**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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| Pennsylvania Public Utility Commission  Office of Consumer Advocate  Robert L. Beilstein  Richard Bricker  James and Karen Eurich  Marlene Hoover  Betty Learn  William and Leslie Mayhugh  Lloyd Nyberg  Joseph Rizzo  Thomas and Kimberly Eurich  Earl and Sue Christy  Earl and Leetta Christy  Louis and Marie Bauldoff  Melissa Phillips  v.  Herman Oil & Gas Company, Inc. | **: : : : :**  **:**  **:**  **:**  **:**  **:**  **:**  **:**  **:**  **:**  **:**  **:**  **:**  **:**  **:** | | Docket Nos. R-2014-2414379  C-2014-2419761  C-2014-2422697  C-2014-2422758  C-2014-2422756  C-2014-2427251  C-2014-2422753  C-2014-2422690  C-2014-2427238  C-2014-2422703  C-2014-2427240  C-2014-2430205  C-2014-2430206  C-2014-2430207  C-2014-2430208 |
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**RECOMMENDED DECISION**

Before

Mark A. Hoyer

Administrative Law Judge

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I. HISTORY OF THE PROCEEDING

This Recommended Decision approves, without modification, the Joint Petition for Settlement of Rate Proceeding (“Joint Petition” or “Settlement”), which the parties joining therein filed on February 2, 2015.

On March 28, 2014, Herman Oil & Gas Company, Inc. (“Respondent,” “the Company,” or “Herman”), filed Supplement No. 44 to Tariff-Gas Pa. P.U.C. No. 4 to become effective July 1, 2014, containing proposed changes in rates, rules, and regulations calculated to produce $762,969[[1]](#footnote-1) in additional annualrevenues, of which $682,521 would be derived from a rate increase on natural gas usage and $80,448 would be derived from a new Customer Charge. Due to various adjustments made or brought to the Company’s attention during the pendency of this matter, the Company subsequently decreased its revenue increase request, resulting in an annual distribution revenue increase request of approximately $588,000. Joint Petition for Settlement of Rate Proceeding (“Settlement”), p. 3.

Herman originally asserted that it has only a residential customer class, and that its residential customers using an average of 3 Mcf per month would pay an additional $47.59 per month, of which $31.59 would be an increase in gas cost and $16.00 would be an increase in the Customer Charge. Originally, Herman calculated that its proposed rate increase would be approximately 325% on a residential customer’s monthly bill.

Herman stated that the rate filing is necessary to provide sufficient operating revenues to meet operating expenses, as they have not filed a rate case in 32 years.

The Commission’s Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance. A formal complaint was filed by the Office of Consumer Advocate at Docket No. C-2014-2419761. Formal complaints were also filed by the following individuals: Robert L. Beilstein at Docket No. C-2014-2422697; Richard Bricker at Docket No. C-2014-2422758; James and Karen Eurich at Docket No. C-2014-2422756; Marlene Hoover at Docket No. C-2014-2427251; Betty Learn at Docket No. C-2014-2422753; William and Leslie Mayhugh at Docket No. C-2014-2422690; Lloyd Nyberg at Docket No. C-2014-2427238; Joseph Rizzo at Docket No. C-2014-2422703; and Thomas and Kimberly Eurich at Docket No. C-2014-2427240. All of these complaints were consolidated for mediation, hearing and disposition into this base rate proceeding at Docket No. R-2014-2414379.

Pursuant to 66 Pa.C.S. §1308(b), the filing was suspended by operation of law on July 1, 2014, until February 1, 2015, unless permitted by Commission Order to become effective at an earlier date. The Company subsequently agreed to mediation of this base rate case and further agreed to an additional 60-day suspension, until April 2, 2015.

A Mediation Session/Prehearing Conference Notice was mailed to the parties on July 3, 2014. A Prehearing Conference Order was issued on July 3, 2014. A prehearing conference was held on July 15, 2014. The prehearing conference was immediately followed by the first mediation session. The Company, the OCA and I&E were all present for the conference and mediation session. No individual Complainants attended the conference.

A Prehearing Order was issued on July 23, 2014.

A Public Input Hearing was held on Thursday, August 21, 2014 at 6:00 p.m., at the Winfield Township Municipal Building, 194 Brose Road, Cabot, PA 16023. Notice of the Public Input Hearing was published in the *Butler Eagle* on August 5, 2014 and again on August 12, 2014. Proof of Publication of Notice in the *Butler Eagle* was filed with the Commission’s Secretary’s Bureau on August 19, 2014.

On September 30, 2014, the Company filed Tariff Supplement No. 45 to Tariff Gas – Pa. P.U.C. No. 4 and agreed to a further 60-day suspension of the procedural schedule, extending the effective date for Supplement No. 44 from February 1, 2015 to April 2, 2015. On October 23, 2014, the Company contemporaneously filed a Motion for 90-Day Extension of the Procedural Schedule (“Motion”) and Supplement No. 47[[2]](#footnote-2) to Tariff Gas-Pa. P.U.C. No. 4 extending the effective date an additional 90 days, to August 2, 2015. The Motion and Supplement No. 47 were served on I&E, the OCA and the aforementioned nine individual Complainants.

On October 27, 2014, a Second Interim Order was issued setting November 7, 2014, as the deadline for filing objections to the new litigation schedule proposed by the Respondent in the Motion. No objections were filed.

On November 18, 2014, a Third Interim Order was issued revising the litigation schedule.

On February 2, 2015, a Joint Petition for Settlement of Rate Proceeding (“Settlement”) executed by Herman, I&E and the OCA (“Joint Petitioners”) was filed and served on the nine individual Complainants whose complaints were previously consolidated with this rate proceeding. On February 4, 2015, I issued a letter to each of the nine Complainants advising them of the Settlement and instructing them how to file and serve objections to the Settlement. Objections were requested to be filed by February 17, 2015.

On February 9, 2015, I discovered there were four additional formal complaints filed objecting to Herman’s proposed rate increase in June 2014. The following are the four additional formal complaints: Earl and Sue Christy, Docket No. C-2014-2430205; Earl and Leetta Christy, Docket No. C-2014-2430206; Louis and Marie Bauldoff, Docket No. C-2014-2430207; and Melissa Phillips, Docket No. C-2014-2430208. These four formal complaints were consolidated for hearing and disposition with this rate proceeding in the Fourth Interim Order issued February 9, 2015.

On February 12, 2015, I issued a letter to each of the four Complainants listed in the preceding paragraph advising them of the Settlement and instructing them how to file and serve objections to the Settlement. Objections were requested to be filed by February 25, 2015.

