 34) Such provision confirms the treatment of the STAS as a result of the Settlement in this proceeding. Therefore, this settlement provision is reasonable and in the public interest and should be approved.

In addition, under the Settlement, 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. (Settlement ¶ 35) 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 eligible account balances, net of plant funded with customer advances and customer contributions, exceed the levels projected by York Water as of February 29, 2020 (*i.e.*, the end of the FPFTY) per Exhibit Nos. FV-12-4, FV-16-3 and FV-16-4. (Settlement ¶ 35) The Settlement provides that 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. (Settlement ¶ 35) Further, for purposes of calculating its 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). (Settlement ¶ 36) These provisions helped resolve any ambiguity as to the base rate case's impact on and the calculation of the DSIC. Thus, these settlement provisions are reasonable and in the public interest and should be approved.

Moreover, the Settlement also provides that the Joint Petitioners acknowledge that issues regarding the impact of 66 Pa. C.S. § 1301.1 on the treatment of federal and state income tax deductions in calculating DSIC charges are currently on appeal before the Commonwealth Court in *McCloskey v. Pennsylvania Public Utility Commission*, Case No. 697 C.D. 2018 ("McCloskey"). (Settlement ¶ 37) The Company will not contest the right of a party to raise issues regarding the impact of 66 Pa. C.S. § 1301.1 on the treatment of federal and state income tax deductions in calculating DSIC charges by filing a complaint against the Company's first quarterly DSIC charge filed after the resolution of McCloskey or by filing a pleading to initiate a generic proceeding. (Settlement ¶ 37) In other words, this settlement provision preserves the ability of a party to challenge the calculation of the DSIC charges based on the resolution of the issue pending before the Commonwealth Court in *McCloskey*. Therefore, the Settlement preserves the parties' rights while still enabling them to reach an agreement in this proceeding. Thus, these settlement provisions are reasonable and in the public interest and should be approved.

G. FTY AND FPFTY REPORTING REQUIREMENTS

In direct testimony, I&E proposed additional reporting requirements regarding the Company's capital expenditures, plant additions, and retirements during the Future Test Year ("FTY") ended December 31, 2018, and the FPFTY ended February 29, 2020. (I&E Statement No. 3, p. 34, lines 5-13) York Water responded in its rebuttal testimony that it agreed with I&E's proposal, but it recommended slight modifications to the reporting schedule and the exhibits to be updated. (York Water Statement No. 103-R, p. 33, line 23 to p. 34, line 6)

Under the Settlement, on or before June 1, 2019, 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. FV-12-1 and FV-12-1W, which will include actual capital expenditures, plant additions and retirements for the twelve months ended December 31, 2018. (Settlement ¶ 38) On or before June 1, 2020, York Water will update Exhibit Nos. FV-12-4 and FV-12-4W, which will include actual capital expenditures, plant additions and retirements through February 29, 2020. (Settlement ¶ 38) These settlement provisions adopt I&E's proposal, as slightly modified by the Company's recommendations set forth in its rebuttal testimony. Therefore, these settlement provisions are reasonable and in the public interest and should be approved.

H. LOW INCOME CUSTOMER ASSISTANCE PROGRAM

York Water proposed in its direct testimony to expand The York Water Cares Low Income Customer Assistance Program by allowing the Company to make a payment of \$20,000 to a local non-profit charitable organization that would assist low income customers in paying their water and wastewater bills to avoid shut off. (York Water Statement No. 103, p. 115, line 19 to p. 116, line 5) I&E recommended that the claim for \$20,000 be disallowed, alleging that the Company did not provide enough support and detail for the expansion and oversight of the charities' use of the funds. (I&E Statement No. 1, p. 24, lines 9-21) In rebuttal, the Company provided the guidelines that would be provided to the non-profit agencies to govern the program, and maintained that the Commission should allow the expansion of the program. (York Water Statement No. 103-R, p. 17, lines 4-11) I&E continued to maintain, however, that the amount be disallowed because of insufficient details and suggested that there would need to be procedures in place for the tracking and reconciliation or carryover of unspent funds. (I&E Statement No 1-SR, p. 31, lines 1-15)

The Settlement states that the Company's proposed \$20,000 budget for The York Water Cares Low Income Customer Assistance Program is approved on a pilot basis until York Water's next base rate case on the condition that: (i) all of the program's annual expenditures funded by ratepayers will be for direct payment of customer assistance to York Water customers and will not include any payments for administrative, overhead, or other indirect costs or contributions related to administration of the program; (ii) York Water will work with I&E and OCA to develop the details of the program including eligibility, enrollment and customer education/outreach, and incorporate the results into the program before the effective date of new rates; (iii) at the end of each fiscal year, all unspent annual program funds will be rolled over to the program for spending in the next fiscal year; and (iv) at the end of the pilot and until base rates are reset in York Water's next base rate case, any unspent program funds will be refunded to ratepayers with interest. (Settlement ¶ 39) Additionally, York Water will evaluate the pilot and, in its next base rate case, York Water will: (i) provide a detailed accounting of all funds expended, including the information listed in Paragraph 12 of York Water Exhibit MEP-11R and (ii) make a recommendation to the Commission regarding the operation of the program and appropriate level of funding supported by a needs assessment. (Settlement ¶ 39) The Joint Petitioners agree that this \$20,000 pilot budget is a settlement amount and has not been set pursuant to any need based determination. (Settlement ¶ 39)

As a result, these settlement provisions reflect a reasonable compromise of the Joint Petitioners' positions. York Water is able to implement the program on a pilot basis with additional restrictions and guidance, and the other parties will be provided with sufficient information to evaluate the pilot's success. Thus, these settlement provisions are reasonable and in the public interest and should be approved.

I. CONTRIBUTIONS IN AID OF CONSTRUCTION

Another issue that arose in this proceeding was the method of calculating contributions in aid of construction (“CIAC”) and customer advances for construction (“CAC”). I&E recommended that the Company use a “gross-up” method, under which the Company would charge all taxes associated with the contributions to the contributors. (I&E Statement No. 1, p. 8, lines 2-13) This would result in a reduction of \$240,768 to the Company’s rate base claim. (I&E Statement No. 1, p. 9, lines 7-11) York Water disagreed with this recommendation and maintained that it was permitted by its Commission-approved tariff and a Commission order to include the taxes associated with CIAC and CAC in rate base. (York Water Statement No. 103-R, p. 27, line 18 to p. 29, line 14) The Company also argued that because the new rates will not go into effect until 2019, I&E’s calculation of the disallowance, if adopted, should be reduced by the net income taxes on CIAC and CAC as of December 31, 2018, which was \$113,257. (York Water Statement No. 103-R, p. 29, line 18 to p. 30, line 3) In surrebuttal testimony, I&E continued to maintain that the Company should use a gross-up method but agreed that the disallowance should be reduced by \$113,257. (I&E Statement No. 1-SR, p. 7, line 8 to p. 17, line 11)

The issue of whether a tax gross-up should be imposed on customer contributions and advances is currently pending before the Commission. Under the Settlement, the Joint Petitioners have agreed that within 30 days of a final disposition of the tariff supplement filing of Pennsylvania-American Water Company at Docket Nos. R-2018-3002502 and R-2018-3002504, York Water shall file a tariff supplement consistent with the Commission’s resolution in that proceeding of the issue of prospective cost responsibility for, and prospective ratemaking treatment of, income taxation of CIAC. (Settlement ¶ 40) This settlement provision ensures that there will be more consistent treatment of income taxes associated with CIAC across the water

utilities, while enabling the Joint Petitioners to reach an agreement in this proceeding. Thus, this settlement provision is reasonable and in the public interest and should be approved.

J. WASTEWATER ALLOCATED COST OF SERVICE STUDY

York Water has not prepared a separate allocated cost of service study for its wastewater operations, because its level of revenues is comparatively small. In direct testimony, I&E recommended that York Water allocate a reasonable portion of rate case expense, common plant, and other rate base items to the wastewater operations in the next base rate case to better reflect the wastewater customers' cost of service. (I&E Statement No. 3, p. 48 line 19 to p. 49, line 15) York Water stated in rebuttal that it does not oppose submitting a full cost allocation study for wastewater in the next rate case. (York Water Statement No. 107-R, p. 16, lines 13-15)

The Settlement provides that in future base rate proceedings, the Company will present a wastewater allocated cost of service study. (Settlement ¶ 41) Such a study will enable the Commission to better determine the cost of service for wastewater and better evaluate any allocation of wastewater costs to be recovered in water rates. Therefore, this settlement provision is reasonable and in the public interest and should be approved.

