

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

REJOINDER TESTIMONY OF

JAMES H. CAWLEY

ON BEHALF OF
THE PITTSBURGH WATER
AND SEWER AUTHORITY

Docket Nos.

R-2020-3017951 (Water)

R-2020-3017970 (Wastewater)

P-2020-3019019 (DSIC)

TOPICS:

Responses to the Surrebuttal Testimony
of Scott J. Rubin (Pages 16-22)

September 11, 2020

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JHC-4	Selected Pages from Nicholas B. Wainwright, HISTORY OF THE PHILADELPHIA ELECTRIC COMPANY: 1881- 1961 (Philadelphia, PA 1961).
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1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND CURRENT POSITION.**

3 A. My name is James H. Cawley. My consulting business address is 1020 Kent Drive,
4 Mechanicsburg, PA 17050.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am an independent consultant and present my testimony in that capacity. I am also Of
7 Counsel to the law firm of SkarlatosZonarich LLC, 320 Market Street, Suite 600W,
8 Harrisburg, PA 17101.

9 **Q. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY IN THIS PROCEEDING?**

10 A. Yes, I prepared written rebuttal testimony on behalf of the Pittsburgh Water and Sewer
11 Authority (“PWSA”) which was served to the parties on August 18, 2020 to provide my
12 expert opinion regarding the direct testimony (pages 1-29 and 59-60) of Scott J. Rubin
13 filed on behalf of the Pennsylvania Office of Consumer Advocate (“OCA”) on July 21,
14 2020. As explained more fully therein, rather than adopting Mr. Rubin’s “no rate
15 increase” approach to addressing the customer and other serious economic dislocations
16 resulting from the current pandemic, the Commission should (1) apply the Cash Flow
17 Method consistent with the PUC Policy Statement; and (2) continue to ensure that
18 PWSA’s customers in financial need receive all possible help from PWSA and from state
19 and federal COVID-19 relief funding.

20 **Q. WHAT IS THE PURPOSE OF YOUR REJOINDER TESTIMONY?**

21 A. My purpose is to respond to new assertions made by Mr. Rubin in his surrebuttal
22 testimony (OCA St. No. 1SR) at pages 16-22 served on behalf OCA on September 4,
23 2020.

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1 **II. SUMMARY**

2 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

3 A. I summarize my conclusions and recommendations on rejoinder as follows:

- 4 • Pursuant to its 1934 resolution lowering allowed returns on investment from 7 percent
5 to 6 percent, the Pennsylvania Public Service Commission did not act “at least in part
6 on prevailing economic conditions,” but primarily if not exclusively in reaction to
7 menacing demagoguery and in a wholly arbitrary manner, which provides no
8 justification for Commission acceptance of Mr. Rubin’s suggested capping of
9 PWSA’s revenue requirement because of the current economic conditions.
- 10 • Although Mr. Rubin concedes for the first time that a “normal” rate investigation is
11 necessary when setting just and reasonable rates, he continues to err by
12 recommending that PWSA’s allowable revenue requirement be capped by its bond
13 coverage requirements.
- 14 • Mr. Rubin’s wrongly brands PWSA as a “competitive business” that “cannot
15 sustainably raise [its] prices when [its] customers’ incomes have decreased
16 significantly.” In fact, the consumer-price index rose a seasonally adjusted 0.6% in
17 both June and July, following declines in March, April, and May amid the pandemic’s
18 initial economic fallout. Likewise, the producer-price index also rose a seasonally
19 adjusted 0.6% in July, the largest monthly rise since October 2018.
- 20 • Mr. Rubin’s recommendation that PWSA be allowed “close to zero” of additional
21 funds “over and above [its] coverage requirements” pursuant to the Commission’s
22 Cash Flow ratemaking policy statement would preclude realization of the Authority’s
23 Commission-approved Long-Term Infrastructure Improvement Plan (“LTIIP”).

