BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission : R-2014-2428743

: M-2013-2341994

:

Karla Lamison : C-2014-2436452

:

Joan E. Group : C-2014-2440983

:

The Office of Consumer Advocate : C-2014-2441646

:

Metropolitan Edison Industrial Users Group et. al : C-2014-2442372

:

The Office of Small Business Advocate : C-2014-2443462

:

Thomas F. Lathrop Sr. : C-2014-2444341

:

E. McCauley : C-2014-2444338

:

Cheryl Ann Dyer : C-2014-2445619

:

Thomas Czachor : C-2014-2445621

:

Kenneth C. Springirth : C-2014-2445622

:

Pennsylvania State University : C-2014-2445707

:

William J. Welch : C-2014-2446890

:

Charlene Schaaf : C-2014-2458006

:

v. :

:

Pennsylvania Electric Company :

**RECOMMENDED DECISION**

Before

Dennis J. Buckley

Katrina L. Dunderdale

Administrative Law Judges

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This Recommended Decision recommends that the Commission adopt, without modification, the proposed partial Joint Settlement filed on February 3, 2015, in these cases. Under the terms of the Settlement, Penelec will be entitled to charge base rates designed to produce an increase in distribution operating revenues of $91.3 million, or approximately 6.6% of total operating revenues, based on billing units for the twelve months ended April 30, 2016, to become effective no later than May 19, 2015 (Settlement Rates). The Company will recoup, through a surcharge, revenues lost at the final approved rates for the period from the end of the statutory suspension period (May 3, 2015) through the date the Commission allows the Settlement Rates to be charged, if that date is later than May 3, 2015 (Joint Petition, Paragraph 11.A.1). The Joint Petition also describes how the surcharge will be calculated and implemented. Id.

Under Penelec’s distribution rates in effect at the time of its filing and its default service rate that became effective in September 2014, a typical residential customer of the Company using 1,000 kWh per month paid a monthly bill of $120.46 (Penelec St. 1, p. 10). Using, for comparison, the rates of the other three major, non-affiliated Pennsylvania electric distribution companies (EDCs) in effect at the time of the Company’s filing, residential customers of those companies with 1,000 kWh of usage paid a monthly bill of between $137.05 and $153.19. Id. Moreover, at Penelec’s proposed base rates, a 1,000 kWh residential default service customer would have paid a total bill of $140.04, which would be either approximately the same as, or considerably lower than, that of a similar customer of the other three Pennsylvania EDCs. Id. at 11. At the Settlement Rates, and consistently applying the riders used in the prior bill comparison, a residential customer of Penelec using 1,000 kWh per month would pay a total monthly bill of $136.22, which is lower than the bills of all the other non-affiliated Pennsylvania EDCs for comparable usage at the time of the Company’s filing.

I. HISTORY OF THE PROCEEDING

A. Introduction

Pennsylvania Electric Company (Penelec or Company) is an electric distribution company providing electric distribution service subject to the jurisdiction of the Pennsylvania Public Utility Commission (Commission) to customers in northern and central Pennsylvania.

On August 4, 2014, Penelec filed Tariff Electric-Pa. P.U.C. No. 81 (Tariff No. 81) to become effective May 3, 2015 and requested an increase to the base rates charged to ratepayers.

Specifically, Penelec requested that the Commission approve an increase in annual distribution revenues of $119.8 million, or 8.6% of its total electric operating revenues. The proposed increase consisted of an increase in distribution base rate operating revenues of $120.316 million, including the roll-in to base rates of the smart meter revenue requirement, and proposed decreases in the Default Service Support and Hourly Pricing Default Service Riders totaling $0.524 million See Penelec Statement No. 1, at 8).

Also on August 4, 2014, three related FirstEnergy Companies (the Companies) filed tariff supplements requesting increases to the base rates charged to ratepayers by the electric distribution companies. The three companies and the amount of

the requested increase to its annual distribution revenue are:

1. Metropolitan Edison Company – $151.9 million, or 11.5% of its total electric operating revenues;
2. Pennsylvania Power Company – $28.5 million or 8.7% of total electric operating revenues; and
3. West Penn Power Company – $115.5 million or 8.4% of total electric operating revenues;

By Order entered October 2, 2014, the Pennsylvania Public Utility Commission suspended the filings by operation of law until May 3, 2015, and instituted an investigation to determine the lawfulness, justness and reasonableness of the proposed rates, rules, and regulations.

In addition to the four filings, FirstEnergy filed on behalf of all four utilities separate pro-forma tariff supplements on August 1, 2014 to implement the Smart Meter Technologies Charge (SMT-C) Rider pursuant to the Smart Meter Deployment Dockets for the Companies. These filings, referred to as “M Docket” proceedings, were made in compliance with a prior Commission Order where the Commission directed the electric distribution companies to file by August 1st of each year the SMT-C Rider Rates for the Residential, Commercial and Industrial Customer Classes for service rendered on or after January 1st and continuing through December 31st of each year.

On September 30, 2014, Administrative Law Judge Dennis J. Buckley (ALJ Buckley) issued the First Prehearing Order which scheduled the Initial Prehearing Conference for October 8, 2014, and which directed the parties to submit prehearing memoranda on or before October 6, 2014.

On October 2, 2014, the Commission suspended Penelec’s Tariff No. 81 by operation of law until May 3, 2015 and directed the Office of Administrative Law Judge to hold appropriate evidentiary proceedings and to render a Recommended Decision in each proceeding.

Notices of Appearance were filed on behalf of the Bureau of Investigation and Enforcement (BIE), the Office of Small Business Advocate (OSBA), the Office of Consumer Advocate (OCA) and the Penelec Industrial Customer Alliance (PICA)[[1]](#footnote-1). Formal complaints were filed by OSBA at C-2014-2443462, OCA at C-2014-2441646, The Penelec Industrial Customer Alliance (PICA) at C-2014-2442372, and the Pennsylvania State University (PSU) at C-2014-2445707. Formal Complaints were also filed by the following residential customers: Joan E. Group, at C-2014-2440983; E. McCauley, at C-2014-2444338; Kenneth C. Springirth, at C-2014-2445622; Thomas Czachor, C-2014-2445621; Cheryl Ann Dyer, at C-2014-5619; Charlene Scaaf at C-2014-2458006, Karla Lamison at C-2014-2436452, Thomas F. Lathrop Sr. at C-2014-2444341 and, William J. Welch, at C-2014-2446890.[[2]](#footnote-2) Petitions to Intervene were filed by: the Utility Workers Union of America Local 102 (UWOA); Pennsylvania Rural Electric Association/Allegheny Electric Cooperative (PREA/AEC); Noble Americas Energy Solutions LLC (Noble Americas); Environmental Defense Fund (EDF); Citizens for Pennsylvania’s Future (PennFuture); Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA); and Wal-Mart Stores East, LP and Sam’s East, Inc. (Walmart).

The Administrative Law Judges conducted a prehearing conference with the active parties on October 8, 2014 and established a litigation schedule. As a result, twelve public input hearings were scheduled around the state in seven different locations in order to obtain the input from customers and ratepayers about the proposed increases. The Office of Administrative Law Judge conducted those public input hearings on six different dates in November 2014 in: Warren, New Castle, Erie, Washington, Uniontown, Reading and East Stroudsburg.

At the prehearing conference, the parties discussed a Motion to Compel filed by OCA against the Company because the Company refused to comply with reasonable discovery requests. After discussion at the prehearing conference, the Company agreed to voluntarily extend the suspension period from May 3, 2015 to May 19, 2015 in order to provide all parties to conduct discovery. The parties agreed, however, the Company would be permitted to recoup through a surcharge any revenues lost at the approved rates for the period from the statutorily prescribed end of suspension (i.e., May 3, 2015) through May 19, 2015, which is the new suspension date.

On October 22, 2014, the presiding officers issued the Second Prehearing Order noting the discussions at the initial prehearing conference. In that Order, the Parties were advised the evidentiary hearings would commence on Tuesday, January 13, 2015 and end on Friday, January 16, 2015. The Parties were further advised in that Order that the four base rate proceedings were not consolidated with each other and should proceed separately but concurrently. However, the presiding officers held in abeyance a final decision on consolidation until after October 31, 2014 and permitted the parties an opportunity to present a comprehensive litigation plan. In the same Order, the presiding officers advised the Parties that the four SMT-C Rider Services dockets would not be consolidated but would be considered along with the corresponding base rate proceedings of each utility.

On October 29, 2014, the Company filed a suspension tariff supplement extending the suspension period from May 3, 2015 to May 19, 2015.

On October 30, 2014, ALJ Buckley issued a Prehearing Order Granting the Motion to Compel Filed by the Office of Consumer Advocate, which ordered the Companies to provide the information requested in OCA’s Interrogatories Set II.

On October 31, 2014, the Companies submitted a proposal in which the Companies’ proposed written statements “will clearly demarcate the sections specifically pertaining to each Company (i.e., on a Company-by-Company basis) that is being addressed in that statement and will provide separate exhibits or schedules, as applicable, setting forth or addressing adjustments related to each such Company. The parties will endeavor to address common issues in a manner that avoids duplication and undue repetition.” In addition, the Companies proposed to submit only one main brief and one reply brief for all issues in all four base rate case dockets, and would follow a common table of contents delineating substantive areas being addressed. The other active parties authorized the Companies to indicate there was an agreement amongst the parties to use this method of proceeding forward. The presiding officers rejected this plan by Interim Order dated November 18, 2014.

On November 7, 2014, ALJ Buckley issued an Order Granting the Petition to Intervene of Wal-Mart Stores East, LP and Sam’s East, Inc.

On November 18, 2014, the presiding officers issued the First Interim Order in which the requests to consolidate the four base rate proceedings into one proceeding were denied. The presiding officers indicated the four base proceedings (with their corresponding Smart Meter Charge litigated simultaneously but separately) would be litigated side-by-side and would have separate hearing records, separate witness statements, separate exhibits, and separate briefs.

On November 25, 2014, in response to allegations and testimony obtained at the public input hearings in these proceedings, the presiding officers conducted a second Prehearing Conference with the parties, and indicated that each utility would be assigned one date in January 2015 when the applicable evidence could be presented and admitted into the record. The parties were advised the base rate evidentiary hearings, scheduled for the week of January 11, 2015, would be conducted separately for each utility in conjunction with the corresponding Smart Meter proceeding. Specifically the Parties were told the separate utilities’ presentations would be handled on separate days. Thereafter, on December 5, 2014, the presiding officers issued an Order discussing various procedural and substantive issues. The presiding officers again requested the Parties to present a proposal as to how the Parties proposed to present evidence at the hearings (to be conducted on January 13, 2015 through January 16, 2015) including providing the presiding officers with a witness matrix in which the Parties would indicate the level of anticipated cross-examination.

On December 5, 2014, the presiding officers issued an Order which outlined for the active parties the six specific issues raised in the public input hearings. The presiding officers ordered the Companies to address these issues either within their individual rebuttal testimony due on December 18, 2014 or in a separate filing due by December 26, 2014. The Parties were given an opportunity to respond on or before January 7, 2015. The Companies were required to provide a witness matrix for the hearings scheduled in January 2015. Lastly, the Parties were reminded the Smart Meter proceedings and the base rate proceedings were not consolidated but would be handled simultaneously as required by the Commission in the suspension order.

On December 9, 2014, the presiding officers issued a Third Interim Order reminding the Parties that the eight dockets were not consolidated. Specifically, the presiding officers indicated the specific dates when each utility’s evidence would be handled, starting with West Penn on Monday, January 12, 2015; Penn Power on Tuesday, January 13, 2015; Penelec on Wednesday, January 14, 2015; and Penelec on Thursday, January 15, 2015. Any testimony not admitted previously due to a lack of time could be moved for admission on Friday, January 16, 2015. Accordingly, the Parties were advised to ensure all written statements and exhibits are separate for each utility if the parties hope to submit the same into the hearing record in these proceedings. No written statement and/or exhibit would be admitted into the hearing record if it lists or covers factual information for more than one utility.