Earl and Leetta Christy filed a letter objecting to the Settlement on February 23, 2015.

On March 3, 2015, a Fifth Interim Order Suspending the Litigation Schedule and Closing the Record was issued. The technical evidentiary hearings scheduled for March 23-24, 2015, were cancelled.

On March 6, 2015, letters objecting to the Settlement were filed with the Commission’s Secretary’s Bureau by Earl and Sue Christy, and Joseph Rizzo.

On March 25, 2015, a Sixth Interim Order Reopening the Record for the Sole Purpose of Admitting the Objections Filed by Earl and Sue Christy and Joseph Rizzo, and thereafter Reclosing the Record was issued.

The record consists of the rate filing, a 20-page transcript of the Prehearing Conference, a transcript of the Public Input Hearing held on August 21, 2014, the four exhibits offered by Joseph Rizzo and admitted at the Public Input Hearing, the Joint Petition for Settlement of Rate Proceeding and the three objections filed on February 23, 2015 and March 6, 2015.

II. PUBLIC INPUT HEARING

Twelve individuals offered testimony under oath at the Public Input Hearing. Their respective testimonies will be summarized below in the order in which they testified.

Ronald Criley, who resides at 323 Cornetti Road, Fenelton, Pennsylvania, testified that he is a customer of Herman. He testified that last winter he installed a wood burner in his home. He further testified that he has a high efficiency gas furnace in his home and that on two occasions last year he had to call Herman because he did not have any gas. If his furnace does not have gas to burn the motor will run and blow cold air. The furnace must then be reset. Tr. 35-36.

Mr. Criley does not understand why an increase in rates is needed because the price for gas is decreasing. Tr. 36.

Marie Bauldoff, who resides at 905 Clearfield Road, Fenelton, Pennsylvania, testified that she and her husband are customers of Herman. She testified that, according to her calculations, she paid $797.57 for gas from September 1, 2013 to August 1, 2014. Using the same amount of gas under the rate requested by Herman in this proceeding, plus a $16.00 meter charge, she calculated that her bill for the same period would have been $2,160.96. She testified that the requested increase in rates is too high. Tr. 37.

Larry Rettig, who resides at 808 Clearfield Road, Fenelton, Pennsylvania, testified essentially that he is concerned about service and safety after a gas leak occurred across the road from his property last summer. Tr. 38-39.

Herman Blackert, who resides at 960 Clearfield Road, Fenelton, Pennsylvania, testified that he is a customer of Herman. He further testified that the gas pressure supplied to his home is not always where it should be. Tr. 40. He testified that the requested increase is much higher than other gas distribution companies in the area and that the Company should invest more of its own money and it should not seek to have ratepayers pay for it all. Tr. 40-41.

Joseph Rizzo, who resides at 209 Holl Road, Cabot, Pennsylvania, testified that he is a customer of Herman. He filed a formal complaint objecting to Herman’s requested rate increase at Docket No. C-2014-2422703 and his complaint was consolidated with this rate proceeding. He further testified that Herman’s customers cannot afford the requested rate increase and the $16.00 per month “meter rental fee.” Tr. 44. Mr. Rizzo questions the accuracy of Herman’s gas meters because, according to him, Herman has never performed maintenance on the meters and the meter readings are recorded from a truck. Tr. 44. Mr. Rizzo disputes Herman’s claim that it has not received a rate increase in 32 years. Tr. 44-45.

Mr. Rizzo offered four exhibits that were marked and admitted into the record as Joseph Rizzo Exhibit A, B, C and D. Mr. Rizzo requests that Herman’s rate increase be denied. Tr. 45.

Zelda Wilbert, who resides at 130 Birds Lane, Butler, Pennsylvania, testified that she is a customer of Herman and that she is very happy with her gas service. She further testified that in order to have safe, reliable gas service you have to update things. She testified that she likes the fact that Herman is a local company, that you get to talk to a local person and that the Company helps to support the people in the community. Tr. 50-51.

Robert Bielstein, who resides at 1054 Herman Road, Butler, Pennsylvania, testified that he is a customer of Herman for gas service provided to his home and office. He further testified that a 325% increase is not affordable. He is not opposed to a smaller increase. Tr. 52-54.

Mr. Beilstein is concerned about how Herman intends to use the requested rate increase. He testified as follows: “Is it to improve facilities? Is it to pay the company which was, as I understand it, recently purchased by another individual?” Tr. 54.

Roland Hall, who resides at 439 Marwood Road, Cabot, Pennsylvania, is a customer of Herman and he is opposed to the requested rate increase. He testified that the requested rate increase is too much and that it is unaffordable. If the requested increase is approved, he plans to cease receiving service from Herman. Tr. 54-55. Mr. Hall testified that in his opinion the owners of Herman are attempting to recoup their investment in the Company immediately and achieve high profits now. Tr. 56.

Brent Bricker, who resides at 117 Holl Road, Cabot, Pennsylvania, testified that he is a customer of Herman and that he is opposed to the rate increase. He further testified that if the rate increase is approved it will harm the community immensely especially those on fixed incomes. Tr. 58-59.

William Swartzlander, who resides at 2557 Old Route 422, Fenelton, Pennsylvania, testified that he became a customer of Herman three years ago when Herman extended a line along his driveway to serve his home and that he is “for a raise in Fenelton.” Tr. 60. Prior to becoming a Herman customer, Mr. Swartzlander heated his home with oil or propane. Mr. Swartzlander further testified that his cost of heating his home with gas supplied by Herman is less than it was when he used propane. Tr. 59-60.

Charles Infantino, who resides at 330 Cornetti Road, Fenelton, Pennsylvania, testified that he has been a Herman customer since February 2004 and that he is opposed to the requested rate increase. Tr. 61-63. Mr. Infantino testified regarding the proposed rate increase and quality of service. He testified that the gas cost rate (“GCR”) has been increased over the years. Tr. 62. He further testified that in the past couple of years, on several occasions, during the wintertime especially, he has experienced gas pressure problems which have left him with no hot water and unable to use the stove to cook. Tr. 63.

George Rodgers, who resides at 211 Hardwood Road, Fenelton, Pennsylvania, testified that he is a customer of Herman and that if there is an increase in rates it should be averaged throughout the year so that it is not a severe burden to anyone at one particular time of the year. Tr. 63. He further testified that Herman’s service has improved under the current ownership. Tr. 67.