24
25 **III. RESPONSES TO MR. RUBIN (OCA St. No. 1SR)**

26 **Q. HAVE YOU REVIEWED THE SURREBUTTAL TESTIMONY OF MR. RUBIN,**
27 **OCA STATEMENT NO. 1SR?**

28 A. Yes.

29 **Q. DOES MR. RUBIN DISAGREES WITH YOUR REBUTTAL TESTIMONY**
30 **REGARDING A 1934 PENNSYLVANIA PUBLIC SERVICE COMMISSION**
31 **(“PSC”) RESOLUTION?**

32 A. Yes. In my rebuttal testimony, I stated that a 1934 PSC resolution established rates that
33 were “consistent with allowed returns of the time.” (PWSA St. No. 10-R at 19). The
34 PSC resolution was attached to my rebuttal testimony as PWSA Exh. JHC-3. Mr. Rubin
35 disagrees with this statement and instead concludes that according to a history of the

1 Philadelphia Electric Company (“PECO”), the “PSC lowered rates substantially during
 2 the great depression based (at least in part) on prevailing market conditions.” (OCA St.
 3 No. 1SR at 18-19).

4 **Q. WHAT IS YOUR RESPONSE?**

5 A. I am grateful to Mr. Rubin for bringing my attention to Mr. Wainwright’s excellent
 6 history of PECO¹ because it provides the background for the PSC’s 1934 resolution, of
 7 which I was unaware when I prepared my rebuttal testimony.

8 For the reasons I next describe, I stand corrected that a 6 percent return was “consistent
 9 with allowed returns of the time,” but I adhere to my view that at least the PSC in its
 10 1934 resolution made an effort to set “a fair and reasonable return”² on investment and
 11 did not, as Mr. Rubin proposes here, establish a policy of granting an inadequate
 12 minimum revenue requirement. Both the PSC and Mr. Rubin can, however, be equally
 13 faulted, the PSC for capping the allowable rate of return and Mr. Rubin for capping the
 14 allowable revenue requirement.

15 The PECO history makes clear that the PSC’s across-the-board 1 percent reduction in
 16 returns (from 7 percent) of all jurisdictional public utilities was arbitrarily adopted in
 17 1934 by resolution (not by order after due process notice and opportunity for hearing). It
 18 was consistently applied without regard to contrary evidence of record,³ by a majority of

¹ Nicholas B. Wainwright, HISTORY OF THE PHILADELPHIA ELECTRIC COMPANY: 1881-1961 (Philadelphia, PA 1961), available without charge at <https://babel.hathitrust.org/cgi/pt?id=mdp.39015081291844&view=1up&seq=335>.

² PWSA Exh. JHC-3, (exhibit) p. 125.

³ See, e.g., *Taxpayers Protective Association of Easton v. Lehigh Water Co.*, 14 Pa. P.S.C. 1 (1936) (7% return for the period October 1, 1931 to March 15, 1933, and 6% return “designated by the Commission on April 2, 1934, as the allowable rate of return” for the period March 15, 1933, forward).

1 PSC members appointed by Governor Gifford Pinchot⁴ before the Commission was
 2 given the authority (in 1937) to adopt temporary rates subject to due process protections.
 3 The PECO history leaves little doubt that the PSC’s actions were motivated by scurrilous
 4 political demagoguery and achieved by unseemly informal arm-twisting with the threat of
 5 lengthy formal proceedings for those companies that did not “voluntarily” comply.
 6 I attach Exhibit JHC-4, consisting of relevant pages 224-228 and 246-247 from Mr.
 7 Wainwright’s history of PECO to support my opinion that the PSC’s mandated rate
 8 reductions were not “based (at least in part) on prevailing economic conditions, as stated
 9 in the 1934 resolution,” as Mr. Rubin alleges, but were primarily if not exclusively and
 10 very inappropriately made in reaction to menacing demagoguery by candidate and then
 11 Governor Gifford Pinchot and even by the PSC’s chief counsel Richard J. Beamish (later
 12 one of the five inaugural PUC members in 1937). As such, the PSC’s actions from 1934
 13 to 1937 provide no justification for Commission acceptance of Mr. Rubin’s suggested
 14 capping of PWSA’s revenue requirement because of the current economic conditions.

