

York Water Company Rate Case Settlement Summary

Summary of the Settlement

Position of York Water in its rate filing	Position of the Consumer Advocate (OCA)	Position of the PA Commission Staff (I&E)	Settlement Agreement and Ruling by the ALJ*
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ISSUE ¶28. Proposed increase in operating revenues and customer rates.

Filed to increase total operating revenues by \$6.69 mil.	Originally proposed a decrease in total revenue of \$3,094,712; revised to a decrease of \$343,732.	Originally proposed an increase in total revenue of \$1.74 mil.	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 will be permitted to file tariff supplements to become effective 3/1/19.
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ISSUE ¶28. Allocation of increase by customer class

Residential: 68.2%	Residential: 52.9%	Residential: 65.6%
Commercial: 19.5%	Commercial: 28.3%	Commercial: 20.6%
Industrial: 9.7%	Industrial: 13.1%	Industrial: 10.6%
Private Fire: 2.4%	Private Fire: 4.2%	Private Fire: 3.0%
Public Fire: 0.11%	Public Fire: 1.5%	Public Fire: 0.1%

ISSUE ¶29. Refund of Federal Tax Adjustment Credit (FTAC) pursuant to the 2018 Tax Cuts and Jobs Act (TCJA).

Based on FTAC, York would refund \$2.12 mil. to customers over a 12-month period.	Agreed with the refund procedure and timely refund of the current and ongoing TCJA savings to customers.	Agreed with the refund procedure.	York will provide a refund to customers of \$2.12 via a reconcilable surcharge mechanism ("FTAC") over a one-year period... This amount includes interest of \$119,051... 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 York has returned the full amount of the credit to customers... A credit value of 4.29% will apply to all charges except the DSIC during the period 3/1/19 through 2/29/20 to pass the 1/1/18 through 2/28/2019 revenue requirement change created by the TCJA to customers.
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York Water	Consumer Advocate	Commission Staff	Settlement Agreement and Ruling by the ALJ*
ISSUE ¶30. Amortization of acquisition adjustments and costs related to lead service lines.			
	Initially had objections relating to the positive acquisition adjustments but ultimately supported the settlement terms.	Initially recommended removing positive acquisition adjustments for two water systems and one wastewater system.	The following amortizations of positive acquisition adjustments are specifically approved and are reflected in the Settlement's base rate allowance: York Starview (\$3,590 annual); Section A (\$3,473 annual); and Margaretta MHP. The amortization period is 10 years.
Annual amortization of \$22,281 for four years to cover legal fees and communication costs for testing and removal of lead service lines			The following amortizations are specifically approved and are reflected in the Settlement's base rate allowance: legal and communication fees associated with lead testing and renewal (\$22,281 annual). The amortization period is 4 years.
Amortization of \$502,895, the total cost of replaced customer-owned lead services lines and known future replacements.	Amortize the costs incurred through August 2018, \$244,695, but not any future costs.	Amortize the costs incurred through August 2018, \$244,695, but not any future costs.	The following amortizations are specifically approved and are reflected in the Settlement's base rate allowance: customer-owned lead service line replacement (\$67,174 annual for costs totaling \$244,695 incurred through August 2018). The amortization period is 4 years.
ISSUE ¶31. Negative acquisition adjustments.			
	Asserted that York failed to include three negative acquisition adjustments and failed to show that the purchases were a matter of substantial public interest and exempt from such accounting treatment.	Recommended including negative acquisition for one water system and one wastewater system	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 five water and wastewater system acquisitions. The Joint Petitioners agree... that matters of “substantial public interest” exist with respect to such acquisitions, which justify this ratemaking treatment. The Joint Petitioners agree that agreement to these specific acquisitions cannot be construed as precedent.
			In total, 14 acquisition adjustments: five negative adjustments were excluded; three negative adjustments were included; three positive adjustments were excluded; three positive adjustments were included.

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ISSUE ¶32. Tax benefit from catch-up deduction on tangible property.