III. DESCRIPTION AND TERMS OF SETTLEMENT

The 18-page Joint Petition for Settlement of Rate Proceeding includes five appendices attached as Appendix A through and including Appendix E. Appendix A is the proposed Settlement Tariff and includes the “Phase Two Supplement” and the “Phase 3 Supplement.” Appendix B is the Proof of Revenue (Settlement Revenue Requirement and Rate Design) for Phases One, Two and Three. Appendices C through and including Appendix E are the Statements in Support of the Settlement of the Company, I&E and the OCA respectively.

The Settlement is a “Black Box” settlement. As such, unless otherwise indicated or described therein, the Joint Petitioners have not agreed upon specific adjustments that support their respective positions in this matter. However, the Joint Petitioners all agree to and request approval of the rates proposed in the Settlement as establishing just and reasonable rates for natural gas service provided by Herman to its customers.

A. Revenues and Phase-In

In the Settlement, the Joint Petitioners have proposed that Herman be permitted to file a tariff supplement designed to produce an increase in base rate annual operating distribution revenue of $420,000. The Joint Petitioners agree that the rate increase will be phased in over the next three years as follows: $210,000 the first year, $105,000 the second year, and $105,000 the third year, which equates to 50% of the annual revenue increase in the first year, 25% in the second year, and 25% in the third year. This increase in annual distribution revenue is in lieu of the as-filed increase of $779,346 and the modified request of approximately $588,000.[[3]](#footnote-3) The Settlement provides that the Phase One rates will become effective at the time of the Final Commission Order adopting the Settlement. The Settlement provides that the Phase Two rates will become effective one year from the date that the Phase One rates become effective and the Phase Three rates will become effective one year from the date that the Phase Two rates become effective. Settlement, p. 6.

The Joint Petitioners agree that Herman can implement a residential customer charge of $13.50/month and a General Service (GS) customer charge of $175.00/month,[[4]](#footnote-4) effective at the time of the Final Commission Order adopting the Settlement. According to the Joint Petitioners, under the Settlement, the Phase One rates and the inclusion of the customer charge will change customer bills as follows: the total monthly bill for the average residential customer using 6.326 Mcf per month would increase from $62.10 to $95.33 (by approximately 54%). The Phase Two rates will further change customer bills as follows: the total monthly bill for the average residential customer using 6.326 Mcf per month would increase from $95.33 to $115.92 (by approximately 22%). The Phase Three rates will further change customer bills as follows: the total monthly bill for the average residential customer using 6.326 Mcf per month would increase from $115.92 to $136.51 (by approximately 18%). The specific rates are shown on the Rate Design attached to the Settlement as Appendix B. Settlement, p. 7.

The Phase One rates are designed to generate $722,340 in total annual revenue, inclusive of gas costs revenue and distribution revenue, which is an annual distribution increase of $210,002.49 over present rate revenue. The Phase Two rates are designed to generate, prospectively, $827,340 in total annual revenue, inclusive of gas costs revenue and distribution revenue (an additional $104,999.79 in annual non-gas revenue over the Phase One rates), for a total annual distribution revenue increase of approximately $315,000 over the present rate revenue. The Phase Three rates are designed to generate, prospectively, $932,340 in total annual revenue, inclusive of gas costs revenue and distribution revenue (an additional $105,003.02) in annual revenue over the Phase Two rates), for a total annual distribution revenue increase of $420,005.30 over the present rate revenue. Settlement, p. 9 and Appendix B.

B. Stay-Out Provision

Herman agrees that, for a period of three years (36 months) from the effective date of the Phase One rates established in this case, the Company will not file a tariff or tariff supplement proposing an increase in base rates that would constitute a general rate increase under Section 1308(d) of the Public Utility Code,[[5]](#footnote-5) or in any successor statutory provision of similar purpose. The Joint Petitioners agree that Herman may file for a change in rates under Sections 1308(a) and (b) (governing general rate relief), or 1308(e) (governing extraordinary rate relief) of the Public Utility Code[[6]](#footnote-6) if the legislative body or administrative agency orders or enacts changes in policy, regulation or statutes which directly or substantially affect the Company’s rates. Settlement, p. 10.

C. Other Provisions

The Settlement provides that Herman shall implement the line extension policy agreed to by the Joint Petitioners and included in the Settlement Tariff, attached as Appendix A at p. 4. The Settlement Tariff provides, *inter alia*, that the Company will extend its mains for no fee for the first 100 feet from a main line for a new customer. For each additional foot, the Company will charge the new customer $50.00 per foot minimum charge. The Settlement Tariff further provides that the customer will be responsible for paying the assigned cost of extending the mains regardless of his or her annual gas consumption. These fees are in addition to any other applicable fee in extending service to a new customer. Settlement, Appendix A, p. 4.

The Settlement requires Herman to modify its current billing format in a manner that is consumer friendly and clearly and accurately labels all customer charges. Herman is required to present the Joint Petitioners with its proposed customer bill modifications before the new rates go into effect. The Settlement provides that Herman will issue the modified bills during the next billing period following approval by all Joint Petitioners. Herman agrees to provide counsel for the OCA and I&E with a copy of a customer bill, with all customer information redacted, at the time the first bill reflecting the consumer friendly billing format is issued. Herman also agrees to provide counsel for the OCA and I&E with a copy of a customer bill, with all customer information redacted, after the Phase Two and Phase Three rates go into effect. Settlement, pp. 10-11.

With respect to capital expenditure reporting, the Settlement provides that on an annual basis for the three (3) year period following approval of the Settlement by the Commission, Herman must provide to the OCA and I&E a report containing, at a minimum, the following information: (a) overall customers gained or lost; (b) an overview of customer service issues; (c) the current gas cost rate; and, (d) a list of capital investments and upgrades to the system, and a projection of the same for the following calendar year. Settlement, p. 11.

The Settlement also addresses recordkeeping by Herman. According to the Settlement, Herman must maintain comprehensive financial records, in which it will record, at a minimum, all costs allocated to Herman, including but not limited to, costs that are incurred by another entity if such costs are incurred for the benefit or purpose of the operations of Herman. Settlement, p. 11.

The Joint Petitioners agree that Herman will maintain a working telephone line to answer and respond to customer calls. The Settlement requires Herman to use its best efforts to ensure the Company phone number is correctly reflected in any internet website that it creates or maintains. The Settlement provides that Herman shall not be responsible for publications of incorrect phone numbers over which it has no control. In the event that Herman’s telephone number changes, Herman must update its online contact information accordingly. A Herman employee must make reasonable efforts to be available to take customer calls during its normal business hours. Herman must maintain an answering machine for consumers to leave voice messages. Herman has placed an emergency contact number for customers on the Company answering machine, available at the Company phone number (724) 841-0341. The Joint Petitioners agree that Herman will respond to consumer voice messages within one business day of the consumer leaving a message. Settlement, pp. 11-12.