15 **Q. DOES MR. RUBIN ADDRESS THE ISSUE YOU RAISED IN YOUR REBUTTAL**
 16 **TESTIMONY ABOUT HIS “SHORT-CIRCUITED” APPROACH TO DECIDING**
 17 **A RATE CASE BASED UPON A DETERMINATION THAT A SERIOUS**
 18 **ECONOMIC DISLOCATION EXISTS THAT AFFECTS SOME CUSTOMERS?**

19 A. Yes. In my rebuttal testimony, I pointed out that under his proposal, no rate relief would
 20 be possible for a utility if a determination is made as to economic dislocation and
 21 unaffordability that affects some customers. (PWSA St. 10-R at 9-10). In response, Mr.
 22 Rubin claims that his approach would not be dispositive of the rate case. Rather, he
 23 states that the “rate case investigation would proceed as normal,” but PWSA would only

⁴ When Pennsylvania governors constitutionally served single four-year terms, Gifford Pinchot served as governor from January 16, 1923 to January 18, 1927, and again from January 20, 1931 to January 15, 1935.

1 be able to set its revenue requirements at the “bare minimum PWSA needs to meet its
 2 bond indenture requirements.” (OCA St. 1SR at 20).

3 **Q. HOW DO YOU RESPOND?**

4 A. This is the first time that Mr. Rubin has asserted the need for a full, “normal” rate
 5 investigation, but he has been consistent in arguing that any rate relief be limited to
 6 covering bond indenture requirements only. I maintain my view that, under Mr. Rubin’s
 7 approach to ratemaking, even if a “normal” rate investigation occurs, PWSA’s revenue
 8 requirement is preordained because the outcome is arbitrarily “capped” at or about the
 9 level of the Authority’s bond indenture requirements. This substitutes investor
 10 satisfaction for the public interest as the governing rate making standard.

11 As I note below, the Commission has already determined that the public interest requires
 12 that PWSA make substantial infrastructure improvements that can only be accomplished
 13 if adequate rate relief is granted. Mr. Rubin’s suggested ratemaking method would
 14 preclude such relief, frustrate the Commission’s intention, and prevent completion of
 15 urgently needed improvements.

16 **Q. DOES MR. RUBIN OFFER SUPPORT FOR HIS PREVIOUS ASSERTION THAT**
 17 **“REGULATION IS SUPPOSED TO BE A SUBSTITUTE FOR MARKET**
 18 **FORCES,...COMPETITIVE BUSINESSES CANNOT SUSTAINABLY RAISE**
 19 **PRICES WHEN THEIR CUSTOMERS’ INCOMES HAVE DECREASED**
 20 **SIGNIFICANTLY?”⁵**

21 A. Yes. In an attempt to support the concept that “regulation is supposed to be a substitute
 22 for market forces,” Mr. Rubin quotes a Commission decision in *Pa. PUC v. Duquesne*
 23 *Light Co.*, 59 Pa. PUC 67, 91 (1985). (OCA St. No. 1SR at 20-21).

⁵ OCA St. No. 1, p. 12.

1 **Q. PLEASE RESPOND.**

2 A. I still disagree with his assertion of this concept for the reasons I stated in my rebuttal
 3 testimony (PWSA St. No. 10-R, pp. 15-16). PWSA is not a competitive business, and
 4 competitive market pricing is incompatible with the regulation of natural monopolies like
 5 public and municipal utilities. For that reason, for example, the Pennsylvania General
 6 Assembly restructured the Commonwealth’s electric and natural gas industries by
 7 permitting competitive market commodity pricing by non-public utility Electric
 8 Generation Suppliers and Natural Gas Suppliers, but maintained traditional regulation of
 9 electric and natural gas public utilities.