K. DEFERRED TAXES

I&E recommended certain changes to how the Company presents the amounts related to EDIT. (I&E Statement No. 1, p. 15, lines 8-10; p. 16, lines 13-19) Specifically, I&E recommended that the Company revise its reporting of accumulated deferred income taxes ("ADIT") into ADIT associated with accelerated deferred income tax expense, and the balance of EDIT associated with the change in tax rates under the TCJA. (I&E Statement No. 1, p. 15, lines 8-12; p. 16, lines 13-19) I&E also recommended that the Company continue to reduce rate base in future filings for the remaining EDIT balance until the full amount is refunded to

ratepayers. (I&E Statement No. 1, p. 15, lines 10-12) In rebuttal, York Water explained that it did not oppose I&E's recommendation. (York Water Statement No. 103-R, p. 24, lines 16-20)

The Settlement adopts I&E's recommendation. In future base rate proceedings, York Water will present separately amounts related to deferred taxes associated with accelerated depreciation and deferred taxes associated with excess accumulated deferred income tax and continue to reflect each category as a reduction to rate base in future base rate filings. (Settlement ¶ 42) This provision will better enable parties to verify the Company is properly reducing rate base until the EDIT balance is returned to ratepayers. Therefore, this settlement provisions is reasonable and in the public interest and should be approved.

L. QUARTERLY EARNINGS REPORTS

In direct testimony, I&E recommend that the Company's Quarterly Earnings Reports ("QERs"), which are accounting summaries detailing its financial data that are filed on a quarterly basis with the Commission, should not include any projected plant additions and corresponding annual depreciation expense. (I&E Statement No. 3, p. 60 to p. 74, line 9)

York Water disagreed with I&E's recommendation, arguing that the Company's practice of including such items in its QERs is permissible under Chapter 71 of the Public Utility Code, the Commission's regulations, and the Commission's longstanding ratemaking practices. (York Water Statement No. 103-R, p. 34, line 11 to p. 39, line 15) Moreover, York Water disagreed with I&E's argument related to the DSIC on the basis that it conflicted with the aims of Act 11 of 2012's DSIC provisions. (York Water Statement No. 103-R, p. 37, line 6 to p. 38, line 10) The Company also argued that to the extent that I&E's issue with QERs needs to be addressed, it should be done through a separate rulemaking proceeding that would produce a uniform, statewide practice. (York Water Statement No. 1, p. 39, lines 1-7)

Under the Settlement, the Joint Petitioners acknowledge the issue raised by I&E regarding the manner in which utilities should present financial results of operations adjusted on a ratemaking basis for future plant additions in their Quarterly Earnings Reports (the “QER Issue”) but do not agree on the substantive issue or relevance to this proceeding.⁵ (Settlement ¶ 43) The Settlement provides that in the event the Commission issues a final order that adopts the I&E position on the QER Issue in any proceeding in which the Commission states that the I&E position will be applied to all regulated utilities or via a secretarial letter after notice to York Water and an opportunity to be heard, York Water will comply with the Commission’s final directives with respect to the QER Issue. (Settlement ¶ 43) These settlement provisions acknowledge I&E’s concern about the QERs, particularly I&E’s issue with the lack of uniformity among the public utilities and establish a process for adopting a uniform change to QERs in the future, while enabling the parties to reach a settlement in this proceeding. Thus, these settlement provisions are reasonable and in the public interest and should be approved.

M. STAY-OUT

The Settlement contains a stay-out provision whereby York Water agrees not to file another base rate case before May 1, 2020, unless in response to a Commission order or in response to fundamental changes in regulatory policies or federal tax policies affecting York Water’s rates. (Settlement ¶ 44) This provision will provide customers with considerable rate stability over the next several years and will provide the Company flexibility in the event it experiences specific cost increases. Therefore, this settlement provision should be approved without modification.

⁵ In the Commission’s recent Order in UGI Utilities, Inc. – Electric Division’s base rate case, the Commission determined that I&E’s issue with the QERs should not be addressed in a base rate proceeding. *See Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket Nos. R-2017-2640058, *et al.*, at 185-86 (Order entered Oct. 25, 2018).

N. REVENUE ALLOCATION AND RATE DESIGN

York Water believes that the revenue allocation and rate design incorporated in the Settlement reflects a reasonable compromise of those issues. In the Company's original filing, the Company 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 the cost of service, as determined by the Company's cost of service study. (York Water Statement No. 107, p. 11, line 2 to p. 12, line 10; York Water Exhibit No. FVIII) Further, the Company proposed increasing its wastewater rates by 25%, with the remaining wastewater costs to be recovered through water rates. (York Water Statement No. 107, lines 1-23; York Water Exhibit No. FVIII, Schedule H)

OSBA agreed with the Company's proposed class revenue allocation and recommended that if the Company is awarded less than its overall requested revenue increase, the revenue increases for all classes, excluding public fire protection, be reduced proportionately. (OSBA Statement No. 1, p. 5, lines 5-18) However, OCA disagreed with York Water's cost of service study and argued that any increases authorized in this proceeding should be distributed based on its own cost of service study. (OCA Statement No. 3, p. 7, line 3 to p. 16, line 7) That study would recover a greater percentage of revenues from commercial, industrial, and fire classes than proposed by York Water. Further, OCA recommended that the existing customer charge of \$16.00 for residential customers with a 5/8-inch meter be maintained. (OCA Statement No. 3, p. 19, lines 11-13) I&E recommended that the wastewater customers' rates be increased by 30%, instead of 25% as proposed by the Company, to reduce the amount of wastewater costs borne by water ratepayers. (I&E Statement No. 3, p. 44, line 3 to p. 45, line 15) Moreover, I&E recommended that the customer charge for residential customers with a 5/8-inch meter be increased to \$16.40. (I&E Statement No. 3, p. 59, line 8-11) Both OCA and I&E recommended

certain changes to the direct costs used in the Company's cost of service analysis. (OCA Statement No. 3, p. 17, line 10 to p. 18, line 15; I&E Statement No. 3, p. 50, line 19 to p. 58, line 7)

In rebuttal, York Water revised its analysis to reflect some of the direct cost recommendations made by OCA and I&E; however, the Company continued to maintain that its cost of service study was appropriate and that its proposed customer charge of \$18.50 for residential customers with a 5/8-inch meter was justified. (York Water Statement No. 107-R, p. 2, line 11 to p. 16, line 22)

The revenue allocation for the water revenue requirement under the Settlement reflects a compromise of the parties' positions. Under the Settlement, industrial customers will receive a higher percentage increase (9.7%) than residential customers (7.3%) and commercial customers (7.6%). (Settlement ¶ 45; Settlement, Appx. C) This is a compromise between OCA's proposed allocation and the Company's proposed allocation. (See York Water Exhibit No. FVIII, Schedule A (Industrial 16.9%, Residential 14.5%, and Commercial 13.3%). Therefore, York Water believes that the settlement revenue allocation reasonably reflects cost of service and is a reasonable compromise by the parties.

In addition, customer charges reflect a compromise that the 5/8-inch meter residential customer charge (the principal meter size for residential customers) will increase to \$16.25 per month, with equivalent percentage increases to other customer charges. (Settlement ¶ 45) For the 5/8-inch meter customer charge, \$16.25 is lower than the charge originally proposed by the Company. York Water was willing to agree to this lower customer charge for settlement purposes. All other charges were scaled back from the Company's as-filed proposed rates,

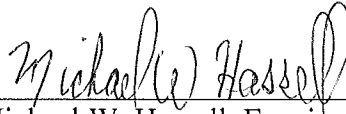
consistent with the settlement revenue increases by customer class. The Settlement also provides that the wastewater rates will increase by 25% as proposed by the Company.

The Settlement revenue allocation and rate design proposals represent a compromise of the Joint Petitioners. York Water notes, as the Commission has recognized many times, that cost allocation is not a precise science. *Application of Metropolitan Edison Co.*, Docket No. R-00974008 (June 30, 2008); *Pa. PUC v. Pa. Power & Light Co.*, 55 PUR 4th 185 (1983). York Water considers the resulting class allocation to be reasonable in light of its prior rate design, issues raised in other Joint Petitioners' testimony, and the fact that the resulting class allocations were a result of compromise and agreed to by all of the Joint Petitioners.

III. CONCLUSION

The Settlement resolves all of the issues that were raised during this proceeding. For the reasons explained above, the resolution of this proceeding in accordance with the terms of the Settlement is in the public interest.

Respectfully submitted,



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Date: November 20, 2018

Attorneys for The York Water Company

ATTACHMENT 1

The York Water Company
R-2018-3000019
Proposed and Settlement Bill Comparison Analysis

	PROPOSED					SETTLEMENT				
	Usage	Current*	Increase	Proposed	Percent Increase	Current*	Increase	Proposed	Percent Increase	
Monthly Residential Rates 5/8" - Gravity	4,300	\$35.07	\$5.32	\$40.39	15.2%	\$35.07	\$2.73	\$37.80	7.8%	
Monthly Residential Rates 5/8" - Repumped	3,500	\$41.62	\$5.93	\$47.55	14.2%	\$41.62	\$3.02	\$44.64	7.2%	
Monthly Commercial Rates 3/4" - Gravity	25,900	\$104.08	\$14.03	\$118.11	13.5%	\$104.08	\$9.14	\$113.22	8.8%	
Monthly Commercial Rates 3/4" - Repumped	43,900	\$281.80	\$35.60	\$317.40	12.6%	\$281.80	\$22.11	\$303.91	7.8%	
Monthly Industrial Rates 6" - Gravity	123,400	\$589.99	\$84.98	\$674.97	14.4%	\$589.99	\$38.22	\$628.21	6.5%	
Monthly Industrial Rates 6" - Repumped	393,300	\$2,346.91	\$404.76	\$2,751.67	17.2%	\$2,346.91	\$223.33	\$2,570.24	9.5%	

* Current charges do not include the State Tax Adjustment Surcharge (STAS) or the Distribution System Improvement Charge (DSIC).