On December 10, 2014, the Parties submitted a list of problems and concerns, witness availability, a witness matrix, and then proposed a process for how the evidentiary hearings would be conducted. In brief, the Parties proposed to present testimony based on subject matter and without separating the testimony between the testimony unique to one base rate proceeding versus any other base rate proceeding. The Parties made no proposal concerning the handling of the Smart Meter proceedings. The Parties also provided a list of witnesses grouped by subject or issue area. The Parties made no provision for how testimony would be solicited from two witnesses from the Industrial Customer Group who are not available all four days in January 2015.

On December 17, 2014, the presiding officers issued a Protective Order at the request of the Company.

On December 29, 2014, the presiding officers issued the Fourth Interim Order which clarified the dates of the evidentiary hearings and outlined the progression of witnesses during the evidentiary hearings.

The active parties engaged in settlement discussions during the discovery and evidentiary phases of this proceeding. These discussions ultimately resulted in the filing on February 3, 2015, of a proposed Partial Settlement which settled all but one issue, that being the LED lighting issue between the Company and PennFuture. As no cross-examination of either parties’ witnesses with respect to this issue was requested, the relevant evidence was admitted into the record and the issue was briefed by the Company and PennFuture.

On January 15, 2015, the presiding officers conducted an evidentiary hearing with the four FirstEnergy companies and all active parties, at which time the Parties presented evidentiary statements and exhibits for admission into the hearing record. All Parties waived cross-examination of each other’s witnesses and the presiding officers admitted the written statements and exhibits into the hearing record. A complete list of all the written statements and exhibits is listed in the transcript of the evidentiary hearing.

On February 3, 2015, the Company submitted a Joint Petition for Partial Settlement in which it was joined by BIE, OCA, OSBA, PSU, PICA, and IBEW. PREA/AEC and Noble Americas do not oppose the proposed Settlement. PSU and CAUSE-PA did not participate actively in this case, but both submitted letters of non-opposition to and support of the proposed Settlement. The Company provided a copy of the Settlement to the formal complainants. On February 10, 2015, ALJ Dunderdale sent a letter to all the formal Complainants in all four base rate proceedings. In that letter, the formal Complainants were advised as to how to communicate their acceptance of or objection to the Joint Petition for Partial Settlement. Formal Complainants were advised that all responses, whether to accept or object, were to be postmarked by Thursday, February 19, 2015.

On February 23, 2015, ALJ Dunderdale issued the Fifth Interim Order which closed the hearing record.

This case is now ready for decision.

II. PRE-HEARING ISSUE- CONSOLIDATION

These proceedings, of which the cases considered here were but two, were from the outset logistically challenging for all involved. As noted in the four Recommended Decisions and throughout the record of these proceedings, the Parties requested, and the presiding officers denied, requests to consolidate these cases. In the estimation of the judges ultimately responsible for the orderly disposition of these cases, consolidation would have led to an unmanageable situation. The four FirstEnergy Companies are not a monolith. They are four distinct corporate entities with their own unique histories, challenges and—most importantly—factors relevant to their individual rate requests. While some may disagree, it was and remains the position of the presiding officers that requiring each utility to present its own case was the only workable option.

Ultimately, each of the cases was the subject of its own proposed Joint Settlement, each of which incorporated resolutions of the related Smart Meter “M” dockets.

While it is anticipated that all of these cases will move forward together, the presiding officers note and highlight the language common to virtually all proposed settlements; that is, if any material part of the proposed settlement is rejected or modified, the Parties preserve the right to resume litigation. Again, it was and remains the presiding officers’ opinion that the better course of action was to have four separate cases lest a unified four-company proposed Settlement potentially collapse because of the disturbance of a material term relative to an individual company or several companies.

Despite the sometimes contentious nature of these proceedings, the presiding officers compliment the Parties on their perseverance and on their zealous advocacy on the part of their clients. Likewise, we feel that the Parties are to be commended for their reasonableness and wisdom in negotiating just and reasonable proposed settlements in each of the four cases.

III. Public Input Hearings

The Commission received approximately eighteen (18) formal customer complaints in the four base rate matters. Accordingly, the presiding officers scheduled twelve public input hearings in seven different locations within the Company’s service territory as well as the service territories of the other three FirstEnergy-related companies. These public input hearings were scheduled in order to provide customers with an opportunity to comment and testify concerning this proceeding.

The Company was directed to provide notice to the public through advertisements in newspapers of general circulation within the service area. The testimony provided at the various public input hearings is located at Transcript pages 72 through 549. The following number of individuals appeared and testified at the following public input locations:

Warren, Pennsylvania on November 5, 2014

Afternoon session: 0

Evening session: 0

New Castle, Pennsylvania on November 7, 2014

Afternoon session: 2

Evening session: 0

Erie, Pennsylvania on November 10, 2014

Afternoon session: 9

Evening session: 3

Washington, Pennsylvania on November 13, 2014

Afternoon session: 6

Uniontown, Pennsylvania on November 13, 2014

Evening session: 23

East Stroudsburg, Pennsylvania on November 17, 2014

Afternoon session: 4

Evening session: 8

Reading, Pennsylvania on November 18, 2014

Afternoon session: 0

Evening session: 4

Summary of Witness Testimony- Pennsylvania Electric Company

Michael Simon testified in Erie, Pennsylvania and he has been a customer of Penelec for approximately 20 years. He is on a fixed income and this increase means he will either not be able to afford some medicine or go to the doctor. The difference of $20.00 dollars more in his electricity bill is too large an increase and he cannot afford it on his income. Mr. Simon also testified he doesn’t mind paying the fee for smart meters but he thinks the utility should have to install the smart meters.

Kenneth Springirth testified in Erie, Pennsylvania, and he has been a customer of Penelec for 46 years. Mr. Springirth opposes the rate increase and is very concerned because he heard FirstEnergy plans to pursue more frequent rate cases. He testified Penelec seeks a 10.9% common equity capital cost rate which rate is excessive for a return on common stock. He said since regulatory actions take the place of marketplace forces, the Commission must take into account the fact FirstEnergy has less business risk than an unregulated business company when determining the common equity capital cost rate. Customers should receive quality service at the lowest possible cost. Mr. Springirth asked the Commission what FirstEnergy really needs and not merely give FirstEnergy what it wants. Mr. Springirth quoted from a Morningstar report dated November 14, 2014 which noted FirstEnergy’s beta coefficient, which is a measure of the volatility of its security or portfolio, was 0.38 which is dramatic proof FirstEnergy doesn’t have any risk. Furthermore, Mr. Springirth asked the Commission to disallow the 49% proposed increase in the residential customer charge from the current $7.98 per month to $11.92 per month because it assures that FirstEnergy will recover a large portion of the proposed increase from residential customers alone. Mr. Springirth asked the Commission to examine the impact of the requested increase on the ability of customers to pay for any increase when FirstEnergy if financially healthy but local families have a hard times paying the bills. Mr. Springirth strenuously objected to the compensation package paid to FirstEnergy’s president and CEO which totaled $23 million dollars and Mr. Springirth asked that $23 million dollars should be subtracted from FirstEnergy’s base rate request. Lastly, Mr. Springirth complained that FirstEnergy assured its customers that any customer could examine the material FirstEnergy filed with the Commission which explains the requested increase and the reasons for the increase. However, Mr. Springirth complained there is no FirstEnergy office in or near Erie where he can review this material that FirstEnergy said was available for review.

Paula Kazmaier testified in Erie, Pennsylvania, and she has been a customer of Penelec for 36 years. She testified she worked for 40 years in the manufacturing industry but the company closed. Now she has no income and her savings are almost depleted. An increase of $20 in her electric bill every month means she won’t be able to buy milk, bread and laundry soap. She is 57 years old. In forty years of employment she worked hard and was promoted but she never received a 20% raise in those 40 years. She has not had health insurance since 2009, is ineligible for medical assistance and Obamacare can’t give her enough credit to be able to afford health insurance. She objects to paying FirstEnergy’s technology enhancements. She admits $20 may not sound like a lot to some people and to FirstEnergy’s CEO $20 means nothing. Ms. Kazmaier testified she doesn’t know where she will find the $20 which FirstEnergy wants her to pay each month but she will have to decide whether to pay $20 more or pay for her diabetes medication. She sits in the semi-darkness every night with a five-watt bulb and uses battery-operated candles as a night light in order to reduce electricity usage. She heats her house with natural gas but needs electricity to run her water and septic systems and light her home. She agrees with Mr. Springirth that there is no office available nearby where she can read FirstEnergy’s filing material and FirstEnergy doesn’t make the information available locally or online.

Lois Bruno testified in Erie, Pennsylvania, and she has been a customer of Penelec for 45 years. She is retired, having worked in a social service for 20 years. Her Social Security checks are not large. She agrees with the testimony provided by Mr. Springirth. Her annual electric costs have gone from $417 in 2009 to $868 in 2013. She also uses battery-operated candles and energy-efficient lightbulbs in order to reduce electricity usage but she complains Penelec has been asking for a raise for every single thing ever since the price caps came off.

Mike Zboyovski testified in Erie, Pennsylvania, and he has been a customer of Penelec for 50 years. He complained he thought he could come to the public input hearing to ask questions and brought a copy of his electric bill. He objects that there is no competition for Penelec and he has no other place where he can shop so he must pay the customer service fee. He testified it is not fair that Penelec is permitted to get more money for the customer service fee but he is not permitted to go elsewhere where he has a choice in what he must pay. He cites to stores which do not charge a customer fee and, if the store charges too much, he can go to another store.

Denise Manus testified in Erie, Pennsylvania, and she currently receives electric service from Penelec at her mother’s house and at her business. She has been a residential customer for over 40 years and a business customer for over 25 years. Penelec recently terminated service to the residence because she wasn’t able to pay the bills and it took a week before she could get anyone at Penelec to listen to her pleas for help. Penelec said she had ten days to pay before termination but then Penelec terminated less than ten days later. She testified there is no way either she or her mother can afford to pay $20 more each month. She agrees with Mr. Springirth. She testified FirstEnergy’s request is wrong and it’s highway robbery where the middle class are squeezed to pay for people who don’t pay.

Jan Fritz testified in Erie, Pennsylvania, and he has been a customer of Penelec for 30 or 40 years. He testified everyone and all businesses and services depend on electricity. He has had years when he got no increase in his Social Security payments. Some years he has receive 1% to 3% increases but the utilities want to receive a 10% return on investment. He testified he must decide if he would get his hair cut or pay his electric bill. He complained the cost of electricity cannot keep going up simply because someone making six figures gets a 10% raise because he, as a customer, no longer has any more money to keep paying for the utility’s excesses.

William Welch testified in Erie, Pennsylvania, and he has received electricity from Penelec for 41 years. He testified he is dumbfounded by the amount requested because it’s improper and insulting, especially for a corporation that raised its variable rates excessively during the last polar vortex. He complained FirstEnergy has failed to provide information to the customers about Act 129 and how to save money on electricity. He keeps his lights off, doesn’t have a television and gets his news from the internet on his laptop. He sees programs and suggestions on how to cut electricity costs but FirstEnergy does not tell its customers. In addition, he saw in the news that FirstEnergy is pushing for legislation in Pennsylvania that would hurt the poor and the ratepayers, plus request s fee to be added to bills if a ratepayer uses solar energy. He testified it is outrageous that a private company is allowed to influence legislation, lobby for it to get its own way, buy its way into politics and leave customers handing when the customers cannot afford to buy medicine or get a haircut. In addition, he testified FirstEnergy now refuses to take on residential customers because FirstEnergy says it lost money on the variable rate contracts. Ratepayers should not be punished by the Commission and by FirstEnergy because FirstEnergy entered into bad supply contracts and then refused to make the suppliers provide the electricity when needed. Lastly, he testified FirstEnergy is using bimonthly payments and sending estimated bills every other month where the estimate is double the amount used in the actual reading month. If he waits for the actual meter reading, FirstEnergy hits him with a penalty. FirstEnergy charges people more on the estimates than FirstEnergy knows the customers are using. Mr. Welch asks the Commission to make FirstEnergy charge customers appropriately. He objected to the request from FirstEnergy to have variable rates used for providing electric service to its customers and asked the Commission to deny the use of variable rates by FirstEnergy.

Randall Schersten testified in Erie, Pennsylvania, and has been an intermittent customer of Penelec for 6 years over the previous 15 years. He testified Penelec had a rate increase of 12% in September 2014 and now Penelec returns to ask for an additional increase for technical advances. He struggles to keep his house financially due to increases in other costs and he cannot afford more increases because soon there will be no money left to pay the bills.