The Settlement requires Herman to keep a log of all customer contacts regarding safety and/or quality of service issues. The Settlement requires the customer contact log to contain, at a minimum, the date of contact, issue(s) in question, and steps, if necessary, taken to resolve the issue(s). Herman must provide the OCA and I&E with a copy of its customer contact log at the time that it submits its capital expenditure report.[[7]](#footnote-7) Settlement, p. 12.

According to the terms of the Settlement, Herman must continue its current budget billing program. Upon customer request Herman must work with the customer to allocate future bills modeled on a monthly average of the customer’s historic billing year. Herman’s budget billing policy is included in the Settlement Tariff, Appendix A to the Settlement. The Settlement requires Herman to include the budget billing policy on the April and May bills each year. The placement of the policy on these bills must be agreed to by the Joint Petitioners before Phase One rates go into effect. Such program shall not preclude Herman from collecting all charges due from customers. Settlement, p. 12.

The Settlement is conditioned upon Commission approval together with additional provisions, which are not reiterated here. *See* Settlement, pp. 13-15. The Joint Petitioners request approval of the proposed Settlement, without modification; that the associated complaints be deemed satisfied by the Settlement; and the entry of an Order terminating the investigation and authorizing Herman to file the tariff attached as Appendix A to the Settlement and implement the Phase One rates, Phase Two rates, and Phase Three rates to become effective in accordance with the Joint Petition.

IV. DISCUSSION

The Commission encourages parties in contested on-the-record proceedings to settle cases. *See*, 52 Pa.Code § 5.231. Settlements eliminate the time, effort and expense of litigating a matter to its ultimate conclusion, which may entail review of the Commission’s decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails.

By definition, a “settlement” reflects a compromise of the parties’ positions, which arguably fosters and promotes the public interest. When parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest. *Pa. Pub. Util. Comm’n. v. CS Water and Sewer Associates*, 74 Pa. PUC 767, 771 (1991). In their supporting statements, Herman, I&E, and the OCA conclude, after extensive discovery and discussion, that this Settlement resolves all contested issues in this case and unanimously agree that the Settlement is in the public interest. The Joint Petitioners claim that acceptance of the Settlement will avoid the necessity of further administrative and possibly appellate proceedings regarding the settled issues at what would have been a substantial cost to the Joint Petitioners and Herman’s customers. Settlement, pp. 14-16.

A. Herman’s Position

Herman requests approval of the Settlement, including the terms and conditions thereof, without modification. According to Herman, the Joint Petition is proposed as a full resolution and settlement, subject to the terms discussed in the Statement in Support, of the issues raised by the Joint Petitioners regarding Herman’s proposed changes to its tariff. The settled issues include generation of additional revenue through a three-year phase in and implementation of a customer charge for both residential and general delivery customers, and provisions beneficial to consumers such as a stay-out period, formalized customer service and contact procedures, and customer notification of Herman’s Budget Billing program. Herman St. in Support, pp. 1-2.

Herman asserts that the Settlement should be approved because it is in the best interests of Herman, its customers, the Joint Petitioners, and the public. According to Herman, the Settlement was achieved after a comprehensive investigation of Herman’s claims and operations. Further, the Joint Petitioners participated in numerous settlement discussions and negotiations, which ultimately led to the Settlement. Herman claims the Settlement is the product of negotiation and compromise by the Joint Petitioners and is consistent with the Commission’s policy to encourage settlements and promote administrative efficiency. Herman believes the Settlement reflects a carefully balanced compromise of the interests of the Joint Petitioners. For these reasons and the reasons set forth in its Statement in Support, Herman concludes the Settlement is just, reasonable, and in the public interest, and should be approved. Herman St. in Support, p. 2.

1. Revenues and Phase-In

Herman asserts that that Settlement is just, reasonable and in the public interest because it permits Herman to increase its tariff rates to produce an overall revenue increase of $420,000. The Joint Petitioners agree that the rate increase will be phased-in over the next three years. According to Herman, the phase-in will allow the Company to obtain revenues necessary to provide service and earn a reasonable return while providing customers with a gradual increase in rates. In the first year (“Phase One”), the rate increase is designed to generate $722,340 in total annual revenue, an increase of $210,000 over present rate revenue. In the second year (“Phase Two”), the rate increase is designed to generate $827,340 in total annual revenue, an increase of $105,000 over Phase One rate revenue. In the third year (“Phase Three”), the rate increase is designed to generate $932,340 in total annual revenue, an increase of $105,000 over Phase Two rate revenue. The phase-in schedule equates to a 50% annual revenue increase in Phase One, and a 25% increase in Phases Two and Three respectively. The Settlement provides that the Phase One rates will become effective at the time of the Commission’s final order adopting the Settlement without modification. The Phase Two rates will become effective one year from the date the Phase One rates become effective. The Phase Three rates will become effective one year from the date the Phase Two rates become effective. Herman St. in Support, pp. 2-3.

2. Customer Charge

Herman asserts that that Settlement is just, reasonable and in the public interest because it requires Herman to implement a residential customer charge of $13.50/month and a General Service (GS) customer charge of $175.00/month. The Settlement further provides that the customer charges will become effective at the time the Commission adopts the Joint Petition without modification, simultaneous with the Phase One rates. In addition, the Settlement provides that the customer charge rate will remain consistent during the Phase Two and Phase Three rate implementation. Herman St. in Support, p. 3.

3. Stay-Out Provision

Herman asserts that that Settlement is just, reasonable and in the public interest because for a period of three (3) years (36 months) from the effective date of the Phase One rates established in the Settlement, the Company cannot file a tariff or tariff supplement proposing an increase in base rates that would constitute a rate increase under Section 1308(d) of the Public Utility Code.[[8]](#footnote-8) Notwithstanding the “stay-out” provision of the Settlement, however, Herman may file for a change in rates under Section 1308(a) and (b), or (e) of the Public Utility Code[[9]](#footnote-9) if certain conditions occur that involve changes in law which directly or substantially affect Herman’s rates. Herman St. in Support, p. 3.