APPENDIX “F”

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION	:	
	:	
v.	:	Docket Nos. R-2018-3000019
	:	C-2018-3002564
	:	
THE YORK WATER COMPANY	:	

STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE IN SUPPORT OF THE
JOINT PETITION FOR SETTLEMENT OF RATE PROCEEDING

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Settlement of Rate Proceeding (Settlement), finds the terms and conditions of the Settlement to be in the public interest and in the interests of The York Water Company's (York or Company) ratepayers. The OCA respectfully requests that the Pennsylvania Public Utility Commission (Commission) approve the Settlement for the following reasons:

I. BACKGROUND

On May 30, 2018, York filed proposed Supplement No. 130 to its Tariff Water – Pa. P.U.C. No. 14 (Supplement No. 130) and Supplement No. 6 to its Tariff Wastewater – Pa. P.U.C. No. 1 (Supplement No. 6) at Docket No. R-2018-3000019 and proposed an August 1, 2018 effective date. The Company is engaged in the business of providing water service to approximately 67,300 customers in portions of York and Adams Counties and wastewater service to 2,285 customers in parts of York County. Through Tariff Supplement No. 130, the

Company proposed a general increase in annual water revenues of \$6,398,961, or 13.1%. Through Tariff Supplement No. 6, the Company proposed a general increase in annual wastewater revenues of \$288,623, or 25%. For the residential class, York proposed an overall increase in rates of 10.7% for gravity water customers, and 9.8% for repumped water customers.¹ As part of this increase, the Company proposed to increase the 5/8 inch customer charge from \$16.00 to \$18.50 per month, or by 13.6%. Additionally, the Company proposed an overall increase in residential rates for wastewater customers by 25% across all divisions.²

The OCA filed a Formal Complaint and Public Statement against the proposed revenue increase on June 7, 2018. On June 11, 2018, the Commission's Bureau of Investigation and Enforcement (I&E) entered a Notice of Appearance. On June 18, 2018, the Office of Small Business Advocate (OSBA) filed a Formal Complaint and Public Statement. Michael Eifert filed a Formal Complaint on August 8, 2018.

On June 14, 2018, the Commission entered an Order initiating an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase in this filing and the Company's existing rates, rules, and regulations. The Commission's Order suspended the effective date of Tariff Supplements Nos. 130 and 6 until March 1, 2019, by operation of law. The case was assigned to Administrative Law Judge Benjamin J. Myers, who issued a Prehearing Conference Order on June 15, 2018. A Prehearing Conference was held on June 26, 2018. A Scheduling Order, issued June 28, 2018, established a procedural schedule and set forth modifications to the Commission's regulatory requirements regarding discovery matters.

¹ Under the Company's proposal, the total water bill for residential gravity customers using 4,600 gallons per month would experience a bill increase from \$37.78 to \$41.84 per month, or by 10.7%. Residential repumped customers using 3,699 gallons per month would experience a bill increase from \$44.72 to \$49.11 per month.

² Under the proposed wastewater rate increase, the typical wastewater bill for residential customers would increase by 25%, as follows: for customers in Asbury Pointe Subdivision, from \$50.00 to \$62.50 per month; for customers in East Prospect Borough and Lower Windsor Area using 4,874 gallons of water per month, from \$51.75 to \$64.69; and for customers in West York Borough Area from \$26.17 to \$32.71 per month per dwelling unit.

In accordance with the procedural schedule, on August 23, 2018, the OCA submitted the Direct Testimonies of Donna H. Mullinax, OCA Statement No. 1;³ Aaron L. Rothschild, OCA Statement No. 2;⁴ and Jerome D. Mierzwa, OCA Statement No. 3.⁵ On September 20, 2018, the OCA submitted OCA St. No. 3-R, the Rebuttal Testimony of Jerome D. Mierzwa. On October 4, 2018, the OCA submitted the Surrebuttal Testimonies of Donna H. Mullinax, OCA St. No. 1-SR; Aaron L. Rothschild, OCA St. No. 2-SR; Jerome D. Mierzwa, OCA St. No. 3-SR; and Terry L. Fought, OCA Statement No. 4-SR.⁶

Several settlement conferences were held to attempt to reach a settlement in principle on the issues raised in the case. As a result of those conferences, the Joint Petitioners reached a comprehensive agreement on all issues prior to the dates scheduled for hearings. The testimonies of the OCA witnesses, as identified above, will be entered into the record by a Joint Stipulation for Admission of Evidence that will be filed concurrently with this Settlement.

³ Ms. Mullinax is the President of Blue Ridge Consulting Services, Inc. and is a Certified Public Accountant, and a Certified Internal Auditor. She has over 38 years of financial, management, and consulting experience and has been a utility industry consultant for the last 24 years, focusing primarily on revenue requirement determinations and management/compliance audits. Her full background and qualifications are provided in Appendix A to OCA Statement 1.

⁴ Mr. Rothschild is a financial consultant specializing in cost of capital issues in utility regulation. He has over twenty years of experience providing utility financial analysis. Mr. Rothschild has applied his expertise in numerous proceedings before the Pennsylvania Public Utility Commission, over twenty other state public service commissions, and the Federal Energy Regulatory Commission. His full background and qualifications are provided in Appendix A, attached to OCA Statement 2.

⁵ Mr. Mierzwa is a Principal of Exeter Associates, Inc., with 20 years of public utility regulatory experience. Mr. Mierzwa has participated in developing utility class cost-of-service studies, presented testimony sponsoring water, wastewater, and natural gas utility cost-of-service studies, in addition to presenting testimony addressing utility rate base and revenues. His full background and qualifications are provided in OCA Statement 3 at 1-2.

⁶ Mr. Fought is a consulting engineer with more than 40 years of experience as a civil engineer. He is a registered Professional Engineer in Pennsylvania, New Jersey and Virginia and is a Professional Land Surveyor in Pennsylvania. Mr. Fought has prepared studies related to and designed water supply, treatment, transmission, distribution and storage for private and municipal wastewater agencies. He has also served as a consultant to the OCA for numerous water and sewer matters since 1984. Mr. Fought's background and qualifications are provided in Appendix A to OCA Statement 4-SR.

The terms and conditions of the Settlement satisfactorily address the issues raised in the OCA's Formal Complaint and Testimony. The OCA recognizes that this Settlement contains modifications from the original recommendations proposed by the OCA. The OCA submits, however, that the agreed upon Settlement achieves a fair resolution of the many complex issues presented in this proceeding.

In this Statement in Support, the OCA addresses those areas of the Settlement that specifically relate to important issues that the OCA raised in this case. The OCA expects that other parties will discuss how the Settlement's terms and conditions address their respective issues and how those parts of the Settlement support the public interest standard required for Commission approval.

For these reasons, and those that are discussed in greater detail below, the OCA submits that the Settlement is in the public interest and the interest of York's ratepayers, and should be approved by the Commission without modification.

II. SETTLEMENT TERMS AND CONDITIONS

A. Revenue Requirement (Settlement ¶ 28)

As stated above, in its filing, York proposed to increase its total annual operating revenues by approximately \$6.69 million per year, or 13.1% for water service and 25% for wastewater service. Under the Settlement, York will be permitted a total annual revenue increase of \$3.65 million, which consists of \$3,361,375 in additional water revenue and \$288,625 in additional wastewater revenue. Settlement ¶ 28. This represents an increase of 7.3% over present revenues and is approximately \$3 million less than the amount originally requested by York.

The Settlement represents a “black box” approach to the revenue requirement and cost of capital issues. Black box settlements avoid the need for protracted disputes over the merits of individual revenue requirement adjustments and avoid the need for a diverse group of stakeholders to attempt to reach a consensus on each of the disputed accounting and ratemaking issues raised in this matter, as policy and legal positions can differ. As such, the parties have not specified a dollar amount for each issue or adjustment raised in this case. Attempting to reach agreement regarding each adjustment in this proceeding would have likely prevented any settlement from being reached.

Based on the OCA’s analysis of York’s filing, discovery responses received, and testimony by all parties, the revenue increase under the Settlement represents a result that would be within the range of likely outcomes in the event of full litigation of the case. The increase is reasonable and yields a result that is in the public interest, particularly when accompanied by other important conditions contained in the Settlement. The increase agreed to in the Settlement provides adequate funding to allow the Company to continue to provide safe, adequate, reliable, and continuous service. As such, the OCA submits that the increase agreed to in this Settlement is in the public interest and in the interest of York’s ratepayers, and should be approved by the Commission.