John Hornaman testified in Erie, Pennsylvania, and has been a customer of Penelec for 45 years. Mr. Hornaman testified he was formerly a state representative but is now retired. He complained he has not seen any communication telling him how the requested rate increase will affect customers such as himself who rely solely upon electricity to heat his residence. He testified his usage ranges from 800 to 2,000 kilowatt hours per month and has upgraded his residence as much as possible with energy-efficient doors and windows, better insulation and an efficient electric heat pump. He questioned the effect of the requested rate base increase based on the average total-electric home usage; how many total-electric homes exist; how many of the total-electric homes have retired residents; and how many of those total-electric homes have residents on a fixed income. He asked the Commission to consider these questions before granted the Company’s request. He also requested the Commission consider the socioeconomic effects when addressing the rate hike increase.

William Doupe testified in Erie, Pennsylvania, and has been a customer of Penelec for approximately one year. Mr. Doupe questioned whether the use of water and wind to generate power reduced the costs of the utility. He also questioned whether the Commission considers the customers who are disabled and on financially-limited means.

Karen Link testified in Erie, Pennsylvania, and has been a customer of Penelec for 21 years. Ms. Link agreed with the testimonies provided by Mr. Hornaman and Mr. Doupe. She retired as therapy recreation specialist for people with special needs, from geriatrics through the autism spectrum to brain injury patients. She often experienced clients who had difficulty meeting basic needs and had to choose between paying a utility bill versus paying for other basic necessities, such as food, medications, housing, etc. She testified concerning the circle of special needs customers, senior customers, and retired customers, and this base rate increase’s impact regardless of whether it’s been 20 years since the Commission instituted an increase to Penelec’s base rate. She testified she helped prior patients to access support and assistance programs but she personally has not made use of a support and/or assistance program.

Compelling testimony was presented by Penelec’s ratepayers, and their comments need to be considered, here. I understand that the majority of Penelec’s ratepayers have not received a 6.6% increase in income. On the contrary, the events in the national and international economies since 2008 cannot be ignored, and I do understand that every cost increase has real-world consequences for those who must pay them.

We must, however, point out that Penelec provides an essential service of a life-sustaining commodity, and that Penelec is a public utility. Penelec, like all public utilities, must ask for a rate increase in the full light of day, subject to the scrutiny not only of the ratepayers, but of the public advocates, the Presiding Officer and the Commission. A utility cannot “hide” a rate increase in successively smaller packaging or adulterated products, and the reliable operations of the Company should not be imperiled by the withholding of justified rate increases. Our task, and that of the Commission, is to strike the appropriate balance between what the Company has requested, and what it has justified. Ultimately, it is in the public interest that Penelec continue to operate as a sound public utility.

IV. THE PENELEC RATE REQUEST AND IMPACTS

A. Description of the Company

Penelec is a “public utility” and “electric distribution company” (EDC) as those terms are defined in Sections 102 and 2202 of the Public Utility Code, 66 Pa.C.S.A. § 102 and § 2803. As such, Penelec provides electric distribution, sales, transportation, and/or supplier of last resort services to approximately 586,000 residential, commercial, and industrial customers in all or portions of thirty-three counties in northern and central Pennsylvania.

B. Rate Request

Penelec’s increase request, as filed, initially proposed increased rates designed to produce an increase to its annual distribution revenue totaling $119.8 million or 8.6% of total electric operating revenues.

The impact of the initial request as modified by the terms of the partial Settlement are described below for each of the three major rate classes:

1. Residential Class

Under the Settlement Rates, the monthly residential distribution customer charge will increase $2.01 (or 25.2%) from $7.98 to $9.99. This increase in the distribution customer charge is in lieu of the Company’s proposed monthly distribution customer charge of $11.92, which represents a $3.94 increase (or 49.4%). In addition, under the Settlement Rates, the bill for a typical Residential customer that uses 1,000 kWh per month will increase by $15.76 per month, from $120.46 to $136.22 (or 13.1%), including default service generation, taxes and other rider surcharges. In comparison, in the Company’s proposed filing, the bill for a typical Residential customer that uses 1,000 kWh per month would have increased by $19.58 per month, from $120.46 to $140.04 (or 16.3%), including default service generation, taxes, and other rider surcharges.

2. Commercial Class

Under the Settlement Rates, the monthly distribution customer charge for a Rate Schedule GS Medium, three-phase customer will increase $11.06 (or 74.0%) from $14.95 to $26.01. This increase in the distribution customer charge is in lieu of the Company’s proposed monthly distribution customer charge of $25.99, which represents a $11.04 increase (or 73.8%). In addition, under the Settlement Rates, the bill for a typical Rate Schedule GS Medium, three-phase customer with monthly billing demand of 40 kW per month and 250 hours use of demand will increase by $39.93 per month, from $973.39 to $1,013.32 (or 4.1%), including default service generation, taxes and other rider surcharges. In comparison, in the Company’s proposed filing, the bill for a typical Rate Schedule GS Medium, three-phase customer with monthly billing demand of 40 kW per month and 250 hours use of demand would have increased by $70.59 per month, from $973.39 to $1,043.98 (or 7.3%), including default service generation, taxes, and other rider surcharges.

3. Industrial Class

Under the Settlement Rates, the monthly distribution customer charge for a Rate Schedule LP customer will increase $1,826.38 (or 147.5%) from $1,238.62 to $3,065.00. This increase in the distribution customer charge is in lieu of the Company’s proposed monthly distribution customer charge of $1,674.49, which represents a $435.87 increase (or 35.2%). In addition, under the Settlement Rates, the bill for a typical Rate Schedule LP customer with monthly billing demand of 20 MW and 474 hours use of demand will increase by $2,954.16 per month, from $574,720.44 to $577,674.60 (or 0.5%), including default service generation, taxes and other rider surcharges. In comparison, in the Company’s proposed filing, the bill for a typical Rate Schedule LP customer with monthly billing demand of 20 MW and 474 hours use of demand would have increased by $4,954.38 per month, from $574,720.44 to $579,674.81 (or 0.9%), including default service generation, taxes, and other rider surcharges.

V. TERMS AND CONDITIONS OF SETTLEMENT

The Joint Petitioners have agreed to a proposed Settlement covering all but one issue in this proceeding. The issue that was reserved for litigation concerns Penn Future’s challenge to Penelec’s Light Emitting Diode (LED) Street Lighting Service. In the proposed Settlement, the Joint Petitioners have agreed to a base rate increase, to an allocation of that revenue increase to the rate classes and to rate design for the rate classes to recover the portion of the rate increase allocated to such classes. The Joint Petitioners are in full agreement the Settlement is in the best interests of Penelec and its customers, and that the proposed Settlement is, therefore, in the public interest.

The terms and conditions of the Settlement are set forth fully in Section II Terms and Conditions to the Partial Settlement filed with the Secretary’s Bureau on February 3, 2015, and are incorporated herein by reference, beginning at numbered paragraph 11 through and including numbered paragraph 19.

A. Terms of the Settlement - Structure

The partial Settlement consists of the 20-page Joint Petition containing the terms and conditions of the Partial Settlement. In addition, there are seven (7) exhibits attached to the Settlement. Exhibits 1 to the Partial Settlement sets out the new Tariff Electric Pa. P.U.C. No. 81. Exhibit 2 to the Partial Settlement sets out the Proof of Revenues. Exhibit 3 to the Partial Settlement is the Revenue Allocations. Exhibit 4 to the Partial Settlement is the Rate Design. Exhibit 5 to the Partial Settlement is the TOU Aggregation Agreement. Exhibit 6 to the Partial Settlement is the Uncollectible Accounts Expense. Exhibit 7 to the Partial Settlement is the Smart Meter Baselines. In addition there are eight Statements in Support, marked as Statement A through Statement H, submitted by Penelec, OCA, OSBA, BIE, PICA, EDF, IBEW, and Walmart, respectively. Letters of Non-Opposition and Support were filed by PSU and CAUSE‑PA.

B. Legal/Policy Standards for Settlement Approval

The policy of the Commission is to encourage settlements and the Commission has stated that settlement rates are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code §§5.231, 69.401. A full settlement of all the issues in a proceeding eliminates the time, effort and expense that would otherwise have been used in litigating the proceeding, while a partial settlement may significantly reduce the time, effort and expense of litigating a case. A settlement, whether whole or partial, benefits not only the named parties directly, but, indirectly, all customers of the public utility involved in the case.

The benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest. Warner v. GTE North, Inc*.*, Docket No. C-00902815, Opinion and Order entered April 1, 1996; Pa. P.U.C. v. CS Water and Sewer Associates, 74 Pa. PUC 767 (1991). For the reasons set forth below, we find that the proposed Settlement embodied in the Settlement Petition is in the public interest, and we recommend that it be approved without modification.

The Signatory Parties have agreed upon the following terms of settlement which are set forth in a single, but detailed, paragraph, that being Paragraph 11 of the proposed Joint Settlement, as well as Additional Terms and Conditions which are also set forth, as follows:

11. The Settlement consists of the following terms and conditions:

A. Revenue Requirement

* + - 1. The rates set forth in Exhibit 1 have been designed to produce an increase in distribution base rate operating revenues of $91.3 million for the twelve months ending April 30, 2016, to become effective no later than May 19, 2015, as shown in the proof of revenues provided as Exhibit 2. As agreed upon in exchange for an extension of the statutory suspension period, the Company will recoup, through a surcharge, revenues lost at the final approved rates for the period from May 3, 2015 (the end of the statutory suspension period) through May 19, 2015, the date the Settlement Rates must become effective.[[3]](#footnote-3) The Company will implement such a surcharge at the same time it begins to charge the Settlement Rates. The surcharge will be calculated separately for residential, commercial, and industrial customer classes, with the residential and commercial classes determined consistently with the definition of those classes set forth in the Company’s Price to Compare Default Service Rider, while the industrial class shall be determined consistently with the first paragraph of the Availability section of the Company’s Hourly Pricing Default Service Rider. The surcharge will be stated on a per-kWh basis for the residential and commercial classes and on a per kW basis for the industrial class. The surcharge will remain in effect, for each class, until the lost revenue, determined for such class, is collected over a period not to exceed three months from the date the surcharge is initiated.
      2. The Company’s total revenue requirement includes $20.127 million associated with smart meter deployment. Once the aggregate investment and expense revenue requirements exceed $20.127 million, the Company may begin deferring costs that are eligible for recovery under its SMT-C Rider (Rider G). When the $20.127 million threshold is exceeded and the Company begins deferring costs in excess of the threshold, the Company will file a smart meter rate under Rider G to recover all investment and expense revenue requirements in excess of the $20.127 million included in base distribution rates.
      3. The Company’s unamortized investment associated with legacy meters will be amortized over a five-year period, beginning on the date the Settlement Rates become effective.
      4. The Company’s claim for deferred storm damage expenses shall be amortized over a five-year period, beginning on the date the Settlement Rates become effective.
      5. A Storm Reserve Account will be established and maintained on the Company’s balance sheet beginning on the date the Settlement Rates become effective. The Company’s total revenue requirement includes $7 million to be recovered for purposes of funding this reserve, which represents a five-year average of historical expenses. Penelec’s historical expenses for that period did not include any expenses related to damage from extraordinary storm events which the Company received Commission approval to defer. Expenses related to storm damage, excluding those expenses related to damage from extraordinary storm events, will be recorded in the Storm Reserve Account in order to eliminate any impact of such expenses on the Company’s income statement. Expenses related to damage from extraordinary storm events will be accounted for separately in accordance with the current practice of petitioning the Commission for approval to defer such expenses. Both revenues received and costs incurred by the Company in support of other regulated utilities, including other jurisdictional and non-jurisdictional affiliated companies, for assisting during storm events will be reflected in the reserve account.
      6. On or before August 1, 2015, the Company will provide to the statutory advocates an update to Penelec Exhibit RAD-47, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ended March 31, 2015. On or before July 1, 2016, the Company will provide to the statutory advocates an update to Penelec Exhibit RAD-46, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ended April 30, 2016. In Penelec’s next base rate proceeding, the Company will prepare a comparison of its actual expenses and rate base additions for the twelve months ended April 30, 2016 to its projections in this case. However, it is recognized by the Joint Petitioners that this is a black box settlement that is a compromise of Joint Petitioners’ positions on various issues.
      7. The Joint Petitioners agree and hereby stipulate that the Company shall use the rate of return on equity as calculated for electric utilities and published in the “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities” for the most recent quarter for the following purposes:
         1. Calculating a distribution system improvement charge (“DSIC”) if a DSIC is hereafter proposed by the Company and approved by the Commission; and
         2. Calculating the incremental revenue requirement associated with smart meter deployment that exceeds the smart meter revenue requirement being recovered in the Settlement Rates as described in paragraph 11(A)(2) of this Joint Petition and therefore eligible for recovery through the Company’s SMT-C Rider.
  1. Revenue Allocation And Rate Design
     + 1. The revenue allocation to each rate schedule reflected in the Settlement Rates is set forth in Exhibit 3 to this Joint Petition. Rate design for each rate schedule comprising the Settlement Rates is explained in Exhibit 4 to this Joint Petition. The allocations and rates set forth in Exhibits 3 and 4 and incorporated in the Settlement Rates reflect the Joint Petitioners’ agreement with regard to rate structure, rate design and distribution of the increase in revenues in this case.
       2. The Company proposed a Time-of-Use Default Service Rider (“TOU Rider”) similar to such riders previously approved for Penn Power and West Penn, to provide residential customers a time-of-use option for default generation supply service (see Penelec Statement No. 5, pp. 20-21). In conjunction with the proposed TOU Rider, the Company also submitted for approval a proposed TOU Aggregation Agreement (Penelec Exhibit KMS-4), a copy of which is attached to this Joint Petition as Exhibit 5. The Joint Petitioners agree that the proposed TOU Rider and its accompanying TOU Aggregation Agreement should be approved.
  2. Uncollectible Accounts Expense And Universal Service
     + 1. Default service-related uncollectible accounts expense has been revised and $4.927 million will be recovered, beginning on the date the Settlement Rates become effective, through the Company’s Default Service Support Rider for the residential and commercial classes, and through the Hourly Pricing Default Service Rider for industrial class customers. The Distribution-related uncollectible accounts expense has been revised and $4.032 million will be recovered through Settlement Rates. The amounts of uncollectible accounts expense shall be those set forth in Penelec Exhibits LWG-1 and LWG-2, copies of which are appended hereto as Exhibit 6.
       2. In the event that the average annual Customer Assistance Plan (“CAP”) participation in the preceding reconciliation year exceeded 25,000 participants, actual costs recovered through Penelec’s Universal Service Charge (“USC”) Rider shall reflect CAP Credits and actual Pre-Program Arrearage Forgiveness Credits for all customers up to the 25,000 participation level. The Company shall offset the average annual CAP Credits and Pre-Program Arrearage Forgiveness Credits by 14.7% per participant for the preceding reconciliation year for any and all CAP customers exceeding the 25,000 participation level.

