



Whitney E. Snyder
(717) 236-1300 x260
wesnyder@hmslegal.com

Thomas J. Sniscak
(717) 236-1300 x224
tjsniscak@hmslegal.com

Phillip D. Demanchick Jr.
(717) 236-1300 x225
pddemanchick@hmslegal.com

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

September 22, 2023

*By Electronic Filing (Public Version) and
Overnight Delivery (Highly Confidential Version)*

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

Re: Petition of Pike County Light & Power Company for Approval of Default Service
Plan and Waiver of Commission Regulations; Docket No. P-2023-3039927;
JOINT PETITION FOR UNANIMOUS SETTLEMENT

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is the Joint Petition for Unanimous Settlement of
the above-referenced proceeding.

Copies of this filing are being provided via e-mail as indicated on the attached Certificate
of Service.

Very truly yours,

/s/ Phillip D. Demanchick Jr.

Whitney E. Snyder
Thomas J. Sniscak
Phillip D. Demanchick Jr.

PDD/das
Enclosure

cc: Administrative Law Judge Mark A. Hoyer (mhoyer@pa.gov)
Nick Miskanic (nmiskanic@pa.gov)
Per Certificate of Service

PUBLIC VERSION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pike County Light & Power for :
Approval of Its Default Service Plan and : P-2023-3039927
Waiver of Commission Regulations :

JOINT PETITION FOR UNANIMOUS SETTLEMENT

TO DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE MARK HOYER:

I. INTRODUCTION

Pike County Light & Power Company (“Pike” or “PCL&P”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”) (collectively “Joint Petitioners”), join in this Joint Petition for Unanimous Settlement (“Settlement”) and respectfully request that Deputy Chief Administrative Law Judge Mark Hoyer (“ALJ Hoyer” or the “ALJ”) and the Pennsylvania Public Utility Commission (“Commission”) approve the Settlement as set forth below. The Settlement has been agreed to by all parties and resolves all issues between the parties raised in this proceeding.

As fully set forth and explained below, Joint Petitioners have agreed to a settlement of all issues in the above-captioned Petition of Pike for Approval of its Default Service Plan (“DSP” or “Plan”) and Waiver of Commission Regulations. The Settlement provides for Pike to implement a financial hedging strategy for a portion of its default service load to promote price stability and more closely align Pike’s DSP procurement strategy with those utilized by other Pennsylvania EDCs. The financial hedging strategy herein is similar to the hedging strategies the Commission approved in PCL&P’s past DSP proceedings, with modifications to implement the

PUBLIC VERSION

recommendations the OCA and OSBA presented in testimony. In support of the Settlement, the Joint Petitioners state the following:

II. BACKGROUND

1. PCL&P is a jurisdictional electric distribution company (“EDC”) and a public utility as defined in Section 102 of the Public Utility Code, 66 Pa. C.S. § 102. PCL&P provides electricity to approximately 5,243 retail customers in its service territory in Pike County, Pennsylvania. PCL&P St. 1 at 4:3-4. Electric generation suppliers (EGS) provide generation services to approximately 20.61 percent of Pike’s customers. PCL&P St. 1 at 4:8-10. Pike receives all of its electricity through two 34.5 kV radial circuits that cross the Delaware River from Port Jervis, New York. PCL&P St. 1 at 4:11-12. Pike is unique among Pennsylvania EDCs as it is part of the New York Independent System Operator (“NYISO”) control area, not the PJM Interconnection, LLC (“PJM”) control area. PCL&P St. 1 at 4:12-14.

2. On April 13, 2023, Pike filed a Petition for Approval of its Default Service Plan and Waiver of Commission Regulations (“Petition”). The Petition was filed pursuant to Section 2807(e) of the Public Utility Code and 52 Pa. Code §§ 54.181-54.190. Through its Petition, Pike is seeking approval from the Commission regarding its proposed DSP for June 1, 2024 through May 31, 2027, and certain waivers related to default service. The Petition was published in the Pennsylvania Bulletin on May 13, 2023, with an Answer/Protest date of June 9, 2023.