B. Revenue Allocation (Settlement ¶ 45, App. C)

1. Revenue Allocation (App. C)

The Settlement provides that York can increase base distribution revenues by amounts designed to produce a net revenue increase of \$3 million in annual operating revenues, including the roll-in of the DSIC. Under the revenue allocation agreed to by the Joint Petitioners, the

residential customer class will receive an increase of \$2,204,243 per year, or 7.3% which is the system average increase. Settlement App. C.

Several parties, including the OCA (OCA St. 3 at 15-16), proposed varied revenue allocations, and this figure represents a compromise of a contentious issue. Based on the OCA's review of the cost of service studies presented in this proceeding, the OCA views the Settlement to be within the range of reasonable outcomes that would result from the full litigation of this case. In addition, the Settlement is consistent with the objective of moving rate classes toward their cost of service. The OCA submits that the Settlement is reasonable, and when accompanied by other important conditions contained in the proposed Settlement, yields a result that is just and reasonable, in the public interest, and should be approved.

2. Rate Design (Settlement ¶ 45)

The Settlement provides that York's monthly residential customer charge will increase from \$16.00 to \$16.25. Settlement ¶ 45. In its filing, the Company proposed increasing the residential customer charge to \$18.50. OCA witness Mierzwa recommended that, based on his direct customer cost analysis, the monthly customer charge for customers with 5/8 inch meters should be maintained at \$16.00 unless the overall rate of return and overall increase authorized by the Commission in this proceeding supported a higher charge. OCA St. 3 at 17-19, Sch. JDM-3; OCA St. 3SR at 10-14.

The OCA notes that the agreed upon \$16.25 customer charge is significantly lower than the Company's proposed customer charge of \$18.50 and is within the range of likely outcomes in the event of full litigation of the case. The OCA submits that the \$16.25 customer charge is reasonable and consistent with sound ratemaking principles. Further, combined with the lower

revenue requirement increase than York sought, this rate design results in rates that are significantly below the rates originally proposed by the Company and are in the public interest.

C. Acquisition Adjustments (Settlement ¶¶ 30, 31)

The Settlement modifies York's proposed accounting treatment for some of the water and wastewater systems the Company acquired since its last base rate case. Settlement ¶¶ 30, 31. In testimony, the OCA opposed the inclusion of three of the Company's claimed positive acquisition adjustments on the basis that they did not meet the requirements of 66 Pa. Code Section 1327(a)(3): Crestview Mobile Home Park, Stockham's Village Mobile Home Park, and West York Borough. OCA St. 1 at 14-17; OCA St. 4-SR at 2-8. As a result of the Settlement, all three of the disputed positive acquisition adjustments have been removed from the Company's base rate allowance. For the reasons identified in the OCA's testimony in this proceeding, this is a proper result.

The OCA also opposed York's failure to reflect negative acquisition adjustments for four acquired systems on the basis that York did not show that the purchases were a matter of substantial public interest and exempt from such accounting treatment, pursuant to 66 Pa. Code Section 1327(e). OCA St. 1 at 17-18; OCA St. 4-SR at 8-15. The Joint Petitioners have agreed that the Company will recognize negative acquisition adjustments for three of the systems: Lincoln Estates Mobile Home Park, The Meadows, and Westwood Mobile Home Park. Settlement ¶ 31. The OCA believes this is a reasonable compromise and in the public interest given the evidence presented by the parties and likely litigation outcomes. The amortized balances of these negative acquisition amounts will serve as an offset to any Company revenue claim for 10 years beginning with the effective date of new rates in this proceeding.

For the reasons discussed above, the OCA submits that the proposed accounting treatment for the positive and negative acquisitions at issue should be approved by the Commission.

E. Distribution System Improvement Charge (DSIC) (Settlement ¶¶ 35-37)

In her Direct Testimony, OCA witness Mullinax identified that the impact of Act 40 of 2017, 66 Pa. C.S. § 1301.1, on the treatment of income tax deductions and credits in the DSIC calculation was an issue litigated in the FirstEnergy DSIC case and is currently on appeal.⁷ OCA St. 1 at 38. Ms. Mullinax recommended that, pending the outcome of that proceeding, any necessary changes to York's DSIC calculation and tariff should be addressed in a future filing. Consistent with Ms. Mullinax's testimony, the Settlement reserves the parties' right to challenge York's DSIC calculation after the FirstEnergy case has been resolved. Settlement ¶ 37.

Additionally, the Company has agreed not to charge a DSIC until the later of: February 29, 2020 or when York'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, 2020. Settlement ¶ 35. The Settlement also specifies the rate of return on equity that the Company will use for the purpose of calculating the DSIC. Settlement ¶ 36. These provisions will help to ensure that DSIC rates are calculated properly.

F. Tax Cuts and Jobs Act (TCJA) (Settlement ¶ 29)

The Settlement importantly provides a mechanism to flow-through to customers the 2018 and January and February 2019 tax savings resulting from the TCJA. Settlement ¶ 29. A Federal Tax Adjustment Credit (FTAC) of 4.29% will be added to York's water tariff, which will refund \$2,117,143 to customers over a period of 12 months. This amount reflects the

⁷ Petitions of Metropolitan Edison Co. et al., for Approval of a DSIC, Office of Consumer Advocate v. Metropolitan Edison Co., Docket Nos. P-2015-2508942, P-2015-2508936, P-2015-2508931, and P-2015-2508948, et al.; McCloskey v. Pa. PUC, 697 C.D. 2018.

OCA's calculation of the estimated reduction in York's federal income tax expense and Excess Deferred Income Taxes (EDIT) for the period January 1, 2018 through the effective date of new rates, including interest. OCA St. 1-SR at 17. The TCJA generated a positive revenue requirement change for water operations and a negative revenue requirement change for wastewater operations. York St. 103R at 22. The Settlement provides that, rather than imposing a surcharge on wastewater customers and a surcredit on water customers, the net revenue requirement change will be provided entirely to water customers. Settlement ¶ 29. Any difference between the refund amount of \$2,117,143 and the actual amount credited to customers by the FTAC as applied will be refunded/recouped over an additional one-month period commencing April 1, 2020. The FTAC will be subject to audit to ensure that customers receive the full amount of the refund. In addition, new rates that take effect on March 1, 2019 will reflect the Company's ongoing tax expense savings and an amortization of the EDIT generated by the TCJA.

The OCA submits that these provisions are consistent with the Commission's Order addressing the TCJA, which provided that "tax savings and associated reductions in utility revenue requirements should be flowed back to consumers on a current basis." Tax Cuts and Jobs Act of 2017, Docket No. M-2018-2641242 (Temporary Rates Order entered May 17, 2018), at 15. The Commission's Order further provided that, with regard to utilities with pending base rate cases, including York, the Commission "expects the public utility and the parties in each such proceeding to address the effect of the federal tax rate reduction on the justness and reasonableness of the consumer rates charged during the term of the suspension period and, in particular, whether a retroactive surcharge or other measures is necessary to account for the tax rate changes." Id. at 20-21. The OCA also notes that the interest provision of the proposed

Settlement reflects the treatment of interest directed by the Commission for other utilities in its Order. *Id.* at 18, 23.

Accordingly, the OCA submits that it is appropriate that the parties to this proceeding agreed that the Company will timely refund the current and ongoing TCJA savings to customers. The OCA further submits that the proposed resolution of the TCJA issues is just and reasonable and in the public interest.

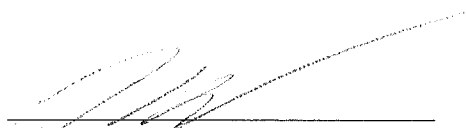
G. Effective Date and Stay-Out Provision (Settlement ¶¶ 28, 44)

The rates agreed to in the Settlement will become effective no earlier than March 1, 2019, which is the end of the future test year and the beginning of the fully projected future test year. Settlement ¶ 28. Importantly, the Settlement includes a stay-out provision wherein the Company has agreed not to file for another general rate increase prior to May 1, 2020. Settlement ¶ 44. This provision will provide a measure of rate stability for consumers and will prevent rate increases in quick succession.

III. CONCLUSION

The OCA submits that the terms and conditions of the proposed Settlement of this rate investigation, taken as a whole, represent a fair and reasonable resolution of the issues raised by the OCA in this matter. Therefore, the OCA submits that the Settlement should be approved by the Commission without modification as being in the public interest.