D. Customer Service And Operations

* + - 1. Regarding call answering times, the Company agrees to achieve and maintain an annual call answer rate of at least 80% of calls answered within thirty seconds beginning with the twelve-month period ended December 31, 2016.
      2. Regarding the number of residential disputes that did not receive a response within thirty days, the Company agrees to reduce this number to no more than sixty beginning with the twelve-month period ended December 31, 2016.
      3. The Company agrees to take necessary actions to: (i) consistently meet the twelve-month performance standards established by the Commission for SAIFI, SAIDI and CAIDI by the end of the first reporting quarter of 2016 (i.e., March 31, 2016); (ii) consistently meet the three-year performance standards established by the Commission for SAIFI, SAIDI, and CAIDI by the end of the calendar year 2017; and (iii) to strive towards the achievement of reliability performance that is at or better than the performance benchmarks established by the Commission.[[4]](#footnote-4)
      4. In each calendar year until the Company files its next base rate case where the performance standards are not met by the Company, the Company agrees to provide a report to the statutory advocates and IBEW discussing the reasons for the performance failure and outlining corrective actions the Company will take to achieve the missed performance standard. The Company agrees to convene a collaborative to discuss the corrective actions and receive additional input if such a collaborative is requested by the statutory advocates.
      5. The Company shall ensure that its policies and procedures are designed to ensure that it will read meters at least every other month in compliance with Chapter 56 of the Commission’s regulations.
      6. The Company shall document the specific basis for failure to issue a bill based on an actual meter reading every other month pursuant to Chapter 56 if such occurs. The documentation shall categorize the reasons for not reading the meters at least every other month and provide total numbers of failed readings by category. The Company shall provide this documentation through an annual report to be submitted to the statutory advocates on or before March 31 of each year until the Company files its next base rate case.
      7. The Company shall revise its website and customer education materials within ninety days of the Final Order in this proceeding to explicitly inform its customers, in plain language, of the Company’s standard policy to issue bills based on actual meter readings every other month. The Company’s website shall also explain, in plain language, that customers may provide actual readings in months when the Company would provide an estimated bill and the procedure for self-readings.
      8. The Company shall provide its recently modified estimated billing algorithm to the statutory advocates and furnish Company personnel to answer questions about the operation of the algorithm. The Company shall also audit the accuracy and performance of the new algorithm and provide a report of its accuracy, and any modifications if necessary, within ninety days of the conclusion of the first full year of utilizing the modified algorithm.
  1. Smart Meters And Energy Efficiency
     + 1. For purposes of measuring savings achieved from the Company’s deployment of smart meters, a cost baseline will be set as of April 30, 2016 from which savings will be measured for the following categories: (1) meter reading; (2) meter services; (3) back-office; (4) contact center; (5) theft of service; (6) revenue enhancements; (7) distribution operations; and (8) load research. Savings in an additional category, avoided capital costs, will be measured using March 31, 2014 as the baseline from which to calculate savings. The cost savings baselines shall be those set forth in Penelec Exhibit LWG-3. A copy of Penelec Exhibit LWG-3 is appended to the Joint Petition as Exhibit 7.
       2. The Company will add the following reporting metrics to its Annual Progress Report under its Smart Meter Technology Procurement and Installation Plan filed at Docket No. M-2013-2341994:

• Home area network (“HAN”) devices: Number of utility AMI meters with consumer devices registered to operate with the HAN chip.

• AMI meter installs: Number of smart meters installed, number of smart meters that have been installed and registered.

• Customer complaints: Number of formal and informal PUC complaints related to AMI meter deployment, broken down by type of complaint and resolution. AMI meter deployment includes installation, functioning or accuracy of the AMI meter, and HAN device registration.

• Reduction in greenhouse gas (“GHG”) emissions: reduction associated with reduced truck rolls associated with meter readings and increased efficiencies. This reporting will commence once the realization of this benefit has been determined and reflected in the smart meter baseline savings as of April 30, 2016.

• Voltage and VAR controls: Number and percentage of distribution lines using sensing from an AMI meter as part of utility’s voltage regulation scheme.

* + - 1. The Company agrees to host an informational meeting with representatives of EDF and any interested statutory parties in Akron, Ohio, with respect to the Company’s smart meter and smart grid deployment efforts, including discussion of customer data access, Volt/VAR best practices, and measuring GHG emission reductions.
  1. General
     + 1. Nothing contained herein is intended to limit the authority of the Commission, the Bureau of Consumer Services, the Bureau of Safety and Compliance, or other Bureaus of the Commission from performing their duties.
       2. Nothing in these terms waives or alters any party’s right to seek an audit or investigation of any of the Company’s reliability, customer service, or estimated billing issues with the Commission, as well as evaluate the impact of the reforms recently adopted by the Company and as described by Mr. Strah in his rebuttal testimony (Penelec Statement No. 11-R).
       3. The Company agrees that should it fail to consistently meet the requirements set forth in this settlement regarding reliability, customer service, or estimated meter reading, it shall not make a request for any return on equity premium award based on reliability or customer service performance in its next base rate proceeding.
       4. The terms provided for in this Settlement do not encompass all of the changes made to Chapter 14 of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1401 et seq., by Act 155 of 2014, as the Commission had not provided guidance on how to incorporate Act 155 of 2014 into tariffs at the time this Settlement was negotiated. Nothing contained herein shall preclude the Company from proposing further tariff changes at a later date based on Commission directives or guidance relating to implementing the provisions of Act 155 of 2014, or as otherwise necessary to implement the changes contained in Act 155 of 2014.

VI. ADDITIONAL TERMS AND CONDITIONS

In addition to the specific terms to which the parties have agreed in order to settle the rate proceeding, there are certain general, miscellaneous terms to which the parties also agreed. These terms are included in Paragraphs Nos. 14 through and including 19, which are quoted in full below:

14. The Commission’s approval of the Settlement shall not be construed as approval of any Joint Petitioner’s position on any issue, except to the extent required to effectuate the terms and agreements of the Settlement. Accordingly, this Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

15. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any Joint Petitioner in this or any other proceeding, if it were fully litigated.

16. This Settlement is being presented only in the context of this proceeding in an effort to partially resolve the issues presented in this proceeding in a manner that 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 on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

17. This Settlement is conditioned upon the Commission’s approval of the terms and conditions contained herein without modification. In reaching this Settlement, the Joint Petitioners thoroughly considered all issues, including those related to the Company’s reliability and operations, raised in the testimony and evidence presented by the parties to this proceeding and during public input hearings. As a result of that consideration, the Joint Petitioners believe that the settlement agreement meaningfully addresses all such issues raised and therefore should be approved without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, the Settlement may be withdrawn upon written notice of the Commission and all active parties within five business days following entry of the Commission’s Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw the Settlement as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

18. All Joint Petitioners shall support the Settlement and make reasonable and good faith efforts to obtain approval of the Settlement of the ALJs and the Commission without modification. If the ALJs in their Recommended Decision, recommend that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions with respect to any issues resolved by the Settlement. However, to the extent any terms and conditions of the Settlement are modified, or additional matters are proposed by the ALJs in their Recommended Decision, the Joint Petitioners do not waive their rights to file Exceptions in support of the Settlement. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed. The Joint Petitioners further reserve the right to file Exceptions to the compliance filing in the event that any of the exhibits therein are inconsistent with the Joint Petition and the exhibits attached thereto.

19. This Joint Petition may be executed in one or more counterparts, each of which is an original and all of which together constitute one and the same instrument.

VII. DISCUSSION OF THE PARTIAL SETTLEMENT

A comprehensive settlement has been proposed to resolve the issues in this rate case. The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a “burden of proof” standard, as is utilized for contested matters. Pa. Pub. Util. Comm’n., et al. v. City of Lancaster – Bureau of Water, Docket Nos. R‑2010‑2179103, *et al*., (Opinion and Order entered July 14, 2011). Instead, the benchmark for determining the acceptability of the proposed Settlement is whether the proposed terms and conditions are in the public interest. Id., citing, Warner v. GTE North, Inc*.*, Docket No. C‑00902815, (Opinion and Order entered April 1, 1996); *see also*, Pa. Pub. Util. Comm’n. v. CS Water and Sewer Associates, 74 Pa. PUC 767 (1991).

Commission policy promotes settlements. 52 Pa.Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa.Code § 69.401. Many proceedings are expensive to litigate and the cost of such litigation at a reasonable level is an operating expense recovered in the rates approved by the Commission. This means that a settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission’s decision, yields significant expense savings for the company’s customers. That is one reason why settlements are encouraged by long-standing Commission policy.

In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. Pa. Pub. Util. Comm’n v. CS Water and Sewer Assoc*.*, 74 Pa.PUC 767 (1991); Pa. Pub. Util. Comm’n v. Philadelphia Electric Co., 60 Pa. PUC 1 (1985).

Applying this principle, the Settlement should be approved by the Commission because it is in the public interest, as will be discussed, below.

First, the proposed Settlement itself is in compliance with all applicable regulatory requirements and is clearly reasonable.

The Settlement in this case was not opposed by any party. Consequently, this case is no longer a contested matter and does not require a hearing be held. *See*, Lehigh Valley Power Committee v. Pa. Pub. Util. Comm’n*.*, 128 Pa. Cmwlth 276, 563 A.2d 557 (1989) (a hearing is only required to resolve disputed questions of fact and is not required to decide questions of law, policy or discretion); *see also*, Dee-Dee Cab, Inc. v. Pa. Pub. Util. Comm’n., 817 A.2d 593 (Pa. Cmwlth 2003), *alloc. denied*, 575 Pa. 698, 836 A.2d 123 (2003).