10 In fact, competitive businesses *are* sustainably raising their prices during this period of
 11 economic dislocation. THE WALL STREET JOURNAL reported on August 12, 2020, that
 12 “U.S. consumer prices rose in July on higher costs for a range of products and services ...
 13 as demand for goods rebounded following steep declines earlier in the coronavirus
 14 pandemic.”⁶ In the same article, the JOURNAL further reported that:

15 The consumer-price index—which measures what consumers pay for everyday
 16 items including driving fuel, clothing and electricity—climbed a seasonally
 17 adjusted 0.6% in July, the Labor Department said Wednesday. The rise was the
 18 second in as many months. The index also rose 0.6% in June, which was seen as
 19 a potential turning point for consumer prices, following declines in March, April
 20 and May amid the pandemic’s initial economic fallout. ***

21 The rise in consumer prices last month aligns with an increase in the producer-
 22 price index, a measure of the prices businesses receive for their goods and
 23 services. That index rose a seasonally adjusted 0.6% in July, the Labor
 24 Department reported Tuesday, the largest monthly rise since October 2018.

⁶ <https://www.wsj.com/articles/july-consumer-prices-rise-amid-increased-demand-for-a-range-of-goods-services-11597236743>. See also the U.S. Department of Labor, Bureau of Labor Statistics news release entitled “Consumer Price Index – July 2020” at bls.gov/news.release/pdf/cpi.pdf.

1 Mr. Rubin’s quotation from the 1985 Duquesne Light Company rate case is also inapt.
 2 The quoted passage⁷ seeks to align monopoly utilities with competitive businesses by the
 3 expedient of regulation, which, again, is an unsupportable proposition, as I explained in
 4 my earlier testimony.

5 The quotation is further inapt because it is dicta in a discussion of the reasonableness of
 6 approving cash working capital claims involving deferred coal costs. Mr. Rubin elevates
 7 a sentence from a discussion of a single rate case element in an effort to prove the
 8 overriding proposition that no (or little) rate relief should be granted, which in my view is
 9 a bridge too far.

10 **Q. DOES MR. RUBIN ADDRESS YOUR OBSERVATION THAT HIS APPROACH**
 11 **VIOLATES THE COMMISSION’S POLICY STATEMENT ON CASH FLOW**
 12 **RATEMAKING?**

13 A. Yes. Mr. Rubin recommends that the Commission exercise its discretion under 52 Pa.
 14 Code § 69.2702(b) to allow “close to zero” of additional funds above the amount required
 15 to meet expenses, debt service, and coverage. (OCA St. No. 1SR 21-22).

16 **Q. DO YOU AGREE WITH HIS RECOMMENDATION?**

17 A. No, I do not agree with his recommendation. Any such “internally generated funds”
 18 would be granted “for purposes such as capital improvements, retirement of debt and
 19 working capital.” 52 Pa. Code § 69.2702(b). These are not only clearly allowed, but
 20 essential if PWSA is to remain a going concern.

⁷ “Even in general business enterprises, unfortunate or inexpedient management expenditures, even if prudently made, may not always be totally recovered from their customers; the market may not so permit as customers may reject the product or service at such cost. *Regulation provides a substitute for market influences so as to protect the interest of captive customers of the public utility.*” Pa. PUC v. Duquesne Light Co., 59 Pa. P.U.C. 67, 91 (1985), 1985 Pa. PUC LEXIS 68, *55 (emphasis added).

1 Mr. Rubin’s recommendation must be rejected because PWSA needs internally generated
2 funds over and above funds needed to meet expenses, debt service, and coverage to
3 complete the capital improvements in PWSA’s Commission approved LTIIPs.⁸

4 PWSA’s LTIIPs include information on how the Authority intends to replace and/or
5 upgrade targeted eligible property to improve system reliability and safety.

6 As I observed in my rebuttal testimony (PWSA St. No. 10-R, p. 19, lines 11-17),
7 encouraging utilities “to maintain their construction and equipment budgets” is the
8 favored approach of business-cycle experts to combat a depression instead of “by
9 enforced reductions of administered prices.”⁹