Respectfully Submitted,



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DATE: November 21, 2018
260842

APPENDIX “G”

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2018-3000019
	:	
The York Water Company	:	

**STATEMENT OF
THE OFFICE OF SMALL BUSINESS ADVOCATE
IN SUPPORT OF THE
JOINT PETITION FOR APPROVAL OF SETTLEMENT**

Introduction

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. Pursuant to that statutory authority, the Office of Small Business Advocate (“OSBA”) filed a complaint against the rates, terms, and other provisions of Supplement No. 130 to Tariff Water – Pa. P.U.C. No. 14 (“Supplement No. 130”) and Supplement No. 6 to Tariff Wastewater – Pa. P.U.C. No. 1 (“Supplement No. 6”), which were filed with the Pennsylvania Public Utility Commission (“Commission”) on May 30, 2018, by The York Water Company (“York Water” or the “Company”). Supplement No. 130 reflects a general rate increase in water rates of \$6,398,961 per year. Supplement No. 6 reflects a general rate increase in wastewater rates of \$288,623 per year.

The OSBA actively participated in the negotiations that led to the proposed settlement and is a signatory to the Joint Petition for Approval of Settlement (“*Joint Petition*”). The OSBA submits this statement in support of the *Joint Petition*.

The Joint Petition

The *Joint Petition* sets forth a comprehensive list of issues that were resolved through the negotiation process. The following issues were of particular significance to the OSBA when it concluded that the *Joint Petition* was in the best interests of York Water's small business customers.

Revenue Allocation

Because the Company's requested increase is over \$1 million, York Water submitted a cost of service study ("COSS") with its May 30th filing. *See generally* 52 Pa. Code § 53.53. Based upon that COSS, York Water allocated its originally proposed overall revenue increase to the Company's customer classes. Mr. Kalcic explained that the Company had two goals in mind when it proposed its original revenue allocation:

On page 11 of his direct testimony, Mr. Herbert lists two (2) specific rate design guidelines or directives that were conveyed to him by Company management: 1) increase public fire hydrant rates, as necessary, to recover 25% of cost of service per Section 1328 of the Public Utility Code; and 2) increase all remaining customer and consumption charges so as to move total revenues, by class, toward their indicated cost of service, while recovering the Company's claimed revenue requirement.

OSBA Statement No. 1, at 3.

Mr. Kalcic also explained how the Company's COSS results can be used to bring the York Water's customer classes closer to their cost of service in this proceeding:

By definition, if a class is not paying exactly its full cost of service, it is either: a) receiving a subsidy (i.e., paying too little); or b) providing a subsidy (i.e., paying too much). In order to determine whether or not a class is moving toward cost of service, one must ascertain whether the class' present subsidy is growing or shrinking at proposed rates. If its present subsidy is growing at proposed rates, the class is moving in the wrong direction (i.e., away from cost of service). Conversely, if its present subsidy is

shrinking at proposed rates, the class is moving closer to cost of service.

In short, the proper yardstick for measuring the degree of movement toward cost of service is the change in the absolute level of class subsidies at present and proposed rates.

OSBA Statement No. 1, at 3-4.

After examining York Water's proposed revenue allocation for water service, Mr. Kalcic concluded:

On a rate area basis, a comparison of the total Gravity and Repumped system results . . . indicates that the Gravity system as a whole receives a small subsidy of approximately \$156,000 from the Repumped system at present rates. This subsidy would be reduced (within rate design rounding) to zero under York's proposed rates.

Moreover, on a total system basis, a comparison . . . shows that the present subsidies (provided or received) of all customer classes would be eliminated (within rate design rounding) under York's proposed revenue allocation. In other words, all customer classes would move to full cost of service under the Company's proposed rates.

Id., at 4-5 (footnote omitted).

Mr. Kalcic concluded, as follows:

[T]he Company's proposed revenue allocation moves all customer classes to full cost of service. I recommend that the Commission adopt it

Id., at 5.

If the Commission were to award York Water a revenue increase less than the full revenue amount requested by the Company, Mr. Kalcic testified:

In that event, I would recommend that the proposed class increases . . . i.e., all classes excluding Public Fire Protection, be reduced proportionately via an across-the-board reduction of the Company's proposed class increases within the Gravity and Repumped systems.

OSBA Statement No. 1, at 5.

Table A below provides a comparison of the parties' recommended class increases to the proposed settlement water increases. As set forth in Table A, the combined Commercial and Industrial ("C&I") increase under the settlement is \$1.048 million. This amount is within \$65,000 of Mr. Kalcic's recommended C&I increase of \$0.983 million. On the other hand, the combined C&I settlement increase is approximately \$343,000 less than the OCA's recommended C&I increase of \$1.392 million. The OSBA finds that the *Joint Petition* is consistent with Mr. Kalcic's testimony, provides a meaningful benefit to C&I customers, and eliminates the litigation risk associated with the OCA's proposed increase to C&I customers. Therefore, the OSBA concludes that the *Joint Petition* is in the best interest of York's C&I customers.

Table A

Comparison of Parties' Proposed Water Increases to the *Joint Petition*¹

<i>Class</i>	<i>Settlement</i>	<i>Company/OSBA</i>	<i>OCA</i>
	(1)	(2)	(3)
Residential	\$2,204,243	\$2,290,688	\$1,776,643
Commercial	\$690,909	\$655,990	\$950,648
Industrial	\$357,518	\$326,763	\$441,212
Private Fire	\$101,804	\$81,033	\$139,803
Public Fire	<u>\$3,492</u>	<u>\$3,492</u>	<u>\$49,660</u>
Total	\$3,357,966	\$3,357,966	\$3,357,966

Source: *Settlement* – Appendix C to *Joint Petition*;
Company/OSBA – Sch. BK-1, page 1 of 3;
OCA – OCA St. 3 at page 16;

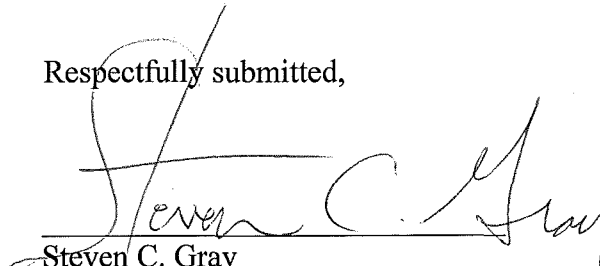
¹ Columns 2-3 reflect a proportional scaleback of parties' filed positions (using the ratio of \$3.361 million to \$6.391 million) to be comparable with the proposed settlement increase.

At the same time, settlement of this proceeding avoids the difficulties inherent in litigating different cost of service methodologies. Such litigation tends to be complex and time consuming. Consequently, the settlement reached in the *Joint Petition* will save the parties significant litigation costs.

Conclusion

Therefore, for the reasons set forth in the *Joint Petition*, as well as the additional factors that are enumerated in this statement, the OSBA supports the proposed *Joint Petition* and respectfully requests that the Administrative Law Judge and the Commission approve the *Joint Petition* in its entirety.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven C. Gray". The signature is written in a cursive style with a horizontal line underneath it.

Steven C. Gray
Assistant Small Business Advocate
Attorney ID No. 77538

Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101

Dated: November 20, 2018

APPENDIX “H”

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	
v.	:	
	:	Docket Nos. R-2018-3000019, <i>et al.</i>
The York Water Company	:	
1308(d) Proceeding	:	

**THE BUREAU OF INVESTIGATION AND ENFORCEMENT’S
STATEMENT IN SUPPORT OF
JOINT PETITION FOR SETTLEMENT**

TO ADMINISTRATIVE LAW JUDGE BENJAMIN J. MYERS:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutor John M. Coogan, hereby respectfully submits that the terms and conditions of the foregoing Joint Petition for Approval of Settlement (“Joint Petition” or “Settlement”) are in the public interest and represent a fair, just, and reasonable balance of the interests of The York Water Company (“York Water” or “the Company”), and its customers.

I. BACKGROUND

1. I&E represents the public interest in Commission proceedings related to rates, rate-related services, and applications affecting the public interest. In negotiated settlements, I&E identifies how an amicable resolution of any such proceeding serves the

public interest. Based upon I&E's analysis of York Water's base rate filing, acceptance of this proposed Settlement is in the public interest and I&E recommends that the Administrative Law Judge and the Commission approve the Settlement in its entirety and without modification.

2. On May 30, 2018, York Water filed Supplement No. 130 to its Tariff Water-Pa. P.U.C. No. 14 and Supplement No. 6 to Tariff Wastewater-Pa. P.U.C. No. 1 to become effective August 1, 2018. York Water requested an overall increase to its total annual operating revenues for water service by approximately \$6.4 million and for wastewater service by \$288,623. If York's proposed filing for water service was approved, average residential customer base rates would increase by approximately 14.5%, average commercial customer base rates would increase by approximately 13.3%, average industrial customer base rates would increase by approximately 16.9%, public fire service rates in the gravity service area would increase by approximately 1.4%, and private fire service rates are increased by approximately 8.6%. If York's proposed filing for wastewater service was approved, metered and unmetered rates for residential, commercial, and commercial/industrial would increase by 25%.