Therefore, the analysis required is to determine whether the Settlement is in the public interest. To that end, each of the Parties filed Statements in Support of the proposed Settlement.

A. Partial Settlement of the Rate Case

The Partial Settlement submitted in this case represents a complete and full settlement of all but one issue which concerns Penelec’s Light Emitting Diode (LED) Street Lighting Service and will be discussed separately. The Joint Petitioners are in full agreement that the Settlement is in the best interest of customers and the Company and, therefore, is in the public interest. Therefore, the Joint Petitioners have asked that the Commission approve the Partial Settlement in its entirety and without modification. Several of the Parties filed Statements in Support of the proposed Settlement.

Penelec, the OCA, the OSBA, and BIE are to be commended for the preparation of the most comprehensive Statements in Support of a proposed Settlement that we have seen. In fact, the Statements are actually a window on the negotiations that led to the proposed Settlement that provides considerable detail with respect to the reasoning of the parties and how they arrived at a negotiated Settlement. Although some of the specifics of the proposed Settlement are a “black box,” the rationale as to why the proposed Settlement is in the public interest is very clear in what almost amounts to four non-oppositional briefs. Replicating any of the Parties’ Statements in Support here is not necessary. We will however, extensively paraphrase and highlight what we see as essential points that lead us to conclude that the proposed Settlement meets the public interest standard

B. Penelec’s Statement in Support

Penelec asserts that following the submission of multiple rounds of testimony and extensive negotiations, the Joint Petitioners agreed to the Settlement embodied in the Joint Petition. Under the terms of the Settlement, Penelec will be entitled to charge base rates designed to produce an increase designed to produce an increase to its annual distribution revenue totaling $91.3 million or 6.6% of total electric operating revenues. The rates finally agreed to by the Parties have been designed to produce an increase in distribution base rate operating revenues of $91.3 million for the twelve months ended April 30, 2016, to become effective no later than May 19, 2015, as shown in the proof of revenues provided as Exhibit 2.

Obviously, this is a substantial increase. Penelec asserts that the increase in customer rates and total operating revenues under the Settlement must be viewed in the context of the period since the Company’s last increase in base rates became effective. Penelec Supporting Statement at 18. Although Penelec’s current base rates were established by the Commission’s Final Order entered January 11, 2007 at Docket No. R-00061367, that proceeding resulted in a decrease in the Company’s distribution base rates. Penelec’s base rates have not increased since 1986 and, therefore, if the Settlement is approved, customers of Penelec will have experienced no increase in distribution base rates in over twenty-nine years. See Penelec St. 1, at 4. Penelec also contends that it has made continuous efforts to diligently control expenses on a day-to-day basis. Penelec Supporting Statement at 19.

Reliability is an issue in every rate case, even if a utility claims to have an excellent record. This case was no exception. Penelec maintains that in order to enhance reliability, the Company has aggressively pursued projects to replace aging or vulnerable infrastructure, which necessarily required higher levels of capital expenditures. These efforts enhanced reliability and, thereby, directly reduced maintenance expenses. Penelec Supporting Statement at 20.[[5]](#footnote-5)

Penelec cites four factors that were major contributors to the Company’s need to increase its distribution base rates: (1) Growth in the Company’s distribution rate base; (2) Depreciation expense associated with increased investment in plant in service; (3) Increase in depreciation expense related to retirement of legacy meters; and (4) Deferred storm damage expense recovery. The core justification for a rate increase of this amount is stated as follows:

Due in large part to the factors discussed above, and notwithstanding its success in containing O&M expenses, Penelec’s overall rate of return at present rates is projected to be 4.01% for the fully projected future test year. More importantly, the indicated return on common equity under present rates is anticipated to be 2.38% (Penelec Ex. CVF-1), which is inadequate by any reasonable standard. A return at that level is simply not sufficient to support the substantial amounts of additional investment the Company will be required to make to maintain and enhance reliability, replace aging infrastructure, and fully implement its Smart Meter Plan while continuing to provide customers safe, reliable and high-quality service. Accordingly, it is critically important that the Company obtain the rate relief the Settlement will provide. Penelec St. 1, at 25.

Penelec Supporting Statement at 22-23.

The Joint Petition also contains six additional provisions that pertain to revenue requirement and cost recovery, which consist of the following:

(1) **Recovery in base rates of smart meter revenue requirements**: Recovery in base rates of smart meter revenue requirements (Joint Petition, Paragraph 11.A.2). Penelec currently recovers its smart meter costs through its SMT-C Rider. In this case, Penelec proposed base rates that include the roll-in of smart meter costs currently being recovered under its SMT-C as well as smart meter revenue requirements to be incurred through the end of the fully projected future test year, and also proposed to reduce the SMT-C to zero upon the conclusion of this case.

(2) **Legacy meters**: because of the deployment of smart meters pursuant to its Commission approved Smart Meter Plan, the Company will be retiring its legacy meters well before the end of the service lives that had previously been used to calculate annual depreciation – and recover the cost – of such meters. Consequently, the Company proposed to recover its unrecovered investment in legacy meters by amortization over a period of five years from the date rates established in this case become effective.

(3) **Amortization of deferred storm damage expenses**: As previously explained in the discussion of factors driving the Company’s need for rate relief, the Company received Commission approval to defer the distribution-related non-capital storm expenses incurred in connection with storms that affected its service area, including, but not limited to, Hurricane Irene, the October 2011 snowstorm, and Tropical Storm Lee. The Company proposed to amortize the deferred cost over three years from the date its rates become effective. Paragraph 11.A.4 of the Joint Petition sets forth the Joint Petitioners’ agreement that deferred costs are to be amortized over five years, beginning on the date the Settlement Rates become effective.

(4) **Storm Reserve Account**: As part of its rate filing, Penelec proposed that its base rates should recover only a normal level of storm damage expenses and that a rate adjustment mechanism (i.e., a “Storm Charge Rider”) be established under Section 1307 of the Public Utility Code, 66 Pa.C.S § 1307, to impose a charge or credit on customers’ bills to reflect the difference, on an annual basis, between the storm damage expenses recovered in the Company’s base rates and the storm damage expenses it actually incurs. Paragraph 11.A.5 of the Joint Petition provides that the Company will establish a Storm Reserve Account that does not involve the creation of a rider to annually true-up the reserve account with the difference between storm costs included in base rates and actual storm costs.

(5) **Reporting and updating of fully projected future test year data**: As part of the Settlement, the parties have agreed to specific updates to Company Exhibits RAD-47 and RAD-46, to be submitted to the statutory advocates by August 1, 2015 and July 1, 2016, respectively, to report actual capital expenditures, plant additions, and retirements. Additionally, the Company agreed to provide in its next base rate case a comparison of projected to actual expenses and rate base additions for the fully projected future test year in this case. With respect to these reporting provisions, the Joint Petitioners expressly agreed that they are for informational purposes only and do not suggest any agreement among the parties as to specific components of the revenue requirement that is being recovered in the Settlement Rates (except to the extent specifically stated in other provisions of the Joint Petition).

(6) **Return on equity for smart meter and DSIC revenue requirements**: the revenue requirement elements of the Settlement reflect, for the most part, a matrix of compromises by the Joint Petitioners and, therefore, specific ratemaking adjustments are not spelled out in the Joint Petition, subject to limited exceptions. , the Joint Petitioners have recognized that, notwithstanding the “black box” nature of the Settlement regarding revenue requirement, it is important to resolve, as part of the Settlement, the rate of return on equity that Joint Petitioners agree should be used by the Company in computing: (1) incremental revenue requirements associated with smart meter deployment that exceed the smart meter revenue requirements being recovered in the Settlement Rates (as previously explained, under Paragraph 11.A.2, such excess revenue requirements would be eligible for recovery under the Company’s SMT-C); and (2) a DSIC, in the event such a charge is proposed by the Company and approved by the Commission. To that end, the Joint Petitioners have agreed and stipulated in Paragraph 11.A.7 of the Joint Petition that the Company shall use the rate of return on equity as calculated for electric utilities and published in the “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities” (TUS Quarterly Earnings Report) for the most recent period prior to the time that a DSIC or SMT-C rate is calculated.[[6]](#footnote-6)

Penelec contends that the revenue requirement provisions of the Settlement are reasonable and in the public interest. In support of the contention, Penelec cites Pa. P.U.C. v. Aqua Pennsylvania, Inc., Docket No. R-2009-2132019 (Final Order entered June 16, 2010), 2010 Pa. PUC LEXIS 1808. Penelec cites the case for the proposition that the Commission has clearly stated that rates of return, like other components of revenue requirement, need not be stipulated or identified as a condition precedent to approving a settlement. We understand Penelec’s concern in this regard. There were several discussions between the parties and the ALJs towards the end of the proceeding with respect to what the judges required in order to make a meaningful appraisal of any proposed Joint Settlement. The parties were concerned that the scope of the judges’ request might effectively preclude a “black box” settlement. This whole issue can be laid to rest by the fact that each of the four cases now have Recommended Decisions recommending adoption of all four proposed Joint Settlements as submitted.

Ultimately, Penelec contends that the proposed Joint Settlement meets the public interest standard for the following reasons:

• The revenue requirement provisions provide for Settlement Rates that are within the “constitutional range of reasonableness” and are consistent with the legal standards articulated in the *Bluefield*, *Hope* and *Duquesne Light* decisions, as interpreted and applied by the Pennsylvania Supreme Court in *Pennsylvania Gas and Water*. [citations omitted] The Settlement Rates reflect a careful balance of the interests of customers with those of the Company and its investors. As such, the Settlement Rates protect customers from paying excessive rates while allowing the Company and its investors a reasonable opportunity to earn a fair return on their investment in property devoted to public service and to obtain additional capital needed to meet the Company’s service obligations.

• The rate structure and rate design provisions of the Settlement resolve a number of contentious issues in a manner that is acceptable to parties representing every major customer class and service classification. While the parties could not agree to a single, specific cost of service methodology, they are in general agreement that the Settlement Rates provide for reasonable progress in moving all major customer classes closer to their cost of service consistent with the Commission-approved principle of gradualism.

• The Settlement resolves a contested issue pertaining to Universal Service in a manner that helps to ameliorate the impact on residential customers of the costs of the Company’s Universal Service programs.

• The Settlement reaches agreement among the Joint Petitioners – and, in particular, between the OCA and the Company – with regard to objective metrics for measuring customer service and reliability performance and contains commitments for implementing policies and procedures designed to enhance customer service and reliability. Among these provisions are specific commitments dealing with meter reading, estimated bills, estimation procedures and customer education related to those matters.

• The Settlement addresses and resolves the smart meter baseline issue that the Commission referred to this proceeding.

• The Settlement adds reporting metrics intended to provide information that may help to better assess smart meter, energy efficiency, conservation and various environmental matters.

• In reaching this Settlement, the Joint Petitioners thoroughly considered all issues, including those related to the Company’s reliability and operations, raised in the testimony and evidence presented by the parties to this proceeding and during public input hearings. As a result of that consideration, the Joint Petitioners believe that the Settlement meaningfully addresses all such issues raised and, therefore, should be approved without modification.

• All of the foregoing benefits are achieved while also conserving the time, resources and money that would otherwise have to be expended if this case were to be fully litigated. Customers are direct beneficiaries of these savings.

C. The OCA’s Statement in Support

The OCA supports the proposed Joint Settlement:

The terms and conditions of the Settlement satisfactorily address issues raised in the OCA’s analyses of Penelec’s filing. The OCA submits that this Settlement, taken as a whole, is a reasonable compromise in consideration of likely litigation outcomes before the Commission. While the Settlement does not reach all the recommendations proposed by the OCA, the OCA recognizes that the Settlement is a product of compromise. The Commission encourages settlement, and the balance of compromises struck by settling parties is critical to achieving settlement. Accordingly, the OCA urges the Commission to consider the Settlement as a whole.

OCA Statement in Support at 4.