York claimed \$1.3 mil. in Pennsylvania income taxes and \$2.6 mil. in federal income taxes.	Supported the settlement terms.	York will amortize the benefit of the catch-up deduction permitted under the IRS’s tangible property regulations over a fifteen-year period commencing with the effective date of rates in this proceeding. The benefit totals \$1.3 mil. in Pennsylvania income taxes and \$2.6 mil. in federal income taxes. This amortization results in an annual reduction of \$259,150 to York’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 York is not entitled to the full amount of the catch-up deduction.
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ISSUE ¶33. Recovery of pension contribution costs.

Settlement rates will be presumed to provide for recovery of a cash contribution to pensions in the amount of \$2,300,000. York commits to deposit such amount into its pension trust on an annual basis during the rate period, provided that such deposit does not exceed the deductibility limits under the Internal Revenue Code.

ISSUE ¶34. State Tax Adjustment Surcharge (STAS).

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

ISSUE ¶35. Distribution System Improvement Charge (DSIC) set to 0% for the rate year.

Recommended that changes to York’s DSIC calculation and tariff should be addressed in a future filing.	Supported the settlement terms.	The water DSIC for York 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 FPPTY; or (ii) the quarter following the point in time at which York’s total eligible account balances, net of plant funded with customer advances and contributions, exceed the levels projected by York as of 2/29/20.
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ISSUE ¶36. Distribution System Improvement Charge (DSIC) return on equity.			
		Did not submit testimony regarding the DSIC issues.	For purposes of calculating its DSIC, York shall use the equity return rate for water utilities contained in the PUC’s most recent Quarterly Earnings Report (QER).
ISSUE ¶37. Distribution System Improvement Charge (DSIC) income tax effect.			
	Recommended that changes to York’s DSIC calculation and tariff should be addressed in a future filing, pending the outcome of the appeal proceeding.	Did not submit testimony regarding the DSIC issues.	The treatment of federal and state income tax deductions in calculating DSIC charges are current on appeal before the Commonwealth Court in <i>McCloskey v. Pennsylvania PUC</i> (“ <i>McCloskey</i> ”). York will not contest the right of a party to raise issues regarding... the treatment of federal and state income tax deductions in calculating DSIC charges by filing a complaint against York’s first quarterly DSIC charge filed after the resolution of <i>McCloskey</i> or by filing a pleading to initiate a generic proceeding.
ISSUE ¶38. Future test year reporting requirements (FTY and FPFTY).			
York agreed with I&E’s proposal, but recommended making slight modifications to the reporting schedule and updating the exhibits.		Recommended that York provide TUS and I&E various updates, including updates to exhibits. Such information is important to verify projections regardless of how the revenue requirement is calculated (e.g., end-of-year or average rate base method). I&E proposed additional reporting requirements regarding York’s capital expenditures, plant additions, and retirements during the FTY ended 12/31/18, and the FPFTY ended 2/29/20.	These settlement provisions adopt I&E’s proposal, as slightly modified by the company’s recommendations set forth in its rebuttal testimony. On or before 6/1/19, York will provide the Commission’s Bureau of Technical Utility Services (“TUS”), I&E, OCA, and OSBA an update to York’s exhibits, which will include actual capital expenditures, plant additions and retirements for the twelve months ended 12/31/18. 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 2/29/20.