3. By Order entered June 14, 2018, the Commission instituted a formal investigation to determine the lawfulness, justness, and reasonableness of the existing and proposed rates, rules, and regulations. Pursuant to 66 Pa. C.S. §1308(d), the filings were suspended by operation of law until March 1, 2019, unless permitted by Commission Order to become effective at an earlier date.

4. I&E entered the Notice of Appearance of Prosecutor John M. Coogan on June 11, 2018.

5. Administrative Law Judge Benjamin J. Myers (“ALJ”) was assigned to this proceeding to conduct hearings and issue a Recommended Decision.

6. The ALJ held a prehearing conference on June 26, 2018, during which the parties agreed to a schedule for the conduct of the case including the service of testimony among the parties and the dates for evidentiary hearings.

7. In accordance with the procedural schedule established at the prehearing conference, I&E served all active parties the following pieces of testimony and accompanying exhibits:

I&E Witness Brenton Grab

Operating and Maintenance Expenses

Direct Testimony

1. I&E Statement No. 1
2. I&E Exhibit No. 1

Surrebuttal Testimony

1. I&E Statement No. 1-SR
2. An Errata Sheet correcting Statement No. 1-SR
3. I&E Exhibit No. 1-SR

I&E Witness Christopher Henkel

Rate of Return

Direct Testimony

1. I&E Statement No. 2
2. I&E Exhibit No. 2

Surrebuttal Testimony

1. I&E Statement No. 2-SR
2. I&E Exhibit No. 2-SR

I&E Witness Joseph Kubas

Rate Base/Revenue Allocation/Rate Design

Direct Testimony

1. I&E Statement No. 3
2. An Errata Sheet correcting Statement No. 3
3. An Errata reflecting full testimony correcting Statement No. 3
4. I&E Exhibit No. 3

Surrebuttal Testimony

1. I&E Statement No. 3-SR
2. I&E Exhibit No. 3-SR

I&E Witness Ethan Cline

Acquisition Adjustments

Direct Testimony

1. I&E Statement No. 4
2. An Errata Sheet correcting Statement No. 4
3. I&E Exhibit No. 4

Surrebuttal Testimony

1. I&E Statement No. 4-SR
2. I&E Exhibit No. 4-SR

8. In accordance with Commission policy favoring settlements at 52 Pa. Code § 5.231, I&E participated in multiple in-person and telephonic settlement discussions with the Company and other parties to the proceeding. Following extensive settlement negotiations, before hearings began, all parties reached a settlement with York Water on all issues.

II. TERMS AND CONDITIONS OF SETTLEMENT

9. It is the policy of the Commission to encourage settlements.¹ The Commission issued the following policy statement that articulates general settlement guidelines and procedures for major rate cases:

In the Commission's judgment, the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding. It is also the Commission's judgment that the public interest will benefit by the adoption of §§ 69.402—69.406 and this section which establish guidelines and procedures designed to encourage full and partial settlements as well as stipulations in major section 1308(d) general rate increase cases.²

10. This policy statement highlights the importance of settlement in Commission proceedings. The instant rate case was filed on May 30, 2018, and over the past six months, the parties engaged in extensive formal and informal discovery, preparation of testimony, and lengthy settlement discussions. All signatories to the Joint Petition actively participated in and vigorously represented their respective positions during the course of the settlement process. As such, the issues raised by I&E have been satisfactorily resolved through discovery and discussions with the parties and are incorporated in the Joint Petition. I&E represents that the Settlement satisfies all applicable legal standards and results in terms that are preferable to those that may have been achieved at the end of a fully litigated proceeding. Accordingly, for the reasons articulated below, I&E maintains that the proposed Settlement is in the public interest and

¹ 52 Pa. Code § 5.231.

² 52 Pa. Code § 69.401.

requests that the following terms be approved by the ALJ and the Commission without modification:

A. Revenue Requirement (Joint Petition ¶ 28)

York Water's proposed rate increase reflected a total increase to its combined water and wastewater revenue of \$6,687,584. This represents \$6,398,961 in water revenue and \$288,623 in wastewater revenue. However, pursuant to the Joint Petition, settlement rates are designed to produce additional combined annual operating revenue of \$3.65 million.³ This represents \$3,361,375 in water revenue and \$288,623 in wastewater revenue. If the Settlement is approved as filed, average residential customer base rates would increase by approximately 7.3%, average commercial customer base rates would increase by approximately 7.3%, average industrial customer base rates would increase by approximately 9.7%, public fire service rates in the gravity service area would increase by approximately 0.3%, and private fire service rates are increased by approximately 5.7%.⁴ Additionally, if the Settlement is approved as filed, metered and unmetered rates for residential, commercial, and commercial/industrial would increase by 25%.⁵

I&E analyzed the ratemaking claims contained in base rate filings including operating and maintenance expenses, rate base, taxes, cash working capital, rate structure, capital structure, cost of equity and debt, and acquisition adjustments. The Settlement

³ Joint Petition at pp. 4-5.

⁴ Joint Petition at Appendix A & C.

⁵ Joint Petition at Appendix B & D.

represents over a \$3 million savings for York Water's water customers. The Parties' agreed no decrease to York Water's proposed rate increase for wastewater customers was warranted. This is explained in more detail at Section O below. For these reasons, I&E fully supports the revenue levels compromised upon in the Settlement.

Due to the "black box" nature of the Settlement, there is no agreement upon individual issues; rather, the parties have agreed to an overall increase to base rates that is substantially less than what was requested by York Water. Line-by-line identification and ultimate resolution of every issue raised in the proceeding is not necessary to find that the Settlement satisfies the public interest, nor could such a result be achieved as part of a settlement. Black box settlements benefit ratepayers because they allow for the resolution of a contested proceeding at a level of increase that is below the amount requested by the regulated entity and in a manner that avoids the significant expenditure of time and resources related to further litigation.

Black box settlements are not uncommon in Commission practice. Indeed, the Commission has endorsed the use of black box settlements, as discussed in an Order approving such a settlement:

We have historically permitted the use of "black box" settlements as a means of promoting settlement among the parties in contentious base rate proceedings. *See, Pa. PUC v. Wellsboro Electric Co.*, Docket No. R-2010-2172662 (Final Order entered January 13, 2011); *Pa. PUC v. Citizens' Electric Co. of Lewisburg, PA*, Docket No. R-2010-2172665 (Final Order entered January 13, 2011). Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the

litigation process. Determining a company's revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company's cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases. For these reasons, we support the use of a "black box" settlement in this proceeding and, accordingly, deny this Exception.⁶

I&E individually, and the Joint Petitioners collectively, considered, discussed, and negotiated all issues of import in this Settlement. From a holistic perspective, each party has agreed that the Settlement benefits its particular interest. The Commission has recognized that a settlement "reflects a compromise of the positions held by the parties of interest, which, arguably fosters and promotes the public interest."⁷ The Settlement in this proceeding promotes the public interest because a review of the testimony submitted by all parties demonstrates that the Joint Petition reflects a compromise of the litigated positions held by those parties. Therefore, I&E submits that the Settlement balances the interests of York Water and its customers in a fair and equitable manner.

Public utility regulation allows for the recovery of prudently incurred expenses as well as the opportunity to earn a reasonable return on the value of assets used and useful in public service. The increases proposed in this Settlement respect this principle. Ratepayers will continue to receive safe and reliable service at just and reasonable rates while allowing York Water sufficient additional revenues to meet its operating and capital expenses and providing the opportunity to earn a reasonable return on its

⁶ *Pa. P.U.C. v. Peoples TWP LLC*, Docket No. R-2013-2355886, p. 28 (Order entered December 19, 2013).

⁷ *Pa. P.U.C. v. CS Water and Sewer Associates*, 74 Pa. PUC 767, 771 (1991).

investment. Accordingly, I&E submits that the proposed Settlement is in the public interest and requests that it be approved by the ALJ and the Commission without modification.

B. Tax Cuts and Jobs Act of 2017 (Joint Petition ¶ 29)

In its Temporary Rates Order, entered May 17, 2018, the Commission stated tax savings associated with the Tax Cuts and Jobs Act (“TCJA”) in 2018 should be returned to ratepayers.⁸ Accordingly, I&E agreed with York Water to flow back to ratepayers the 2018 tax savings as a result of the TCJA, along with any over/under passback, calculated with interest.⁹

The Settlement terms reflect a return of \$2,117,143 in tax savings to customers. This reflects a tax savings for water customers and tax deficiency for wastewater customers through the actual effective date of new rates, including interest, in the combined amount of \$1,914,637.¹⁰ Additionally, this amount reflects a flowback of Excess Deferred Income Taxes (“EDIT”) of \$202,506, which includes interest.¹¹

I&E asserts the Settlement represents a reasonable compromise of the parties’ positions. Additionally, the Settlement serves the public interest by returning TCJA tax savings to ratepayers as directed by the Commission. I&E therefore supports the Settlement terms returning \$2,117,143 in tax savings to customers over a one-year period, beginning March 1, 2019. I&E also supports that this credit will be subject to

⁸ *Temporary Rates Order*, Docket No. M-2018-2641242, p. 15 (Order entered May 17, 2018).