With respect to non-litigated issues, the OCA offered the following:

1. Revenue Requirement (Settlement ¶ 11(A)) - The Settlement represents a “black box” approach to all individual revenue requirement and return on equity issues, with the limited exceptions contained in the Settlement relating to smart meter and distribution system improvement charge (DSIC) matters. 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 such as Tariff modifications and the customer service, estimated billing, and reliability terms. The increase agreed to in the Settlement provides adequate funding to allow the Company to improve its customer service and reliability metrics and maintain the safety and adequacy of its distribution system. The OCA contends that the increase agreed to in the proposed Settlement is in the public interest and in the interest of Penelec’s ratepayers, and should be approved by the Commission.

2. Revenue Allocation (Settlement ¶ 11 B(1); Exh. 3) - Under the Settlement, the residential customer class will receive an overall increase in distribution revenue of $63.543 million per year or a 34.9% increase. A residential customer using 1000 kWh per month will see their average total bill rise by $15.76 per month, from $120.46 to $136.22 rather than the $19.58 per month increase proposed by the Company. This increase is $3.82 less per month than the increase originally proposed by the Company. On a total monthly bill basis, a customer using 1,000 kWh would see a 13.08% increase rather than the 16.25% increase proposed by the Company. The Settlement allocation is consistent with moving all classes toward the system average rate of return, balances the need to allocate costs according to cost of service with the need to adhere to the ratemaking principle of gradualism, represents a compromise of the parties that moves all classes closer to the system average without providing any one class with an allocation that would cause rate shock. OCA maintains that the Settlement is 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.

3. Residential Rate Design (Settlement ¶ 11(B)(1); Exh. 4) - The Settlement provides that Penelec’s monthly residential customer charge will increase from $7.98 to $9.99, or 25.2%. The OCA submits that the residential rate design established through the Settlement is reasonable and consistent with sound ratemaking principles. When combined with a $29.0 million lower revenue increase than the Company sought, these rate design changes result in rates that are significantly below the rates originally proposed by the Company and are within the range of the likely outcomes in the event of full litigation of the case.

4. Storm Damage Reserve Account (Settlement ¶ 11(A)(5)) - In its filing, the Company proposed to adopt a new Storm Damage Charge Rider (Storm Rider) to recover storm damage expenses. The Storm Damage Reserve Account allows the Company to account for storm expenses based on a five-year average of historical storm damage expenses, while continuing to require the Company to petition the Commission for approval for deferral accounting of extraordinary storm damage expenses. For these reasons, the OCA contends that the creation of a storm reserve account in the Settlement is in the public interest and should be approved.

5. Universal Service and Customer Assistance Programs (Settlement ¶ 11(C)) - The Settlement provides that:

In the event that the average annual Customer Assistance Plan (“CAP”) participation in the preceding reconciliation year exceeded 25,000 participants, actual costs recovered through Penelec’s Universal Service Charge (“USC”) Rider shall reflect CAP Credits and actual Pre-Program Arrearage Forgiveness Credits for all customers up to the 25,000 participation level. The Company shall offset the average annual CAP Credits and Pre-Program Arrearage Forgiveness Credits by 14.7% per participant for the preceding reconciliation year for any and all CAP customers exceeding the 25,000 participation level.

Settlement ¶ 11(C)(2).

The OCA submits that this adequately addresses its concerns regarding the need for offsets to avoid double-recovery of CAP Credits and arrearage forgiveness credits for purposes of this Settlement. The Settlement provisions are therefore reasonable and in the public interest.

6. Tariff - (Settlement Exh. 1) - As part of the settlement process, certain changes were made to Penelec’s Tariff. One overarching revision was made to remove the use of the phrase “sole discretion” throughout the Tariff, with three specific exceptions where it was agreed that the language appropriately remained. In the “General Application” section, language was reinserted to the Tariff that directs the Company’s customers to where they may inspect the Company’s Tariff. In Rule 2, Deposits, language was reinserted stating that the Company will use an accepted credit scoring methodology that is based on utility payment history to determine deposit requirements where an applicant’s/customer’s credit has not been established or has been impaired. Additionally, proposed language was deleted that would have been in conflict with 66 Pa. C.S. § 1404(a) and 52 Pa. Code § 56.32(a), which require a utility to establish a cash deposit amount at the time the utility determines a deposit is required (the proposed provision sought to permit the Company to proportionally increase a cash deposit after the initial deposit amount was determined).

In Rule 10, Meter Reading and Rendering of Bills, the language of Rule 10.a(1) was modified to clarify that meter reading for residential customers would be done consistent with Chapter 56 consumer protections. The language was also clarified to reflect the Company’s policy to read residential meters on a bi-monthly basis and other customer classes’ meters on a quarterly basis. Also in Rule 10, the language of Rule 10.b(1) was modified to clarify the Company’s policy regarding estimated billing so that customers understand that it is the Company’s policy to read residential meters every other month and estimate bills in those months when actual readings are not made. Additionally, language was clarified so that customers understand that upon request, the Company will send customers “preaddressed postcards” so that the customers may read their own meter in lieu of an estimated read.

In Rule 11, Payment of Bills, language was removed from Rule 11.b, regarding late payment charges, such that the Rule now tracks the language of 52 Pa. Code § 56.22(a). See Tariff at Original Page 47. Additionally, the Company inserted language previously found only in West Penn Power’s Tariff that permits the Company to reduce or eliminate interest on late payment charges to facilitate payment of bills under dispute. In Rule 12, Administrative Charges, proposed language was not included as to repeated cancellation of electronic payments because it was overly broad. The Settlement also contains a provision that recognizes that the Settlement terms do not encompass all of the changes made to Chapter of 14 of the Public Utility Code, 66 Pa. C.S. § 1401, et. seq., by Act 155 of 2014 because the Commission has not provided guidance on how to incorporate Act 155 into tariffs as of the date that this Settlement was negotiated.

The OCA submits that the modifications to Penelec’s Tariff will aid customers in understanding the Company’s Rules and policies, while lessening potential confusion. The Tariff modifications will also allow customers to be more informed about their rights and is therefore in the public interest.

7. Customer Service and Reliability (Settlement ¶ 11(D)) - The Settlement provides for a number of customer service, estimated billing, and reliability provisions designed to ensure that the Company’s customers receive adequate and reliable service and customer service performance at reasonable levels. The Settlement provides that, relating to customer service, the Company will improve, then maintain a call answering rate of at least 80% within thirty seconds beginning with the twelve-month period ending December 31, 2016. Settlement ¶ 11(D)(1). Additionally, the Company will reduce the number of residential customer disputes not receiving a response within thirty days to no more than sixty beginning with the twelve-month period ending December 31, 2016. Settlement ¶ 11(D)(2). The Settlement includes a number of provisions designed to address the issues related to estimated billing in that the Company will provide customers with clear information about how the Company bills its residential customers. Additionally, the terms put in place mechanisms for the parties to review the performance of the Company’s meter reading and estimated billing policies to better ensure compliance with Chapter 56 and the issuance of reasonable bills to customers. The OCA submits that these provisions are in the public interest.

With respect to reliability, the Settlement provides that the Company will consistently meet the Commission’s System Average Interruption Duration Index (SAIDI, a measurement of the average length of interruptions), System Average Interruption Frequency Index (SAIFI, a measurement of the average frequency of interruptions), and Customer Average Interruption Frequency Index (CAIDI, a measurement of the average length of interruption by customers) for both twelve-month and three-year performance standards and strive to achieve reliability performance at or better than the Commission’s performance benchmarks. Settlement ¶ 11(D)(3). The Settlement also provides that the Company will provide a report to the OCA and other interested parties in the event that the Company does not meet any of the performance standards and the corrective actions the Company plans to take to rectify the failure. Settlement ¶ 11(D)(4). Finally, the Settlement includes a term that precludes the Company from requesting any return on equity premium based on estimated meter reading, customer service, or reliability performance in its next base rate proceeding if the Company fails to consistently meet the requirements of this Settlement with regard to the customer service, reliability, or estimated billing terms. Settlement ¶ 11(F)(3).

The OCA submits that the reliability provisions provide affirmative benefits and are in the public interest.

D. BIE Statement in Support

1. Summary - BIE maintains that the Parties 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.” 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, BIE submits that the Settlement balances the interests of Penelec and its customers in a fair and equitable manner and presents a resolution for the Commission’s adoption that best serves the public interest.

2. Smart Meter Technologies Charge (SMT-C) Rider Rates - (Joint Petition ¶ 11.A.2) – This rider sets forth a Commission-approved adjustment clause imposing a SMT-C to recover the costs of implementing their Smart Meter Deployment Plan (Smart Meter Plan). Penelec proposed to include in their distribution base rate revenue requirements their costs to implement their Smart Meter Plans; to recover those costs in their distribution base rates; and to reduce their SMT-C Rider rates to zero. After a full analysis of the Company’s representation of its smart meter costs and lengthy settlement negotiations, the Joint Petitioners have agreed that the Company’s total revenue requirement includes $20.127 million associated with smart meter deployment. Furthermore, once the aggregate investment and expense revenue requirements exceed $20.127 million, the Company may begin deferring costs that are eligible for recovery under its SMT-C Rider (Rider G). When the $20.127 million threshold revenue requirement is exceeded and the Company begins deferring costs in excess of that amount, the Company will file a smart meter rate under Rider G to recover all investment and expense revenue requirements in excess of the $20.127 million included in base distribution rates.

3. Amortization of Legacy Meters (Joint Petition ¶ 11.A.3) - The Joint Petitioners agree that the Company’s unamortized investment associated with the legacy meters will be amortized over a five-year period, beginning on the date the Settlement Rates become effective. BIE believes that the settled upon legacy meter amortization methodology is consistent with prior Commission decisions, provides stability to Penelec, and provides protection from volatility; all of which are consistent with protecting the public interest.

4. Amortization of Deferred Storm Damage Expense (Joint Petition ¶ 11.A.4) - The parties agree to amortize the Company’s claim for deferred storm damage expense over a five-year period beginning when the Settlement rates become effective. The agreed upon five year amortization period contained in the Settlement is in the public interest because it is a moderated position that addresses the Company’s concern that an extended amortization period will result in an inequitable length of time to recover these storm costs and BIE’s concern that the shorter amortization period will allow the Company to continue to receive revenue from ratepayers for an expense long after the cost has been fully recovered by the Company.

5. Storm Reserve Account (Joint Petition ¶ 11.A.5) - The Settlement provides that the Company will not establish Rider B as proposed, but instead will establish a Storm Reserve Account. The Company originally proposed the recovery of storm damage expenses through base rates in the amount of $5,111,000, which BIE recognized would not provide adequate margin to establish a reserve account in a reasonable timeframe given that the Company’s five year average of expenses is $7,637,907. In the Settlement, the parties agree that the $91,300,000 revenue requirement includes $7,000,000 to be recovered for the purposes of funding the Storm Reserve Account. This $7,000,000 represents a five-year average of storm damage expense, excluding expenses associated with extraordinary storms. The Company will continue to be able to account for extraordinary storm expense through the current practice of petitioning the Commission for approval to defer such expense.

The Storm Reserve Account proposed in the Settlement is in the public interest as it helps self-insure the Company for distribution system storm damage expenses. It protects ratepayers from the potential volatility of an annually variable rider as originally proposed by the Company. Additionally, the Storm Reserve Account is in the Company’s interest because the reserve will be properly funded based on a five year average of experienced storms, which will potentially avoid an unfavorable impact on the Company’s financial statement that could result from year-to-year fluctuations in actual storm costs. BIE maintains that the $7,000,000 Storm Reserve Account should be approved in this proceeding without modification.

6. Fully Projected Future Test Year Reporting Requirements (Joint Petition ¶ 11.A.6) - Penelec elected to use a Fully Projected Future Test Year (FPFTY) consisting of the twelve months ended April 30, 2016 as permitted under Act 11 of 2012. BIE sought to have Penelec provide interim reports until the Company’s filing of its next base rate case in order to be able to timely review and verify the status of the Company’s rate base projections. Penelec agreed to provide to BIE, OCA, and OSBA updates to Penelec Exhibit RAD-47 on or before August 1, 2015 for the twelve months ending March 31, 2015. Also on or before July 1, 2016 the Company will provide an update to Penelec Exhibit RAD-46 to the statutory advocates for the twelve months ending April 30, 2016. In addition, Penelec agreed to provide, as a part of the next base rate case, a comparison of its actual expenses and rate base additions for the twelve months ended April 30, 2016 to the projections in this case. BIE fully supports the Settlement because this condition achieves BIE’s goal of timely receiving data sufficient to allow for the evaluation and confirmation of the accuracy of Penelec’s projections in its next base rate filing.