3. On May 3, 2023, the Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention, Public Statement, Notice of Appearance, and Verification. The OSBA separately filed an Answer to the Petition on June 7, 2023.

4. On May 19, 2023, the Office of Consumer Advocate (“OCA”) filed an Answer, Notice of Intervention, Public Statement, and Verification.

PUBLIC VERSION

5. No other parties or individuals filed a protest or notice of intervention or other correspondence with the Commission.

6. On May 30, 2023, Pike served the public and confidential versions of its written Direct Testimony as part of this proceeding. Subsequently, on June 8, 2023, Pike filed an unopposed Motion for Protective Order seeking to limit the availability of proprietary information.

7. This matter was assigned to the Office of Administrative Law Judge and further assigned to Deputy Chief Administrative Law Judge Mark Hoyer (“ALJ Hoyer”). A telephonic prehearing conference notice was issued setting forth a prehearing conference for June 15, 2023. Subsequently, Administrative Law Judge Mark Hoyer issued a Prehearing Conference Order directing the parties to file Prehearing Conference Memorandums by no later than 12:00 PM on Wednesday, June 14, 2023.

8. A prehearing conference was held as scheduled on June 15, 2023. PCL&P, the OCA and OSBA were represented at the conference.

9. On June 21, 2023, ALJ Hoyer issued a Prehearing Order that, *inter alia*, set forth a litigation schedule and modified the Commission’s discovery rules. Separately, on June 23, 2023, ALJ Hoyer issued a Protective Order.

10. The Joint Petitioners conducted formal and informal discovery in this proceeding.

11. The parties served written direct, rebuttal, and surrebuttal testimony and exhibits consistent with the procedural schedule in this proceeding.¹

12. On August 24, 2023, the parties agreed to waive cross examination and requested that ALJ Hoyer cancel the evidentiary hearing scheduled for August 30, 2023.

¹ OSBA did not serve Rebuttal Testimony and PCL&P did not serve Surrebuttal Testimony.

PUBLIC VERSION

13. In response, ALJ Hoyer instructed the Joint Petitioners to submit a Joint Stipulation for the Admission of Testimony and Exhibits into the Evidentiary Record no later than 12 P.M. on August 29, 2023, which, upon receiving, ALJ Hoyer would cancel the evidentiary hearing.

14. On August 25, 2023, Pike informed ALJ Hoyer that the parties had reached a settlement in full and indicated that it would file the Settlement with Statements in Support by September 22, 2023, in accordance with the June 21, 2023 Prehearing Order.

15. On August 29, 2023, the Joint Petitioners submitted a Joint Stipulation for the Admission of Testimony and Exhibits into the Evidentiary Record.

16. On August 29, 2023, the Stipulating Parties were notified that the hearing scheduled for August 30, 2023, was canceled. A Cancellation Notice was issued on August 30, 2023.

17. On August 31, 2023, ALJ Hoyer issued an Interim Order Granting Joint Stipulation for Admission of Testimony and Exhibits.

18. Joint Petitioners held settlement discussions over the course of this proceeding. As a result of those discussions and the efforts of Joint Petitioners to examine the issues in the proceeding, Joint Petitioners have been able to agree to a Settlement covering all issues in the proceeding.

19. Joint Petitioners now submit the following Settlement and set forth the following in support thereof.

III. SETTLEMENT

20. The following terms of this Settlement reflect a carefully balanced compromise of the interests of all the Joint Petitioners in this proceeding. The Joint Petitioners unanimously agree that the Settlement resolves all issues between the Joint Petitioners regarding PCL&P's