10 **IV. CONCLUSION**

11 **Q. DOES THAT COMPLETE YOUR REJOINDER TESTIMONY?**

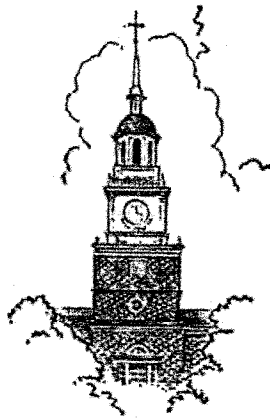
12 **A. Yes.**

⁸ *Petition of Pittsburgh Water and Sewer Authority for Approval of its Amended Long-Term Infrastructure Improvement Plan for its Water Operations*, Docket No. P-2018-3005037, Opinion and Order entered August 27, 2020; and, *Petition of Pittsburgh Water and Sewer Authority for Approval of its Amended Long-Term Infrastructure Improvement Plan for its Wastewater Operations*, Docket No. P-2018-3005039, Opinion and Order entered August 27, 2020.

⁹ Citing James C. Bonbright, Albert L. Danielsen, and David R. Kamerschen, *PRINCIPLES OF PUBLIC UTILITY RATES* (2d ed. 1988) PPUR CH 14, 2005 WL 998348 at 22.

HISTORY
OF THE
PHILADELPHIA ELECTRIC
COMPANY

1881 • 1961



By NICHOLAS B. WAINWRIGHT

PHILADELPHIA 1961

Philadelphia Electric's common stock was not quoted because it was not traded, nearly all of it being owned by U.G.I. However, the Company did have a preferred issue outstanding, its five-dollar dividend issue, par one hundred. This issue was little affected by the depression, selling usually above par and never declining below 87. When additional shares were offered in 1931, the entire issue was oversubscribed in a single day.

Hysteria selling, however, rather than confident buying characterized these lean times and brought on horrifying failures. The most notable collapse of all was that of Samuel Insull. By 1930, the utilities built and managed by him produced one tenth of the nation's electricity. Their service extended to 5,000 communities in thirty-two states, most of which had been without electricity in 1914. In April, 1932, Insull's holding companies—none of the operating companies failed—went into receivership, taking with them the savings of thousands of investors. This disaster became a political issue in an election year, and Insull was forced to stand trial on many charges, but was acquitted on all counts. Despite the legal verdict, Insull's career remained a source of acute embarrassment to the electric industry.

The market crash stimulated politicians to turn their guns on public utilities. Both Pennsylvania and New York were the scenes of gubernatorial contests in 1930, and the successful candidates, Gifford Pinchot and Franklin D. Roosevelt, made utility regulation and rates major issues in their campaigns.

Pinchot, a progressive-prohibitionist Republican, declared at the outset that the Public Service Commission of Pennsylvania was "the catspaw" of the utility corporations and was "useless or worse." He announced his intention "to break the stranglehold of the electric, gas, water, trolley, bus, and other monopolies on the cost of

living and the government of the state." By a slim margin, he won the Republican primary in May, 1930, and then continued his vigorous campaign, inveighing constantly against the utilities. In October, he charged that industries were leaving Philadelphia because Philadelphia Electric's rates were so high. U.G.I. mailed a letter to each of its 95,000 shareholders denying this, and pointing out that rates in Philadelphia were five per cent lower than the average in the United States. Praising Philadelphia Electric for its six voluntary rate reductions during the previous six years, the letter stated, "To attempt to break down the confidence of the public in the utilities in order to serve selfish political ambition is neither fair nor decent."

Although he failed to carry a single ward in normally Republican Philadelphia, and even lost that stronghold of Republicanism, Montgomery County, Pinchot eked out a victory in November. Stirred by bitter memories of the utter failure of the giant power schemes of his first administration, Pinchot lashed out at the utilities in his inaugural address on January 20, 1931. "The task today is to defeat the attack of the public utilities . . . upon the rule of the people." With reference to the Public Service Commission, "We have no more compelling duty than to destroy the corruption upon which the power of the utilities depends." And finally, "Back of the public utilities in their attack on our American form of government is the whole fabric of political corruption, the underworld, the protected racketeer, and criminals of low and high degree." That Pinchot did not back up these inflammatory statements with a single instance of corruption cannot be credited to any sense of timidity on his part. Had he known of any, he would have used the example for all it was worth.