4. Other Provisions

Herman asserts that that Settlement is just, reasonable and in the public interest because of the following additional provisions in the Settlement:

* 1. Line Extension. Herman will implement a line extension policy wherein the Company will extend its mains for no fee for the first 100 feet from a main line for a new customer. For each additional foot, the Company will charge the new customer $50.00 per foot minimum charge. The customer will be responsible for paying the assigned cost of extending the mains regardless of his or her annual gas consumption. These fees are in addition to any other applicable fee in extending service to a new customer.
  2. Billing Format. Herman will modify its current billing format in a manner that is consumer friendly, and clearly and accurately labels all customer charges. Herman will present the Parties (Joint Petitioners) with its proposed customer bill modifications before the new rates go into effect. Herman will issue the modified bills during the next billing period following approval by the Parties.

* 1. Capital Expenditure Report. On an annual basis for the three (3) year period following the Commission’s approval of the Settlement, Herman will provide to the OCA and I&E a report containing, at a minimum, the following information: (1) overall customers gained or lost; (2) an overview of customer service issues; (3) the current gas cost rate; and (4) a list of capital investments and upgrades to the system, and a projection of the same for the following calendar year.
  2. Recordkeeping. Herman will maintain comprehensive financial records, in which it will record, at a minimum, all costs allocated to Herman, including but not limited to, costs that are incurred by another entity if such costs are incurred for the benefit or purpose of the operations of Herman.
  3. Company Contact. Herman will maintain a working telephone line to answer and respond to customer calls. Herman will use its best efforts to ensure the Company phone number is correctly reflected in any internet website that it creates or maintains. In the event that the Company’s telephone number changes, Herman will update its online contact information accordingly. A Herman employee will make reasonable efforts to be available to take customer calls during its normal business hours. Herman will maintain an answering machine for consumers to leave voice messages. Herman has placed an emergency contact number for customers on the Company answering machine, available at the Company phone number (724) 841-0341. Herman will respond to consumer voice messages within one business day of the consumer leaving said message.

* 1. Customer Contact Log. Herman will keep a log of all customer contacts regarding safety and/or quality of service issues. Such log will contain, at a minimum, the date of contact, issue(s) in question, and steps, if necessary, taken to resolve the issue(s). Herman will provide the OCA and I&E with a copy of its customer contact log at the time that it submits its capital expenditure report.
  2. Budget Billing. Herman will continue its current budget billing program. Upon customer request, Herman will work with such customer to allocate future bills modeled on a monthly average of the customer’s historic billing year. Herman’s budget billing policy is included in the settlement tariff. Herman will include the budget billing policy on the April and May bills each year. The placement of the policy on these bills will be agreed to by the Parties before Phase One rates go into effect. Such program will not preclude Herman from collecting all charges due from customers.

Herman St. in Support, pp. 3-5.

In closing, Herman claims the Settlement is the result of a thorough and detailed examination of the Company’s proposals and compromise by the Joint Petitioners. Herman believes that fair and reasonable compromises have been achieved on the settled issues in this case, as is evidenced by the fact that all parties have reached an agreement on all issues in this proceeding. Herman fully supports the Settlement and respectfully requests approval of the Settlement in its entirety without modification. Herman St. in Support, p. 6.

B. I&E’s Position

I&E submits that the issues it raised in this proceeding have been satisfactorily resolved. I&E St. in Support, p. 8. I&E further submits that the terms and conditions of the Settlement are in the public interest and represent a fair, just, reasonable and equitable balance of the interests of Herman and its customers. According to I&E, the parties to the Settlement have conducted extensive formal and informal discovery and have participated in numerous settlement conferences. The extensive discussions and sharing of information has culminated in the submission of the Settlement. I&E’s request for approval of the Settlement is based on its conclusion that the Settlement meets all the legal and regulatory standards necessary for approval.

“The prime determinant in the consideration of a proposed Settlement is whether or not it is in the public interest.” *Pa. Pub. Util. Comm’n v. Philadelphia Electric Company*, 60 Pa. PUC 1, 22 (1985). 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.” *Pa. Pub. Util. Comm’n v. C S Water and Sewer Associates*, 74 Pa. PUC 767, 771 (1991). I&E concludes that the Settlement in the instant proceeding protects the public interest in that a comparison of the original filing submitted by the Company and the negotiated agreement demonstrates that compromises are evident throughout the Joint Petition. I&E St. in Support, p. 1.

1. Revenues and Phase-In

The Settlement provides for an increase of $420,000 to the Company’s annual overall revenue. According to I&E, the additional revenue in this proceeding is base rate revenue and has been agreed to in the context of a “Black Box” settlement with limited exceptions. I&E explains that a “Black Box” agreement does not specifically identify the resolution of any disputed issues. Instead, an overall increase to base rates is agreed to and parties retain all rights to further challenge all issues in subsequent proceedings. I&E further explains that a “Black Box” settlement benefits ratepayers as it allows for the resolution of a proceeding in a timely manner while avoiding significant additional expenses. I&E is of the opinion that an agreement as to the resolution of each and every disputed issue in this proceeding would not have been possible without judicial intervention. I&E believes the involvement of the administrative law judge would have added time and expense to an already cumbersome proceeding. I&E believes avoiding this necessity will benefit ratepayers by keeping the expenses associated with this filing at a reasonable level. According to I&E, the Chairman of the Commission has commented on “Black Box” settlements as follows:

[d]etermination of a company’s revenue requirement is a calculation that involves many complex and interrelated adjustments affecting revenue, expenses, rate base and the company’s cost of capital. To reach an agreement on each component of a rate increase is an undertaking that in many cases would be difficult, time-consuming, expensive and perhaps impossible. Black box settlements are an integral component of the process of delivering timely and cost-effective regulation.[[10]](#footnote-10)

I&E St. in Support, pp. 4-5.

I&E claims the increased level of “Black Box” revenue adequately balances the interests of ratepayers and the Company. The Company will receive sufficient operating funds in order to provide safe and adequate service while ratepayers are protected as the resulting increase minimizes the impact of the Company’s initial proposal. The negotiated compromise represents approximately 53.9% of the Company’s filed request. Mitigation of the level of the rate increase benefits ratepayers and results in rates that satisfy the regulatory standard. As such, I&E concludes this element supports the standard for approval of a settlement as the resulting rates are just and reasonable and in accordance with the Public Utility Code and all pertinent case law. I&E St. in Support, p. 5.

Furthermore, according to I&E, the Settlement establishes a phase-in of rates to mitigate the impact of the increase (hereinafter referred to as Phase-One, Phase-Two and Phase‑Three rates). Upon Commission Order addressing the provisions of the Settlement, absent any modification to the terms, $210,000 in increased annual distribution revenue will be allowed to go into effect. The Settlement also allows the second phase of rates to go into effect one year from the initiation of the Phase One rates. The agreed upon Phase Two increase is an additional $105,000. The third phase of the rate increase will be effective one year from the establishment of the Phase Two rates. The Phase Three increase will also be an additional $105,000 to arrive at the overall agreed upon increase of $420,000. I&E St. in Support, pp. 5-6.