7. DSIC and Smart Meter ROE (Joint Petition ¶ 11.A.7) - The parties agree that for the purpose of calculating a distribution system improvement charge (DSIC), if a DSIC is hereafter approved by the Commission, and calculating the incremental revenue requirement associated with smart meter deployment that is eligible for recovery through the SMT-C Rider, the Company shall use the return on equity noted in the Commission’s quarterly earnings report.[[7]](#footnote-7) The Parties have agreed, consistent with the Commission’s prior directive in Pa. P.U.C. v. Columbia Gas of Pennsylvania, Inc*.*, R-2014-2406274 (Order entered December 10, 2014), to utilize the quarterly earnings report for DSIC ROE purposes.

8. Revenue Allocation and Rate Design (Joint Petition ¶ 11.B) - The agreed to increase in base rates will allow the Company the opportunity to recover an increase of $91,300,000 in revenue. The revenue allocation to each tariff and rate schedule is reflected in the Settlement Rates set forth in Exhibit 3 attached to the Joint Petition BIE fully supports the settled upon revenue allocation and rates design as set forth in the Joint Petition. BIE believes that the settled upon revenue allocations and rate design are consistent with prior Commission decisions; provide stability to Penelec; represent a fair and reasonable rate increase to Penelec customers; and provide protection from volatility; all of which are consistent with protecting the public interest. BIE notes that the Settlement results in a monthly residential distribution customer charge that will increase by $2.01 (or 25.2%) from $7.98 to $9.99. This increase is in lieu of the Company’s proposed monthly residential distribution customer charge contained in its filing of $11.92, which represented a $3.94 increase (or 49.4%). Additionally, under the Settlement rates, the bill for a typical Residential customer that uses 1,000 kWh per month will increase by $15.76 per month, from $120.46 to $140.04 (or 16.3%), including default generation, taxes and surcharges. Whereas, under the Proposed rates, the bill for a typical Residential customer that uses 1,000 kWh per month would have increased by $19.58 per month, from $120.46 to $140.04 (or 16.3%), including default generation, taxes and surcharges.

E. The OSBA Statement in Support

In sum, OSBA asserts that the proposed partial Settlement avoids the litigation of many of the complex, competing proposals and saves the possibly significant costs of further and more extended administrative proceedings. OSBA correctly states that such costs are borne not only by the Joint Petitioners, but ultimately by the Company’s customers as well. Avoiding extended litigation of this matter has served judicial efficiency, and allows the OSBA to more efficiently employ its resources in other areas.

1. Distribution Revenue Requirement - Penelec has agreed to a distribution revenue increase of $91.3 million per year. The OSBA contends that at a time when all types of utility service are becoming more expensive, the significant (41.0%) reduction in the Company’s requested distribution revenue increase provided by the Settlement will benefit Penelec’s small business customers.

2. Class Revenue Allocation/Cost of Service - The increases for the small business classes in the proposed Settlement reflect a compromise among the parties, particularly with respect to the litigation positions of the OSBA, OCA and PICA. Had the Commission given equal weight to those positions, the overall increase to the small business classes (assuming an overall increase of $91.3 million) would have been (the sum of $16.955 million plus $9.174 million plus $28.698 million, plus $15.817 million plus $11.125 million divided by 5 or) $16.354 million, which is $3.987 million or 32.2% greater than provided by the Settlement. As a result, the OSBA concludes that the Settlement revenue allocation provides a meaningful benefit to small business customers.

3. GSS Rate Design - Rate GSS is available to non-residential customers that take service at secondary voltage and use no more than 1,500 kWh per month. Presently, Rate GSS contains a customer charge and a flat rate energy charge. Under the Settlement, the GSS rate design retains Penelec’s filed customer charge level of $11.70 per month, and applies 100% of the required scaleback to the GSS energy charge. As such, the Settlement mitigates the GSS bill impacts associated with Penelec’s filed rate design proposal, as recommended by the OSBA. As a result, the OSBA concludes that the Settlement rate design provides a meaningful benefit to Rate GSS small business customers.

F. PICA Statement in Support

PICA provides an overview of the settlement negotiations and proposed Settlement terms consistent with that of the other parties. PICA maintains that the proposed Settlement specifically satisfies the concerns of PICA by: (1) lowering the revenue increase amount by approximately 23.8%; (2) reasonably allocating the proposed increase among the customer classes; (3) addressing and acknowledging certain rate design concerns; and (4) eliminating the proposed Storm Rider. Consequently, PICA supports the foregoing Joint Petition because it is in the public interest.

G. Wal-Mart’s Statement in Support

Wal-Mart states that while the Partial Settlement does not address all of Walmart’s concerns as stated in this proceeding and in the manner preferred by Walmart, the Partial Settlement, taken as a whole, reflects a reasonable compromise amongst numerous competing interests and positions representing a wide range of rate classes. Walmart recommended that the Commission closely examine the Company’s proposed revenue requirement increase, especially when viewed in light of the proposed use of a fully projected future test year. This issue is addressed in the Partial Settlement. Wal-Mart states that in general, the revenue allocations and rates as set forth in the Joint Petition reflect a reasonable compromise among competing interests to move towards cost of service. As with the other Parties, Wal-Mart agrees that the Partial Settlement is in the public interest because settlements conserve administrative resources and reduce the uncertainty, time and considerable expense associated with fully litigating the issues in a proceeding, and the results achieved from a negotiated settlement 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.

VIII. DISCUSSION – LITIGATED ISSUE; LED STREET LIGHTING SERVICE

As noted previously, the sole litigated issue in this case concerns the Company’s LED Street Lighting Service.

A. Burden of Proof

Typically in proceedings before the Commission, the public utility has the burden to establish the justness and reasonableness of every element of its rate increase in all proceedings conducted under Section 1308(d) of the Public Utility Code. The standard of proof, which a public utility must meet, is set forth in Section 315(a) of the Public Utility Code (Code), 66 Pa.C.S. §315(a), which specifies that, “[i]n any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceeding upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.”

Pennsylvania’s Commonwealth Court has upheld this standard of proof[[8]](#footnote-8) and has applied it in base rate proceedings, even when the question concerning an element of the base rate increase request was raised by a party instead of the public utility.[[9]](#footnote-9)

In this proceeding, the burden of proof lies with Penelec. Penelec is the public utility seeking permission from the Commission to increase its base rate and seeking permission to implement and/or alter programs. The burden of proof did not shift to a statutory party or individual party (whether an entity or an individual) which challenged the requested rate increase. Instead, the utility’s burden, to establish the justness and reasonableness of every component of its rate request, is an affirmative one and remains with the public utility throughout the course of the rate proceeding.[[10]](#footnote-10)

Under the Public Utility Code, rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301 and 1304. A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. 66 Pa.C.S. § 315(a); Pa. Pub. Util. Comm’n v. Aqua Pennsylvania, Inc., Docket No. R-00038805, 236 PUR 4th 218, 2004 Pa. PUC LEXIS 39 (August 5, 2004).

As the Commonwealth Court explained: “While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.”[[11]](#footnote-11) Therefore, while the ultimate burden of proof does not shift from the utility, a party proposing an adjustment to a ratemaking claim bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment.[[12]](#footnote-12)

Further, a party that raises an issue that is not included in a public utility’s general rate case filing bears the burden of proof. As the proponent of a Commission order with respect to its proposals, PennFuture bears the burden of proof as to proposals Penelec did not include in its filing. Section 315(a) of the Public Utility Code cannot reasonably be read to place the burden of proof on the utility with respect to an issue the utility did not include in its general rate case filing and which, frequently, the utility would oppose.[[13]](#footnote-13)

B. Proposed LED Street Lighting Service Offering

Penelec proposed to offer LED street lighting to interested customers who wished to obtain LED street lighting service from Company-owned and maintained LED street lighting facilities. Penelec developed the service offering in response to expressions of interest from existing street lighting customers who expressed interest in exploring LED street lighting options. Penelec embodied the offering in a detailed rate schedule which it asserts conforms to the Commission’s tariff and tariff filing requirements.

Penelec would offer the new service to existing customers who currently receive service under one of the six street lighting services available[[14]](#footnote-14) and would like to update the service in order to take advantage of new lighting technology. The new service would also be offered to new customers. The initial term of the contracts would last ten (10) years and could be renewed for successive one-year terms. Distribution costs for the new service would be recovered through a fixed monthly charge for each LED fixture and the street lighting customers would have an unhindered ability to obtain electric generation service from either a competitive electric generation supplier or through default service from Penelec.

Penelec proposed a separate cost of service analysis to develop a fixed charge for LED service levelized over the entire projected fifteen-year service life of the LED fixtures which it would install. Penelec proposed this separate analysis and approach in order to avoid the relatively higher rate which would result over the first several years of the contract term if Penelec had used the traditional approach to develop a cost-based rate. Otherwise, the initially higher rate might have impeded customer acceptance of the new service.

C. Penelec’s Position

Penelec contends that it presented substantial evidence demonstrating that its proposed LED service offering is reasonable, properly responds to expressions of interest from prospective customers for LED service from Company-owned and maintained facilities, and, if approved, will provide interested customers with a new, meaningful and reasonable opportunity to begin to receive LED street lighting service.

The Company recognized LED lighting, as a new service, most likely would be adopted by only a small number of customers and would require the Company to invest in, and install, new LED-related equipment dedicated solely to providing LED service to those customers. As a consequence, the traditional approach to developing a cost-based rate would produce a relatively higher rate in the first several years of the contract term. And, while the rate would likely decline over time as LED-related property is depreciated, the initially higher rate might impede customer acceptance of the new service. To address that concern, Penelec prepared a separate cost of service analysis to develop a fixed charge for LED service that is levelized over the entire projected fifteen-year service life of the LED fixtures to be installed.

The proposed levelized charge would recover less than the Company’s full cost of providing LED lighting service in the early years of the newly-initiated LED service and, indeed, the total cost to the Company of providing the service would not be fully recovered over the initial ten-year contract term. In fact, the levelized charge amounts to a discount in the first year of a ten-year contract of 32%. Those losses would be recovered over time when, in subsequent years, the levelized rate will recover somewhat more than the LED cost of service determined in the traditional (non-levelized) manner.

Thus, while lowering the rate for LED service at the front end of the initial contract term, the levelized approach would recover the full cost of service from the LED class, on a net present value basis, over the expected useful life of the LED property being installed. Notably, no party other than PennFuture took issue with any aspect of the Company’s LED service offering. Additionally, no potential customers, specifically municipalities, intervened in this case to challenge the Company’s LED service offering nor did they voice any informal opposition.

D. Penn Future’s Position

PennFuture presented the testimony of George Woodbury and Patrick Gormley in support of its arguments regarding the scope and pricing of the LED street light offering. In his review of the tariff and accompanying testimony, Mr. Gormley concluded the Company has not recently or adequately developed their LED options and the rates did not reflect true market actualities.In sum, Mr. Gormley testified the Company’s proposed distribution rate for installation costs for LED fixtures for 12 50 watt LED fixtures is $1254.57 or $104.54 per light. However, this does not accurately reflect installation costs associated with LED fixtures. In 2011, the City of Pittsburgh received competitive bids from contractors to replace high-pressure sodium cobra heads with LED street lights. The winning bid was less than half of that proposed by the Company at $45 per light. *Id*. at 10.

Mr. Woodbury similarly testified as to issues he saw when reviewing the Company’s proposed tariff. He also testified as to the underlying cost of service study (COSS) and some of the shortcomings of the approach taken relative to street lighting. The first issue he noticed is that the Company used a non-coincidental peak method for their allocation of costs. The purpose of these COSS is to determine a causality link between costs and customer classes so these costs can be fairly allocated and the utility can realize an appropriate return on their investment. The principal shortfall of using a non-coincidental peak method of allocating costs is that it essentially does not account for the marginal cost of delivery. Woodbury Direct at 4.