No matter what a utility did, it was wrong. When Philadelphia Electric made one of its customary rate

reductions, Pinchot was not pleased. In a radio talk in February, 1931, he warned the public to beware of the Company's "trick," for "the boasted rate reduction occurred in a consumption range rarely reached by the average consumer." Since this reduction was in the first step of the rate and benefited every residential consumer in Philadelphia, President Taylor protested to Pinchot that such a statement "may seriously affect the cordial relations which have existed for so many years between the Philadelphia Electric Company and its customers." This, of course, was exactly what Pinchot wanted to do. Taylor urged him "in the spirit of fair play, to correct the erroneous impressions created by your public utterances." The appeal went in vain.

Pinchot launched a sweeping investigation of the Public Service Commission and championed bills to abolish that agency of the legislature, substituting for it an executive agency—the Fair Rate Board—accountable only to himself. In an appearance before the judiciary committee of the state senate, Zimmermann protested against this arbitrary power: "Do you think that a man who attacks the utilities in such a violent manner and often without regard for the facts is fit to be entrusted with the sole power of hiring and firing the members of the Commission?" Evidently, the committee did not believe that Pinchot was ideally suited for the responsibility, for it killed his fair rate bills. In any event, had the bills passed, it is probable they would have been declared unconstitutional.

Pinchot was furious. He likened the Public Service Commission to a "malignant cancerous growth" which was "sapping the life blood of the people." But he could do nothing about it. In 1932, he traveled the state, making a political issue of alleged excessive electric rates. During all this time, he had failed to uncover any corrup-

tion, but in the summer of 1932 he was handed some ammunition. A disgruntled person seeking to strike at Mitten Management fabricated a tale that Mitten had given large bribes to W. D. B. Ainey, who for seventeen years had been a member of Pennsylvania's Public Service Commission and was currently its chairman. Pinchot instantly accepted the story, announcing that he had "conclusive evidence that Ainey had sold the public out." A full-scale investigation was held, but no evidence of wrongdoing was uncovered. Ainey denied that he had received bribes from Mitten, and it was soon quite clear that he was innocent.

Then, a damaging light was brought to bear on Ainey. It was disclosed that in 1926 Arthur W. Thompson of U.G.I. had paid a hospital bill for Ainey amounting to \$3,000. Pinchot was delighted. He wrote a friend, "We are having a gay old time up here, and I think we have got Mr. Ainey cold."* Another inquiry was ordered, but Ainey resigned. Protesting that he had never done anything wrong, the commissioner wrote that the precarious condition of his health and his lack of financial means for litigation prevented him from defending his reputation.

Here at last was a triumph for Pinchot, who ridiculed Ainey's reasons for avoiding investigation. But Ainey, a distinguished-looking man of reputation as a utility expert, a former president of the national association of utility commissioners, president of the state Y.M.C.A., a man generally believed to be a good public servant, had not exaggerated the condition of his health. He survived his resignation by only a month.

Pinchot was but one of many political leaders engaged in a bitter attack on the electric industry. Senator George W. Norris of Nebraska, referring to the "power trust," called it "the most disgraceful and far-reaching and

* M. Nelson McGeary, *Gifford Pinchot, Forester-Politician* (Princeton, 1960), 367.

shameful combination that has ever been organized by man," and declared that its leaders had "never done anything except to feather their own nests and deceive the very people who by their pennies contribute to their wealth."

Orators who indulged in diatribes naturally did not stress the accomplishments of the American electric industry. They neglected to mention that the United States enjoyed the most extensive and the cheapest electric service in the world; that the creation of the American electric power industry represented an outstanding national achievement; that while the cost of living in 1931 was fifty per cent higher than in 1913, the average cost of electricity to the consumer had shrunk thirty-one per cent during that period. If electric rates were high, at least they had been going down steadily, while the cost of almost everything else was rising.

It was rather ironic that government representatives should have been so critical of declining electric bills at a time when the taxes they were creating were rising sharply. How many liberal politicians who maintained that rates were too high voted against taxes proposed for utilities? In 1932, Philadelphia Electric's tax bill had risen to \$5,856,697, up more than half a million dollars for the year despite declining earnings. Taxes had become an important part, and an uncontrollable part, of the rate structure. They tended to postpone rate reductions and threatened, indeed, to cause a rise in rates!