⁹ I&E St. No. 1, pp. 10-17; I&E St. No. 1-SR, pp. 17-23.

¹⁰ I&E St. No. 1-SR, p. 19.

¹¹ OCA St. No. 1-SR, p. 16.

reconciliation to ensure the Company has returned the full amount in the manner referenced in the Joint Petition. These Settlement terms resolve the parties' positions regarding the return of 2018 federal income tax expense savings and 2018 EDIT.

C. Acquisition Adjustments (Joint Petition ¶¶ 30-31)

Since its last base rate proceeding, York Water acquired ten water systems and two wastewater systems. For these systems, York Water made various claims pursuant to Section 1327 of the Public Utility Code regarding appropriate acquisition adjustments. Where York Water paid more than the depreciated original cost,¹² York Water requested amortization of the acquisition cost less original cost of the property less accrued depreciation over a ten-year period as part of rate base (“positive acquisition adjustment”). For the acquisitions where York Water paid less than the depreciated original cost,¹³ York Water included in rate base the depreciated original cost of these acquired systems and claimed no amortization of pass-through of the difference between the acquisition cost and the depreciated original cost (“negative acquisition adjustment”) was required because the acquisitions involved matters of substantial public interest.¹⁴

I&E provided extensive testimony regarding York Water's requested acquisition adjustments.¹⁵ In direct testimony, I&E recommended removing positive acquisition adjustments for two water systems and one wastewater system. I&E also recommended

¹² Margareta Mobile Home Park; Crestview Mobile Home Park; Stockham's Village Mobile Home Park; West York Borough Wastewater.

¹³ Windy Brae Mobile Home Park; Forest Lakes Water Association; Lincoln Estates Mobile Home Park; The Meadows; Paradise Homes Mobile Home Park; Newberry Farms Mobile Home Park; Westwood Mobile Home Park; East Prospect Borough Authority Wastewater.

¹⁴ York Water St. No. 1, pp. 10-32.

¹⁵ I&E St. No. 4; I&E St. No. 4-SR.

including negative acquisition adjustments for three water systems and one wastewater system. I&E's recommendations were made on the basis that York Water's claims for these systems did not satisfy Section 1327. I&E agreed with York Water's claims regarding the treatment of acquisition adjustments for the five other water systems. OCA's direct testimony recommended the same treatment of York Water's claimed acquisition adjustments as I&E.¹⁶

In rebuttal testimony, York Water provided various additional support to the acquisition adjustment claims objected to by I&E and OCA in direct testimony.¹⁷ Accordingly, in surrebuttal testimony, I&E withdrew its recommendations regarding negative acquisition adjustment treatment for two water systems. However, I&E maintained its positions regarding the remaining systems.¹⁸ OCA did not withdraw any of its positions regarding acquisition adjustments.¹⁹

The issue of acquisition adjustments was extensively addressed by I&E in testimony and the thoroughly addressed by the parties in Settlement discussions. I&E avers these settlement terms reflect a compromise among all interested parties, and therefore supports their adoption.

D. Catch-up Deduction (Joint Petition ¶ 32)

York Water will amortize the benefit of the catch-up deduction permitted under the Internal Revenue Service's tangible property regulations over a fifteen-year period

¹⁶ OCA St. No. 1, pp. 12-18.

¹⁷ York Water St. No. 1-R.

¹⁸ I&E St. No. 1-SR.

¹⁹ OCA St. No. 4-SR.

commencing with the effective date of rates in this proceeding. The benefit totals \$1,302,030 in Pennsylvania income taxes and \$2,585,217 in federal income taxes. This amortization results in an annual reduction of \$259,150 to the Company's claimed income tax expense. The amortization shall be 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.

I&E did not submit any testimony regarding the benefit of catch-up deduction. However, I&E was involved in the discussion of this issue, which was vetted during settlement negotiations. Therefore, I&E supports this term as it was necessary to facilitate a collective resolution of this case.

E. Pension Expense (Joint Petition ¶ 33)

Rates under this Settlement will be presumed to provide for recovery of a cash contribution to pensions in the amount of \$2,300,000. 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 \$2,300,000, 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 ASC 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.

I&E did not submit any testimony regarding pension expense. However, I&E was involved in the discussion of this issue, which was vetted during settlement negotiations. Therefore, I&E supports this term as it was necessary to facilitate a collective resolution of this case.

F. State Tax Adjustment Surcharge (Joint Petition ¶ 34)

In accordance with 52 Pa. Code § 69.55, the State Tax Adjustment Surcharge (“STAS”) for York Water shall be established as 0% effective with the effective date of settlement rates in this proceeding.

I&E did not submit any testimony regarding STAS. However, I&E was involved in the discussion of this issue, which was vetted during settlement negotiations.

Therefore, I&E supports this term as it was necessary to facilitate a collective resolution of this case.

G. Distribution System Improvement Charge (Joint Petition ¶¶ 35-37)

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; or (ii) 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, 2020 (*i.e.*, the end of the FPFTY) per Exhibit Nos. FV-12-4, FV-16-3 and FV-16-4. 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.

For purposes of calculating its 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).

The parties acknowledge that issues regarding the impact of 66 Pa. C.S. § 1301.1 on the treatment of federal and state income tax deductions in calculating DSIC charges

are currently on appeal before the Commonwealth Court in *McCloskey v. Pennsylvania Public Utility Commission*, Case No. 697 C.D. 2018 (“*McCloskey*”) The Company will not contest the right of a party to raise issues regarding the impact of 66 Pa. C.S. § 1301.1 on the treatment of federal and state income tax deductions in calculating DSIC charges by filing a complaint against the Company’s first quarterly DSIC charge filed after the resolution of *McCloskey* or by filing a pleading to initiate a generic proceeding.

I&E did not submit testimony regarding the above DSIC issues. However, I&E was involved in the discussion of these issues and they were fully vetted during settlement negotiations. I&E therefore fully supports these negotiated settlement terms.

H. Capital Projections (Joint Petition ¶ 38)

York Water will provide the Commission’s Bureau of Technical Utility Services (“TUS”), I&E, OCA and OSBA, on or before June 1, 2019, 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 twelve months ended December 31, 2018 (i.e., York Water’s Future Test Year). On or before June 1, 2020, York Water will update Exhibit Nos. FV-12-4 and FV-12-4W, which will include actual capital expenditures, plant additions and retirements through February 29, 2020 (i.e., York Water’s Fully Projected Future Test Year).

I&E recommended York Water provide TUS and I&E various updates, including updates to FV-12-1, FV-12-1W, FV-12-4, and FV-12-4W.²⁰ I&E believes such

²⁰ I&E St. No. 3, p. 34.

information is important to verify projections regardless of how revenue requirement is calculated (e.g., end-of-year rate base or average rate base methodology). Such data allows the Commission to gauge the accuracy of projected investments in future proceedings. York Water agreed to report this information, and therefore I&E supports this settlement provision.

I. Low Income Customer Assistance Program (Joint Petition ¶ 39)

The Company's proposed \$20,000 budget for The York Water Cares Low Income Customer Assistance Program is approved on a pilot basis until York's next base rate case on the condition that (i) all of the program's annual expenditures funded by ratepayers will be for direct payment of customer assistance to York Water customers and will not include any payments for administrative, overhead, or other indirect costs or contributions related to administration of the program; (ii) York Water will work with I&E and OCA to develop the details of the program including eligibility, enrollment and customer education/outreach, and incorporate the results into the program before the effective date of new rates; (iii) at the end of each fiscal year, all unspent annual program funds will be rolled over to the program for spending in the next fiscal year; and (iv) at the end of the pilot and until base rates are reset in York Water's next base rate case, any unspent program funds will be refunded to ratepayers with interest. Additionally, York Water will evaluate the pilot and, in its next base rate case, York Water will: (i) provide a detailed accounting of all funds expended, including the information listed in Paragraph 12 of York Exhibit MEP-11R and (ii) make a recommendation to the Commission

regarding the operation of the program and appropriate level of funding supported by a needs assessment. The parties agree that this \$20,000 pilot budget is a settlement amount and has not been set pursuant to any need based determination.

In testimony, I&E recommended the Company's claim for the \$20,000 Low Income Customer Assistance Program ("CAP") be disallowed.²¹ The basis of I&E's recommendation was that York Water did not provide enough support and detail for the claim to be approved. Although York Water provided program guidelines with rebuttal testimony, I&E still expressed several concerns, including that there was no charity or agency to administer the program, and the program should require tracking and reconciliation of unspent funds.²²

This issue was discussed at length in settlement negotiations. York Water has agreed to a number of guidelines to ensure ratepayer funds are prudently spent for this program. Accordingly, I&E asserts the settlement terms satisfy its concerns regarding lack of detail and adequate program guidelines for York Water's CAP, and the settlement terms should be approved.