2. Customer Charge

The Settlement Agreement also provides that a residential Customer Charge of $13.50 per month and a General Service (“GS”) customer charge of $175.00 per month will also become effective upon initial Commission Order in this proceeding.

According to I&E, it is important to allow the utility to recover the fixed portion of providing service through the implementation of the proper customer charge. I&E explains that a proper customer charge provides the Company the opportunity to address its fixed recurring costs necessary to operate its system through a steady, predictable level of income. I&E claims this will allow for the proper maintenance and upkeep of Herman’s system. I&E further claims that establishing the proper levels protects ratepayers by ensuring that the Company is not being overcompensated. I&E believes that moderating the requested increase in this proceeding also benefits ratepayers as it allows them to reap a greater portion of the benefit of conservation. Shifting costs to the volumetric portion of a customer’s bill allows for the immediate realization of the benefit of conserving usage. According to I&E, designing rates to allow customers to have greater control of their energy bills is in the public interest. The establishment of a mitigated level of customer charge demonstrates a compromise of the interests of the parties. As such, I&E concludes the customer charge provision is in the public interest. I&E St. in Support, p. 6.

3. Stay-Out Provision

The Company also agrees that it will not file a base rate case, as defined in 66 Pa. C.S. § 1308, prior to thirty-six (36) months following the effective date of the Phase-One Rates established in this proceeding. This provision, however, does allow Herman to address increases that may be necessary due to substantial changes in regulatory or federal policies that may impact the Company. I&E St. in Support, p. 7.

I&E asserts that the “stay-out” provision will benefit ratepayers by providing a level of stability in their rates. According to I&E, the “stay-out” coupled with the phase-in of rates will allow ratepayers to plan for the impact of the increased rates over a three to four year period. Stability in rates is a benefit to all impacted parties. The Company can make operational plans based on planned rates while customers can budget their activities knowing that the cost of their services will not fluctuate for the next several years. I&E St. in Support, p. 7.

4. Other Provisions

According to I&E, the Settlement includes measures to assist the Company in its operations as well as provisions that will benefit ratepayers. As identified in averment 22(h) *et seq.* of the Settlement, I&E claims that the Company has agreed to establish procedures that will enable it to operate more efficiently. The recent transfer of ownership of the Company has resulted in many challenges for the current management staff. I&E believes the establishment of the measures outlined in paragraph 22 of the Settlement will provide prudent guidelines for the ongoing operation of the utility. In addition, it will enable Herman to operate more transparently while providing accessibility to its ratepayers. I&E opines that the measures agreed to will allow the Company to operate more efficiently. This in turn, will benefit ratepayers by ensuring that all expenditures are prudent and reasonable. I&E St. in Support, p. 7.

The additional provisions include establishment of a line extension policy for inclusion in the tariff; modification to the current billing format to allow for greater clarity in identifying the charges; the aforementioned customer charge to stabilize at least part of the Company’s revenue stream; development and provision of a capital expenditure report; enhanced recordkeeping; establishment of telephone access to allow for reliable customer contact; and, continuation and refinement of its budget billing program. I&E St. in Support, p. 8.

Individually, and collectively, I&E asserts that the terms identified in paragraph 22 of the Settlement are in the public interest and support the resolution of this rate proceeding. The additional provisions address identified operational and customer service concerns inherent in the Company’s previous operations. I&E concludes that, at the conclusion of this proceeding, Herman will be better positioned to continue to provide safe and reliable service to its ratepayers at just and reasonable rates. I&E opines that the measures contained in the Settlement will strengthen the Company and the Settlement is, therefore, in the public interest. I&E St. in Support, p. 8.

C. OCA’s Position

The OCA submits that the Settlement is in the public interest and should be adopted. According to the OCA, the terms and conditions of the proposed Settlement of this rate proceeding represent a fair and reasonable resolution of the issues and claims arising in this proceeding.If approved, the proposed Settlement would provide for an increase of approximately $420,000 in annual revenues that will be phased in over a three-year period. The OCA points out that this amount is reduced from the $762,969 annual increase proposed in the Company’s filing and the Company’s modified proposal of a $588,000 annual increase. In addition, the OCA asserts that Herman’s ratepayers will benefit from the stay-out and other provisions addressing ratemaking issues. Finally, the OCA claims the Commission and all parties would benefit from the reduction in rate case expense and the conservation of resources made possible by adoption of the Settlement in lieu of full litigation. OCA St. in Support, pp. 3, 6.

1. Revenues and Phase-In

The proposed Settlement provides for an overall annual distribution revenue increaseof $420,000, which will be phased in over a three-year period, as follows: $210,000 in the first year; $105,000 in the second year; and $105,000 in the third year. Additionally, the proposed Settlement provides for the Company to implement a $13.50/month residential customer charge to become effective simultaneously with the Phase One rates. The OCA calculates that, under the Company’s initial rate request, a typical residential customer using 8.5 Mcf of natural gas per month would see a total increase from $28.80 to $134.30 per month, or 366%. In Phase One under the proposed Settlement, however, a typical residential customer using 8.5 Mcf of natural gas per month would see a total increase from $28.80 to $68.80, or approximately 139%. In Phase Two, a typical residential customer using 8.5 Mcf of natural gas per month would see a total increase from $68.80 to $96.47, or approximately 40%. Finally, in Phase Three, a typical residential customer using 8.5 Mcf of natural gas per month would see a total increase from $96.47 to $124.14, or approximately 29%. OCA St. in Support, p. 3.

Based on the OCA’s analysis of the Company’s filing, the proposed increase under the Settlement represents an amount which, in the OCA’s view, would be within the range of the likely outcomes in the event of full litigation of the case. The Settlement provides for this increase to be phased in over a three-year period, which will allow for a more gradual increase and help to ensure the avoidance of rate shock. OCA St. in Support, p. 3.

2. Customer Charge

The OCA briefly mentioned the $13.50/monthly residential customer charge in its discussion of “Revenues and Phase-In” above. The OCA did not address this element of the Settlement separately. It used the $13.50/monthly customer charge and the proposed three phase rate increase to calculate the impact of the residential customer charge and increased rates on a typical customer’s bill using 8.5 Mcf per month over a three-year period. Those calculations were provided above.