That the industry needed regulation was true enough, and many utility leaders looked forward to reforms in commission regulations, in financial statements, and in holding company operations. However, they refuted the charge that there was a "power trust," and they fought against public ownership of utilities. Much of the criticism directed at the industry by men like Senator Norris was

However, in common with other utilities, the Company did encounter major problems at the state level.

Caught up in the New Deal cyclone that swept the country in 1934, Democrat George H. Earle was elected governor of Pennsylvania. In his inaugural address, Earle called for lower utility rates, and pledged, "This administration will introduce a public utility law so stringent that no Public Service Commission can stultify it without full public knowledge."

Meanwhile—Earle's law was not passed until 1937—the Public Service Commission, its members nearly all Pinchot's reform appointees, were busily reducing rates. In 1934, the Commission limited the return allowable to utilities to six per cent (it had been seven per cent), and between January 1, 1933, and June 30, 1936, it obtained rate reductions totaling \$15,000,000 from Pennsylvania operating companies. These reductions were nearly all achieved by informal conferences at which the commissioners set up a tentative rate base and endeavored to show the utility that it was earning more than a fair return. In general, the alternatives were either voluntary reduction of rates or formal proceedings if the Commission felt that such proceedings could be successfully maintained. Officials of Philadelphia Electric were in frequent conference with the commissioners, and the Company lowered its rates substantially in 1933, 1934, 1935, and 1936. Nonetheless, these reductions were not large enough to satisfy Governor Earle. In September, 1936, he charged that rate schedules were producing more than the maximum six per cent profit allowed, and declared that no real rural electrification plan had ever been worked out in Pennsylvania. He demanded that the Commission cooperate with the R.E.A. to electrify farm homes in all parts of the state. Richard J. Beamish, the vocal counsel

for the Commission, took up the cry. In a radio address, he asserted that rates were too high, rural electrification had been a "fake," utility executives were in partnership with the Republican state organization, and that "through mergers, write-ups and dizzy bookkeeping methods, Pennsylvania operating companies were being milked of their profits for the benefit of big-wig New York heads of holding companies."

The end of the Republican-dominated Public Service Commission had been in sight since Earle's election. In 1937, it was dissolved and superseded by a five-man Public Utility Commission. Committed to a policy of sweeping rate reductions, the new Commission was granted extremely broad powers, including the right to declare temporary rate reductions. Its expenses were to be paid by the utilities themselves.

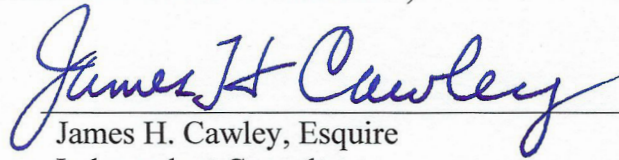
The Commission moved rapidly, declaring rate reductions for one company after another. In October, 1937, it ordered Philadelphia Electric to slash its rates by \$3,146,000, the largest reduction yet imposed on a Pennsylvania utility. Beamish, now a member of the Public Utility Commission, glibly suggested that \$3,000,000 more should be cut off. Fortunately, the other commissioners were more interested in making fair rates than headlines.

Although it was the aim of government to increase the prices of commodities, services, and labor, government officials were at the same time dedicated to the principle of reducing electric rates. They argued that if the rates were reduced more people would buy electricity and the utilities would not suffer. Unlike some of the other major systems, Philadelphia Electric had always made its rate reductions voluntarily until the enforced reduction of 1937. Of course, had it not done so, similar reductions

VERIFICATION

I, James H. Cawley, hereby state that: (1) I am an independent consultant and attorney; (2) I am presenting testimony on behalf of The Pittsburgh Water and Sewer Authority (“PWSA”); (3) the facts set forth in my testimony are true and correct (or are true and correct to the best of my knowledge, information and belief); and, (4) I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: September 11, 2020



James H. Cawley, Esquire
Independent Consultant
The Pittsburgh Water and Sewer Authority