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ISSUE ¶39. Funding for low-income customer assistance program.			
York would provide \$20,000 to a local non-profit charitable organization to assist low-income customers in paying their water and wastewater bills and avoiding shut off.		Recommended disallowance of the \$20,000 program budget.	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 customers and will not include any payments for administrative, overhead, or other indirect costs or contributions related to administration of the program; (ii) York will work with I&E and OCA to develop the details of the program... (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’s next base rate case, any unspent program funds will be refunded to ratepayers with interest. York will evaluate the pilot and... make a recommendation to the PUC regarding the operation of the program and appropriate level of funding supported by a needs assessment. Joint Petitioners agree that this \$20,000 pilot budget is a settlement amount and has not been set pursuant to any need-based determination.
ISSUE ¶40. Ratemaking treatment of income taxes on contributions in aid of construction (CIAC).			
Maintained that it was permitted by the PUC to include taxes associated with CIAC and CAC in rate base. If staff position is adopted, the reduction should be adjusted by net income taxes on CIAC and CAC (\$113,257).		Recommended that York use a gross-up method, under which it would charge all taxes associated with the contributions to the contributors, resulting in a reduction of \$240,768 to the rate base claim.	Within 30 days of a final disposition of the tariff supplement filing of PA-American Water, York shall file a tariff supplement consistent with the resolution in that proceeding of prospective cost responsibility for, and prospective ratemaking treatment of, income taxation of CIAC.

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ISSUE ¶41. Wastewater cost-of-service study.			
Indicated that it had not prepared a separate allocated cost of service study for its wastewater operations, because its level of revenues is comparatively small.		Recommended that York allocate a reasonable portion of rate case expense, common plant, and other rate base items to wastewater operations in the next base rate case to better reflect wastewater cost of service.	In future base rate proceedings, York will present a wastewater allocated cost-of-service study.
ISSUE ¶42. Reporting of deferred income taxes.			
Asserted that this provision will better enable parties to verify that York is properly reducing rate base until the EDIT balance is returned to ratepayers.		Recommended that York revise its reporting of accumulated deferred income taxes into ADIT associated with accelerated deferred income tax expense, and the balance of EDIT associated with the change in tax rates. Also recommended that York continue to reduce rate base in future filings for the remaining EDIT balance until full amount is refunded ratepayers.	In future base rate proceedings, York 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 filings.
ISSUE ¶43. Quarterly Earnings Report (QER) filed with the PUC.			
Argued that including projected plant additions and corresponding annual depreciation expense in its QER is permissible under regulatory law and long-standing PUC practice.		Recommended that York's QER should not include any projected plant additions and corresponding annual depreciation expense.	The Joint Petitioners acknowledge the issue raised by I&E regarding how utilities should present financial results of operations adjusted on a ratemaking basis for future plant additions. In the event the PUC issues a final order that adopts the I&E position on the QER Issue, York will comply with the PUC's final directives.

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ISSUE ¶44. Stay-out period for next base rate case.

This provision would provide customers with considerable rate stability over the next several years and flexibility in the event it experiences specific cost increases.	Asserted that this provision will provide a measure of rate stability for consumers and will prevent rate increases in quick succession.		York agrees that it will not file another base rate case before 5/1/20; provided, however, that the foregoing provision shall not prevent York from filing a tariff or supplement to increase in rates in compliance with PUC orders or in response to fundamental changes in regulatory or federal tax policies affecting York’s rates.
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ISSUE ¶45. Residential customer charge.

Increase residential customer charge from \$16.00 to \$18.50.	Maintain residential customer charge at \$16.00.	Increase residential customer charge from \$16.00 to \$16.40.	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.
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CONDITIONS OF SETTLEMENT

There are several relevant conditions of settlement that the Joint Petitioners have also agreed upon.

- The settlement is conditioned upon the PUC’s approval of the terms and conditions contained therein without modification.
- If the PUC modifies the settlement, any Joint Petitioner may elect to withdraw from the settlement and may proceed with litigation.
- In such an event, the Joint Petitioners have agreed that the settlement shall be void and of no effect.
- If the PUC 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 may not be cited as precedent in any future proceeding, except to the extent required to effectuate its implementation.
- The settlement is presented without prejudice to any position that 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 the settlement.
- If the ALJ adopts the settlement without modification, the Joint Petitioners have agreed to waive their right to file exceptions.

*Text is paraphrased from the Settlement Petition and the Recommended Decision of the Administrative Law Judge (December 10, 2018, approved 20019). Staff is the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement (I&E).