3. Stay-Out Provision

Under the proposed Settlement, Herman cannot file for another general rate increase for a three-year period from the effective date of the Phase One rates. While the rates will increase during the three-year period pursuant to the phase-in, the rates will not increase beyond the amounts agreed to in the Settlement before the expiration of a three-year period from the effective date of the Phase One rates. Thus, the OCA concludes the stay-out will provide a level of rate stability for the Company’s customers.

4. Other Provisions

The Settlement provides that Herman will implement a line extension policy in which it will extend its mains at no fee for the first 100 feet from a main line for a new customer. For each additional foot, the Company will charge the new customers a minimum of $50 per foot. According to the OCA, this provision is in the public interest because it establishes a policy for extending the Company’s mains, which will help to ensure consistency in the costs charged to consumers for main extensions. OCA St. in Support, p. 4.

The Settlement provides that Herman will modify its current billing format in a manner that is consumer friendly and clearly and accurately labels all customer charges. According to the OCA, this provision is in the public interest, because it requires Herman to provide its customers with information that is necessary for them to understand the various costs that make up their natural gas bills. OCA St. in Support, p. 4.

The Settlement provides that Herman will provide the OCA and I&E with a capital expenditure report on an annual basis for a three-year period following approval of the Settlement by the Commission, which will include, at a minimum, the following: (a) overall customers gained or lost; (b) an overview of customer service issues; (c) the current gas cost rate; and (d) a list of capital investments and upgrades to the system, and a projection of the same for the following calendar year. The OCA asserts that this provision is in the public interest, because it will help to ensure that Herman is keeping up-to-date records of important information, such as customer issues and capital expenditures. Specifically, the report will help the Company to keep track of its capital expenditures, which will aid in future base rate proceedings. OCA St. in Support, pp. 4-5.

The Settlement provides that Herman will maintain comprehensive financial records in which it will record, at a minimum, all costs allocated to Herman. According to the OCA, this provision will aid all parties in the Company’s future rate proceedings by making this information easily accessible. OCA St. in Support, p. 5.

Pursuant to the terms of the Settlement, the parties agree that Herman will maintain a working telephone line to answer and respond to customer calls. A Herman employee will make reasonable efforts to be available to take customer calls during its normal business hours. Herman will maintain an answering machine for consumers to leave voice messages and will respond to consumer voice messages within one business day of a consumer leaving a message. The answering machine will provide an emergency contact number. OCA St. in Support, p. 5.

The OCA believes these Settlement provisions are in the public interest, because they will help to ensure that Herman addresses all consumer complaints in a timely manner. Further, they will help to ensure that customers who contact Herman with an emergency situation are given specific instructions regarding who to contact under those circumstances. OCA St. in Support, pp. 5-6.

At the time Herman submits its capital expenditure report, it will provide the OCA and I&E with a copy of its customer service log. The Settlement requires the customer service log to contain, at a minimum, the date of customer contact and steps taken, if necessary, to resolve the issue(s). The OCA opines that a report of customer issues is necessary for the Company to monitor safety and quality issues and will help to ensure an adequate resolution of those issues. OCA St. in Support, p. 6.

Finally, the Settlement provides that Herman will continue its budget billing program and notify its customers of the program on the April and May bills each year. The OCA supports the continuation of this program, as budget billing can be a useful option for customers. Under the terms of the Settlement, Herman’s customers will be made aware of the option, giving them the opportunity to assess whether it is an appropriate option for them. OCA St. in Support, p. 6.

D. Recommendation

“The prime determinant in the consideration of a proposed Settlement is whether or not it is in the public interest.” *Pa. Pub. Util. Comm’n v. Philadelphia Electric Company*, 60 Pa. PUC 1, 22 (1985). 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.” *Pa. Pub. Util. Comm’n v. C S Water and Sewer Associates*, 74 Pa. PUC 767, 771 (1991).

The Settlement in this case is a “Black Box” settlement. As such, unless otherwise indicated or described therein, the Joint Petitioners have not agreed upon specific adjustments that support their respective positions in this matter. However, the Company, I&E and the OCA all agree to and request approval of the rates proposed in the Settlement as establishing just and reasonable rates for natural gas service provided by Herman to its customers.

As explained above, a “Black Box” agreement does not specifically identify the resolution of any disputed issues. Instead, an overall increase to base rates is agreed to and parties retain all rights to further challenge all issues in subsequent proceedings. A “Black Box” settlement benefits ratepayers as it allows for the resolution of a proceeding in a timely manner while avoiding significant additional expenses.

Realistically, an agreement as to the resolution of each and every disputed issue in this proceeding would have been extremely difficult. If this matter had proceeded as intended in the amended litigation schedule, written testimony and exhibits would have been prepared and served by the Joint Petitioners, beginning with direct, followed by rebuttal testimony and exhibits, then surrebuttal testimony and exhibits, and lastly, rejoinder. All of this preparation for eventual litigation would have been costly to each of the Joint Petitioners. The Joint Petitioners engaged in discovery wherein I&E and the OCA obtained information necessary to scrutinize Herman’s rate filing and position themselves for negotiations or perhaps litigation.

The rate increase contained in the Settlement is a significant increase. The Joint Petitioners agree that Herman can implement a residential customer charge of $13.50/month and a General Service (GS) customer charge of $175.00/month,[[11]](#footnote-11) effective at the time of the Final Commission Order adopting the Settlement. According to the Joint Petitioners, under the Settlement, the Phase One rates and the inclusion of the customer charge will change customer bills as follows: the total monthly bill for the average residential customer using 6.326 Mcf per month would increase from $62.10 to $95.33 (by approximately 54%). The Phase Two rates will further change customer bills as follows: the total monthly bill for the average residential customer using 6.326 Mcf per month would increase from $95.33 to $115.92 (by approximately 22%). The Phase Three rates will further change customer bills as follows: the total monthly bill for the average residential customer using 6.326 Mcf per month would increase from $115.92 to $136.51 (by approximately 18%). The specific rates are shown on the Rate Design attached to the Settlement as Appendix B. Settlement, p. 7.

The Phase One rates are designed to generate $722,340 in total annual revenue, inclusive of gas costs revenue and distribution revenue, which is an annual distribution increase of $210,002.49 over present rate revenue. The Phase Two rates are designed to generate, prospectively, $827,340 in total annual revenue, inclusive of gas costs revenue and distribution revenue (an additional $104,999.79 in annual non-gas revenue over the Phase One rates), for a total annual distribution revenue increase of approximately $315,000 over the present rate revenue. The Phase Three rates are designed to generate, prospectively, $932,340 in total annual revenue, inclusive of gas costs revenue and distribution revenue (an additional $105,003.02) in annual revenue over the Phase Two rates), for a total annual distribution revenue increase of $420,005.30 over the present rate revenue. Settlement, p. 9 and Appendix B.