Mr. Woodbury also stated that the Company had underestimated the life expectancy of an LED fixture. The Company indicated that a fixture has a 5-year limited system warranty. However, independent testing has established that a reasonable life expectancy is 20 years, and a current standard warranty is 10 years with some manufacturers considering 15 years. Thus, the Company begins its analysis with faulty assumptions to arrive at a tariff rate completely out of line with market conditions.

PennFuture asserts the LED lighting fixtures the Company will use to supply LED service are not the least expensive on the market. Additionally, PennFuture’s contends that the Company’s proposed fixture sizes are unavailable and inappropriate (s*ee* PennFuture/EDF Statement No. 1 - Gormley, at 6; PennFuture/EDF Statement No. 1 - Woodbury, at 9). PennFuture contends the Company’s use of a fifteen-year useful life for the LED streetlights is too conservative, though its witness admitted that useful life span (15 years) is within the range of service life estimates used by the utility industry which uses between 15-35 years. *See* PennFuture/EDF Statement No. 2 - Woodbury, at 6.

PennFuture makes the contention that several categories of the Company’s non-fixture costs (e.g., equipment costs, engineering costs and installation time) are “significantly inflated” or unnecessary. PennFuture/EDF Statement No. 1.

PennFuture questions the manner in which general distribution-related costs (e.g., poles, conductors, and transformers) were allocated among customer classes in the Company’s class cost of service study. Specifically, PennFuture contends that using non-coincidental peak (NCP) demands to allocate demand-related costs overstates the cost of service for the street lighting class because such an allocation method does not reflect the “marginal cost” of delivering electricity to street lights that, according to PennFuture, have stable load and operate primarily off-peak. PennFuture/EDF Statement No. 1 - Woodbury, at 4-6. PennFuture questions cost allocations relative to street lighting, such as office equipment and call center expense. PennFuture/EDF Statement No. 1 - Woodbury, at 6-7.

PennFuture contends the per-fixture distribution rate proposed for the LED street lighting offering (e.g., $5.52 for a 50 Watt Cobra Head fixture) is unreasonably high because: (1) it does not reflect the maintenance cost savings expected with LED lights; and (2) it is higher than Penelec’s’ s existing customer-owned HPS street lighting distribution rate and the Northeast Utilities LED rate. *See* PennFuture/EDF Statement No. 1 - Gormley, p. 7; PennFuture/EDF Statement No. 1 - Woodbury, pp. 11‑12.

E. ALJs’ Recommended Resolution

Penelec argued its proposed LED street lighting offering should be approved without modification. The Company has set forth a reasonable proposal and would implement a levelized rate approach to reduce up-front rates for the initial contract term and, in that way, create price signals designed to increase customer acceptance of the new service. The Company’s proposed fixture selection, cost estimates, and distribution rates are fully supported by record evidence and, therefore, the Company’s proposed LED lighting service offering should be approved.

Furthermore, the Company proposed a new offering of service not presently provided. If its proposed rate schedule were rejected based on PennFuture’s arguments the result may be to deny potential customers any opportunity to adopt Company-owned LED street lighting service. That result is clearly not a reasonable outcome, nor would such an outcome be in the best interests of Penelec’s customers.

Penelec’s proposals for the LED Street Lighting Service Offering are just and reasonable. The LED Street Lighting Service Offering allows the average customer (some of whom are individuals) to benefit from a light source that uses less electricity and lasts longer than the conventional lighting. In order to make the new lighting affordable, the cost is spread out over fifteen years.

We are not persuaded by Penn Future’s arguments, that the proposed offering is not the least expensive to procure, uses unavailable and inappropriate fixture sizes, or that Penelec’s argument is invalid because it utilizes a conservative useful life. We conclude the Penelec has met its burden of proof, based upon the record. Consequently, we recommend the proposed change – to implement the proposed LED Street Lighting Service Offering – be approved by the Commission.

IX. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter in this proceeding. 66 Pa.C.S.A. §§501, 1301, 1308(d).

2. The benchmark for determining the acceptability of a settlement is whether the proposed terms and conditions are in the public interest. Warner v. GTE North, Inc., Docket No. C-00902815, Opinion and Order entered April 1, 1996; Pa. Pub. Util. Comm’n v. CS Water and Sewer Associates, 74 Pa. PUC 767 (1991).

3. The rates, rules, and regulations contained in the Original Tariff Electric-Pa. P.U.C. No. 81 filed on August 4, 2014, are not just and reasonable, and their approval would not be in the public interest. 66 Pa.C.S.A. §1301

4. The Joint Petition For Partial Settlement submitted by Pennsylvania Electric Company, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, Penelec Industrial Customer Alliance, the Environmental Defense Fund, Wal-Mart Stores East, LP, and the International Brotherhood of Electrical Workers Local 777, is just and reasonable and is in the public interest.

5. The proposed base rate revenue increase of $91.3 million, as shown in the Proof of Revenue at Exhibit 2 to the Joint Petition for Partial Settlement, is just and reasonable, as required by 66 Pa.C.S.A. §1301, and has been fully supported by the Parties to the Joint Petition for Partial Settlement.

6. The revenue allocations to the various customer classes, provided in the Joint Petition For Partial Settlement, produce just and reasonable rates, as required by 66 Pa. C.S.A. §1301.

7. The LED Street Lighting Service Offering, proposed in the filing on August 4, 2014, is just and reasonable, as required by 66 Pa.C.S.A. §1301.

# X. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That Pennsylvania Electric Company shall not place into effect the rates, rules, and regulations contained in the Original Tariff Electric-Pa. P.U.C. No. 81 filed on August 4, 2014.

2. That the Joint Petition For Partial Settlement submitted by Pennsylvania Electric Company, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Penelec Industrial Customer Alliance, the Environmental Defense Fund, Wal-Mart Stores East, LP, the and the International Brotherhood of Electrical Workers at Docket No. R-2014-2428743, including all terms and conditions as clarified, is hereby approved, with the modifications listed in Ordering Paragraph No. 3.

3. That Pennsylvania Electric Company shall provide to the Commission’s Bureau of Technical Utility Services the same information provided to the statutory parties, as specified in the Partial Settlement at Paragraphs No. 11(A)(6); 11(D)(4); 11(D)(6); 11(D)(8); and 11(E)(3).

4. That Pennsylvania Electric Company be authorized to file the tariff supplement contained in Exhibit 1 to the Joint Petition for Partial Settlement, for service rendered on and after May 19, 2015, designed to produce $91.3 million in additional annual base rate operating revenue based upon the pro forma

level of operations at April 30, 2016, consistent with the Commission’s Final Order in this proceeding.

5. That Pennsylvania Electric Company shall allocate the authorized increase in operating revenue to each customer class and shall implement the rate design as set forth in Exhibit 4 to the Joint Petition for Partial Settlement.

6. That the Formal Complaints filed against the base rate proceeding at R‑2014-2428743 by the Office of Consumer Advocate at C-2014-2441646 and by the Office of Small Business Advocate at C-2014-2443462 are satisfied and withdrawn, consistent with the Joint Petition For Partial Settlement.

7. That Pennsylvania Electric Company implement the LED Street Lighting Service Offering, as proposed in its August 4, 2014 filing.

8. That Pennsylvania Electric Company shall comply with all directives, conclusions and agreements in the Partial Settlement that are not the subject of individual ordering paragraphs as fully as if they were the subject of specific ordering paragraphs.

9. That the Formal Complaints of Joan E. Group, at C-2014-2440983; E. McCauley, at C-2014-2444338; Kenneth C. Springirth, at C-2014-2445622; Thomas Czachor, C-2014-2445621; Cheryl Ann Dyer, at C-2014-5619; and, William J. Welch, at C-2014-2446890, are dismissed.

10. That after acceptance and approval by the Commission of the tariff revisions filed by Pennsylvania Electric Company, the investigation at Docket No. R‑2014-2428743 shall be terminated and the record shall be marked closed.

11. That for purposes of measuring savings achieved from the Pennsylvania Electric Company’s deployment of smart meters, a cost baseline will be set as of April 30, 2016 from which savings will be measured for the following categories: (1) meter reading; (2) meter services; (3) back-office; (4) contact center; (5) theft of service; (6) revenue enhancements; (7) distribution operations; and (8) load research. Savings in an additional category, avoided capital costs, will be measured using March 31, 2014 as the baseline from which to calculate savings. The cost savings baselines shall be those set forth in Penelec Exhibit LWG-3.

12. That Pennsylvania Electric Company will add the reporting metrics set forth in the proposed Joint Settlement to its Annual Progress Report under its Smart Meter Technology Procurement and Installation Plan filed at Docket No. M-2013-2341990

/s/

Dennis J. Buckley

Administrative Law Judge

Date: March 9, 2015 /s/

Katrina L. Dunderdale

Administrative Law Judge

1. The PICA complaint was filed and inadvertently docketed as Met-Ed Industrial Users Group et. al and listed as the complainant in InfoMAP. [↑](#footnote-ref-1)
2. None of these Complaints were litigated, although a representative and residents of the Winona Lakes Property Association did testify at public input hearings as noted herein. [↑](#footnote-ref-2)
3. If the Commission makes the Settlement Rates effective prior to May 19, 2015, this surcharge will recoup lost revenues from May 3, 2015 through the Commission ordered Settlement Rates effective date. [↑](#footnote-ref-3)
4. The Company is not precluded by this provision from seeking Commission revision of its established Standard and Benchmark metrics through normal Commission procedures. [↑](#footnote-ref-4)
5. “In assessing reliability issues, we acknowledge the statement of Commissioner Cawley at the public meeting of February 26, 2015, at Docket No. D-2013-2365991. We stress that each Recommended Decision, which is based on a proposed Settlement submitted well before that statement was made, should in no way be misconstrued as an answer to—or as satisfaction of—the Commissioner’s concerns.” [↑](#footnote-ref-5)
6. The Presiding Officer notes that TUS does not calculate the ROE. While the TUS quarterly earnings report provides calculations and data, it is actually the Commission that decides on an appropriate ROE [↑](#footnote-ref-6)
7. The Presiding Officer notes that TUS does not calculate the ROE. While the TUS quarterly earnings report provides calculations and data, it is actually the Commission that decides on an appropriate ROE. [↑](#footnote-ref-7)
8. Lower Frederick Twp. v. Pa. Pub. Util. Comm’n, 48 Pa.Cmwlth. 222, 226-227, 409 A.2d 505, 507 (1980). See also, Brockway Glass v. Pa. Pub. Util. Comm’n, 63 Pa.Cmwlth. 238, 437 A.2d 1067 (1981). [↑](#footnote-ref-8)
9. See Pa. Pub. Util. Comm’n v. National Fuel Gas Distribution Corp., 1994 Pa. PUC LEXIS 134 \*5 (1994); Pa. Pub. Util. Comm’n v. Breezewood Telephone Company, 74 Pa. PUC 431 (1991); and Pa. Pub. Util. Comm’n v. Equitable Gas Co., 57 Pa. PUC 423, 471 (1983). [↑](#footnote-ref-9)
10. See also, 66 Pa. C.S. §1501, requiring a utility to have reasonable rules governing service. There is no similar burden placed on parties which challenge a proposed rate component. See, Berner v. Pa. Pub. Util. Comm’n, 382 Pa. 622, 631, 116 A.2d 738, 744 (1955). [↑](#footnote-ref-10)
11. Allegheny Center Assocs. v. Pa. Pub. Util. Comm’n, 570 A.2d 149, 153 (Pa.Cmwlth. 1990). [↑](#footnote-ref-11)
12. See, e.g., Pa. Pub. Util. Comm’n v. PECO, Docket No. R-891364, et al.., 1990 Pa. PUC LEXIS 155 (May 16, 1990); Pa. Pub. Util. Comm’n v. Breezewood Telephone Company, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (January 31, 1991). [↑](#footnote-ref-12)
13. Pa. Pub. Util. Comm’n v. Metropolitan Edison Company, et al.., Docket Nos. R-00061366, et al., 2007 Pa. PUC LEXIS 5 (January 11, 2007). [↑](#footnote-ref-13)
14. Under Street Lighting Service – Schedule 51; Street and Area Lighting – Schedule 53; Street Lighting Service – Schedule 54; Street Lighting Service – Customer-Owned Equipment – Schedule 56; Outdoor Lighting Equipment and Maintenance Service – Schedule 57; or Mercury Vapor Street Highway Lighting Service – Schedule 71. [↑](#footnote-ref-14)