**J. Treatment of Income Taxation of Contributions in Aid of Construction
(Joint Petition ¶ 40)**

Within 30 days of a final disposition of the tariff supplement filing of Pennsylvania-American Water Company ("PAWC") at Docket Nos. R-2018-3002502 and R-2018-3002504, The York Water Company shall file a tariff supplement consistent

²¹ I&E St. No. 1, pp. 23-24; I&E St. No. 1-SR, pp. 29-31.

²² I&E St. No. 1-SR, pp. 30-31.

with the Commission's resolution in that proceeding of the issue of prospective cost responsibility for, and prospective ratemaking treatment of, income taxation of Contributions in Aid of Construction ("CIAC").

I&E submitted extensive testimony and supporting exhibits regarding this issue.²³ I&E recommended York Water use a "gross-up" methodology, because it recommends the contributor, not rate base, pay for the income taxes associated with the contribution. The same issue of the appropriate ratemaking methodology for CIAC income taxes is currently being litigated in the above-referenced PAWC dockets. I&E believes it is a reasonable compromise for York Water to ultimately follow Commission guidance on the appropriate CIAC methodology per the above-referenced dockets. Accordingly, the CIAC issue was fully vetted during settlement negotiations and I&E fully supports the negotiated settlement terms.

K. Wastewater Allocated Cost of Service Study (Joint Petition ¶ 41)

In future base rate proceedings, the Company will present a wastewater allocated cost of service study.

I&E recommended that the Company allocate a reasonable portion of rate case expense, common plant and other rate base items to the wastewater operations in the next base rate case.²⁴ I&E made this recommendation because a proper allocation will enable the Commission to determine the true cost of York Water's wastewater operations. Additionally, it will result in a more accurate disclosure of the rate subsidy provided by

²³ I&E St. No. 1, pp. 7-9; I&E St. No. 1-SR, pp. 7-17.

²⁴ I&E St. No. 3, pp. 48-49.

the water operations. York Water's agreement to present a wastewater allocated cost of service study addresses I&E's concerns and therefore I&E fully supports this provision.

L. Accumulated Deferred Income Taxes (Joint Petition ¶ 42)

In future base rate proceedings, York Water will present separately amounts related to deferred taxes associated with accelerated depreciation and deferred taxes associated with excess accumulated deferred income tax and continue to reflect each category as a reduction to rate base in future base rate filings.

I&E expressed concern that the Company did not show a breakdown between accumulated deferred income tax ("ADIT") and excess ADIT.²⁵ Accordingly, I&E recommended that York Water be required to show the excess ADIT as a separate component from ADIT in future rate filings. This settlement term addresses I&E's concerns and therefore I&E fully supports this provision.

M. Quarterly Earnings Reports (Joint Petition ¶ 43)

In this proceeding, I&E testified that the Company's Quarterly Earnings Reports ("QER") contained future plant projections for plant not yet in service. I&E recommended that the Company not be allowed to include FTY or FPFTY plant in any future QERs.²⁶ While not specifically taking a position on whether it is or is not appropriate to include FTY or FPFTY plant in a utility's QER, the Settlement provides that the Company will comply with a Commission determination via final order or

²⁵ I&E St. No. 1, p. 14.

²⁶ I&E St. No. 3, pp. 73-74; I&E St. No. 3-SR, pp. 44-45.

secretarial letter applicable to all utilities related to the determination of the QER issue.

This provision was important to I&E as this issue was recently litigated in the UGI Utilities, Inc. — Electric Division base rate case at Docket R-2017-2640058.

Accordingly, I&E fully supports this negotiated settlement term.

N. Base Rate Filing Stay Out (Joint Petition ¶ 44)

York Water agrees it will not file another base rate case before May 1, 2020, provided, however, that the foregoing agreement does 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.

I&E did not submit any testimony regarding a stay-out provision. However, I&E was involved in the discussion of this issue, which was vetted during settlement negotiations. Therefore, I&E supports this term as it was necessary to facilitate a collective resolution of this case.

O. Revenue Allocation and Rate Design (Joint Petition ¶ 45)

As part of the Settlement, the residential customer charge for the 5/8" by 3/4" meter size ("5/8" customer charge") will be set at \$16.25 per month. York Water originally proposed an increase to the 5/8" customer charge to \$18.50 per month, an

increase of \$2.50 per month to the current charge.²⁷ I&E recommended an increase to the 5/8" customer charge of \$1.00, to \$17.00 per month.²⁸

Also as part of the Settlement, wastewater revenue will increase by \$288,625, or 25%. This reflects York Water's proposed increase for wastewater revenue as filed. York Water presented its revenue requirement on a combined water and wastewater basis, where wastewater customers receive a subsidy from water customers. Without a subsidy, the increase to wastewater customers would be 104.5%.²⁹ In testimony, I&E recommended a moderation to the wastewater subsidy, i.e., an increase to wastewater revenue of \$346,280, or 30%.³⁰

Both issues were extensively addressed by I&E in testimony and thoroughly vetted in settlement negotiations. York Water's proposed distribution of revenue among the customer classes and rate design generally was a matter of interest to all parties in the proceeding.³¹ Settlement discussions in these matters were extensive and these settlement terms reflect compromise among all interested parties. Therefore, I&E fully supports all settlement terms related to revenue allocation and rate design.

P. Other Issues

The remaining issues raised by I&E have been satisfactorily resolved through discovery and discussions with the parties and are incorporated into the "Black Box"

²⁷ York Water Exhibit FVIII, Schedule I.

²⁸ I&E St. No. 3-SR, pp. 35-36. In direct testimony, I&E recommended an increase to 5/8" customer charge of \$0.40 per month. I&E St. No. 3, pp. 58-59. I&E later revised its position regarding the 5/8" customer charge after receiving a revised customer cost analysis from the Company. I&E St. No. 3-SR, p. 29.

²⁹ York Water Exhibit FII-2, p. 10.

³⁰ I&E St. No. 3, p. 44; I&E St. No. 3-R, pp. 19-21.

³¹ See OCA St. No. 3; OCA St. No. 3-SR; OSBA St. No. 1; OSBA St. No. 1-SR.

resolution of the revenue requirement in this proceeding. The very nature of a settlement agreement incorporates compromise on the part of all Joint Petitioners. This particular Settlement Agreement exemplifies this principle. Because of the characteristics of “Black Box” settlements, no representation of the resolution of any issue not specifically identified is possible for future proceedings.

III. THE SETTLEMENT SATISFIES THE PUBLIC INTEREST

11. I&E represents that all issues raised in testimony have been satisfactorily resolved through discovery and discussions with York Water or are incorporated or considered in the resolution proposed in the Settlement. The very nature of a settlement requires compromise on the part of all parties. This Settlement exemplifies the benefits to be derived from a negotiated approach to resolving what can appear at first blush to be irreconcilable regulatory differences. The Joint Petitioners have carefully discussed and negotiated all issues raised in this proceeding, and specifically those addressed and resolved in this Settlement. Further line-by-line identification of the ultimate resolution of the disputed issues beyond those presented in the Settlement is not necessary as I&E represents that the Settlement maintains the proper balance of the interests of all parties. I&E is satisfied that no further action is necessary and considers its investigation of this rate filing complete.

12. Based upon I&E’s analysis of the filing, acceptance of this proposed Settlement is in the public interest. Resolution of this case by settlement rather than

litigation will avoid the substantial time and effort involved in continuing to formally pursue all issues in this proceeding at the risk of accumulating excessive expense.

13. I&E further submits that the acceptance of this Settlement will negate the need for evidentiary hearings, which would compel the extensive devotion of time and expense for the preparation, presentation, and cross-examination of multiple witnesses, the preparation of briefs, the preparation of exceptions, and the potential of filed appeals, all yielding substantial savings for all parties, and ultimately all customers, as well as certainty on the regulatory disposition of issues.

14. The Settlement is conditioned upon the Commission's approval of all terms without modification. Should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Settlement in any way, it may be withdrawn by any Joint Petitioner.

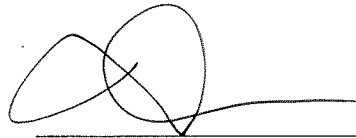
15. I&E's agreement to settle this case is made without any admission or prejudice to any position that I&E might adopt during subsequent litigation in the event that the Settlement is rejected by the Commission or otherwise properly withdrawn by any other parties to the Settlement.

16. If the ALJ recommends that the Commission adopt the Settlement as proposed, I&E agrees to waive the filing of Exceptions. However, I&E does not waive its right 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 ALJ in his

Recommended Decision. I&E also does not waive the right to file Replies in the event any party files Exceptions.

WHEREFORE, the Commission's Bureau of Investigation and Enforcement represents that it supports the Joint Petition for Settlement as being in the public interest and respectfully requests that Administrative Law Judge Benjamin J. Myers recommend, and the Commission approve, the terms and conditions contained in the Settlement.

Respectfully submitted,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

John M. Coogan
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Prosecutor
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Dated: November 20, 2018