The undersigned concludes that the rate increase agreed to in the Settlement adequately balances the interests of ratepayers and the Company and is in the public interest. The Company will receive sufficient operating funds in order to provide safe and adequate service while ratepayers are protected as the resulting increase minimizes the impact of the Company’s initial proposal. The negotiated compromise represents approximately 53.9% of the Company’s filed request. Mitigation of the level of the rate increase benefits ratepayers. The increase contained in the Settlement represents an amount which would be within the range of the likely outcomes in the event of full litigation of the case. The Settlement provides for this increase to be phased in over a three-year period, which will allow for a more gradual increase and help to ensure the avoidance of rate shock.

In addition to the rate increase, customer charge and three-year stay-out agreement, the Settlement contains other provisions designed to improve gas service and customer service provided to current ratepayers and potential new customers of Herman. These provisions will make it easier to track future capital expenditures and examine the Company’s financial records and customer service records in future proceedings. The undersigned concludes that these provisions, which are set forth in paragraph 22(h)-(o) on pages 10-12 of the Settlement, are also in the public interest and will make Herman a better, more responsive gas company.

Upon due consideration of the terms and conditions of the Joint Petition for Settlement of Rate Proceeding, including the Statements in Support of the Joint Petitioners and the Objections to the Settlement filed by Earl and Leetta Christy, Earl and Sue Christy and Joseph Rizzo, the undersigned concludes this Settlement constitutes a fair, just and reasonable resolution of the Commission’s investigation. Therefore, the Joint Petition for Settlement of Rate Proceeding is in the public interest and is hereby recommended for approval.

V. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. §§ 501, *et seq*.
2. The Joint Petition for Settlement of Rate Proceeding is in the public interest and is consistent with the requirements contained in *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1010 (Pa.Cmwlth. 2006).

VI. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement of Rate Proceeding that the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission, the Office of Consumer Advocate and Herman Oil & Gas Company, Inc. have filed at Docket No. R‑2014-2414379, including all terms and conditions stated therein, be approved without modification.
2. That Herman Oil & Gas Company, Inc. shall be permitted to file a tariff supplement incorporating the terms of the Joint Petition for Settlement of Rate Proceeding and changes to rates, rules and regulations as set forth in the Joint Petition for Settlement of Rate Proceeding, to become effective upon at least one day’s notice after entry of the Commission’s Order approving the Joint Petition for Settlement of Rate Proceeding.
3. That the following complaints consolidated with the Commission’s investigation at Docket No. R-2014-2414379 be satisfied or denied consistent with the tariff supplement incorporating the terms of the Joint Petition for Settlement of Rate Proceeding and changes to rates, rules and regulations as set forth in the Joint Petition for Settlement of Rate Proceeding: the Office of Consumer Advocate at Docket No. C‑2014-2419761; Robert L. Beilstein at Docket No. C-2014-2422697; Richard Bricker at Docket No. C-2014-2422758; James and Karen Eurich at Docket No. C-2014-2422756; Marlene Hoover at Docket No. C-2014-2427251; Betty Learn at Docket No. C-2014-2422753; William and Leslie Mayhugh at Docket No. C-2014-2422690; Lloyd Nyberg at Docket No. C-2014-2427238; Joseph Rizzo at Docket No. C-2014-2422703; Thomas and Kimberly Eurich at Docket No. C-2014-2427240; Earl and Sue Christy, at Docket No. C-2014-2430205; Earl and Leetta Christy, at Docket No. C-2014-2430206; Louis and Marie Bauldoff, at Docket No. C-2014-2430207; and Melissa Phillips, at Docket No. C-2014-2430208.
4. That the Commission’s investigation at Docket No. R-2014-2414379 and the formal complaints at Docket Nos. C‑2014-2419761, C-2014-2422697, C-2014-2422758, C‑2014-2422756, C-2014-2427251, C-2014-2422753, C-2014-2422690, C-2014-2427238, C‑2014-2422703, C-2014-2427240, C-2014-2430205, C-2014-2430206, C-2014-2430207 and

C-2014-2430208, be marked closed.

Date: March 30, 2015 /s/

Mark A. Hoyer

Administrative Law Judge

1. The total requested increase was $779,346. Of this amount, $16,377 was an increase in the cost of purchased gas. Supporting Data and Calculations in Support of Supplement No. 44 to Pa. P.U.C. No. 4 at Schedule D. $779,346 - $16,377 = $762,969. [↑](#footnote-ref-1)
2. This supplement was originally filed as Supplement No. 46. However, Supplement No. 46 was already on file with the Commission, reflecting changes in Herman’s gas cost rate (“GCR”). On November 5, 2014 Herman filed Supplement No. 47 to reflect the extension of the effective date for Supplement No. 44 an additional 90 days. [↑](#footnote-ref-2)
3. The as-filed request of $779,346 included an increase of $762,969 to distribution revenues and an increase of $16,377 to purchased gas cost. The revised requested increase of $588,000 is distribution revenues only. [↑](#footnote-ref-3)
4. The Settlement provides that Herman shall implement the residential customer charge and General Service customer charge, both set forth in the Settlement Tariff, Appendix A, simultaneously with the Phase One rates. Settlement, p. 11. [↑](#footnote-ref-4)
5. 66 Pa.C.S. § 1308(d). [↑](#footnote-ref-5)
6. 66 Pa.C.S. §§ 1308(a), 1308(b), 1308(e). [↑](#footnote-ref-6)
7. The customer contact log must be provided on an annual basis for the three-year period following approval of the Settlement by the Commission. Settlement, p. 11. [↑](#footnote-ref-7)
8. 66 Pa.C.S. § 1308(d). [↑](#footnote-ref-8)
9. 66 Pa.C.S. §§1308(a), 1308(b), 1308(e). [↑](#footnote-ref-9)
10. *See,* Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm’n v. Wellsboro Electric Company,* Docket No. R-2010-2172662. *See also,* Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm’n v. Citizens’ Electric Company of Lewisburg, PA,* Docket No. R-2010-2172665. [↑](#footnote-ref-10)
11. The Settlement provides that Herman shall implement the residential customer charge and General Service customer charge, both set forth in the Settlement Tariff, Appendix A, simultaneously with the Phase One rates. Settlement, p. 11. [↑](#footnote-ref-11)