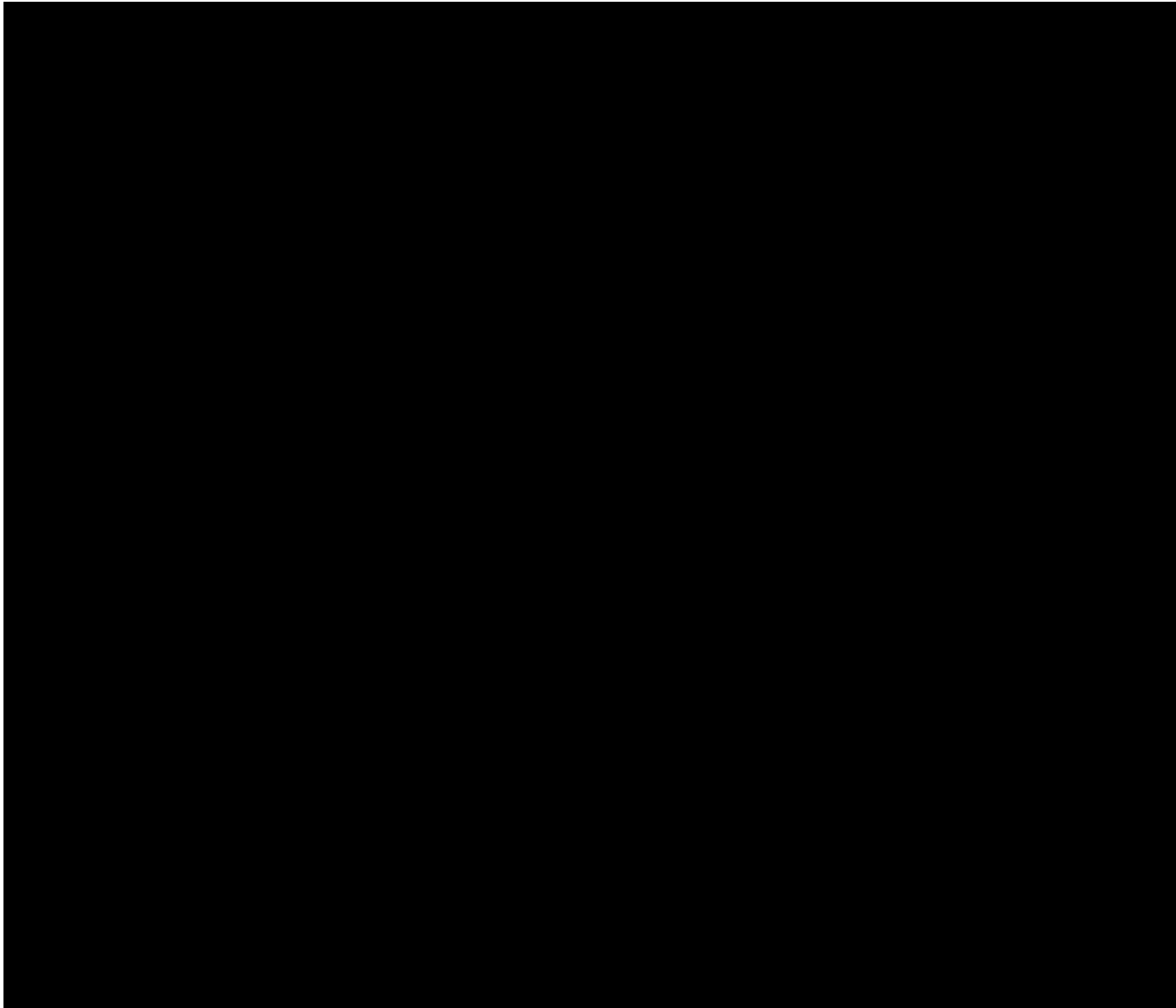
PUBLIC VERSION

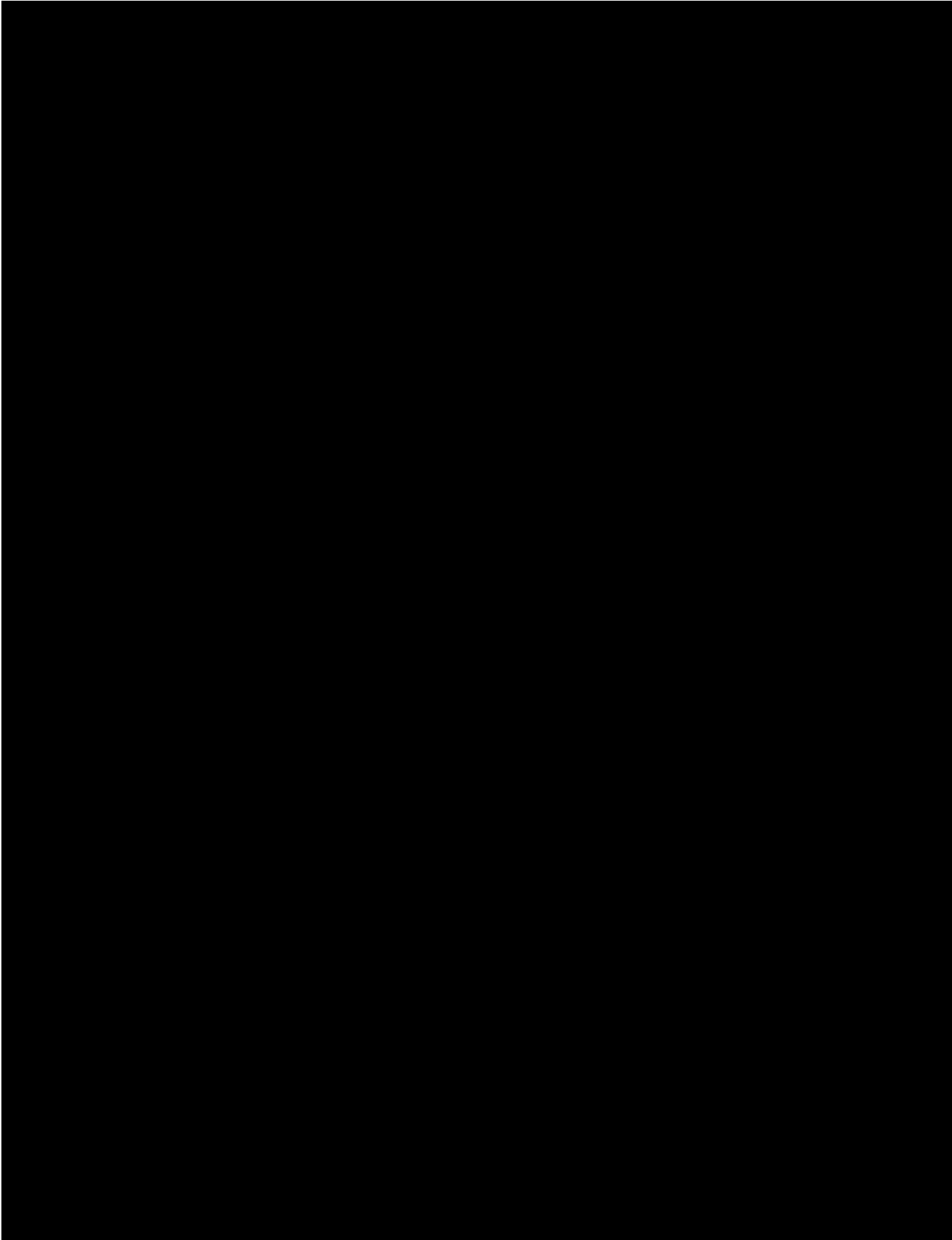
June 2024 – May 2027 Default Service Plan. Accordingly, the Settlement is in the public interest. The Joint Petitioners respectfully request that PCL&P’s DSP be approved subject to the terms and conditions of this Settlement specified below:

A. PIKE’S DEFAULT SERVICE PLAN FOR YEARS JUNE 2024 TO MAY 2027

21. Pike’s Default Service Plan for June 2024 – May 2027 (“Plan”) is approved subject to the following modifications to the Default Service Plan.

22. Pike will implement the following hedging procurement strategy and schedule as set forth below and in **Appendix A: [BEGIN HIGHLY CONFIDENTIAL]**





[END HIGHLY

CONFIDENTIAL].

23. Pike will continue to seek additional counterparties for its hedging program. Pike will report to OCA and OSBA any additional counterparties obtained within 60 days of obtaining such counterparty.

24. Pike's proposed Alternative Energy Portfolio Standard ("AEPS") credit procurement as described in its testimony is approved, which states:

Pike proposes to continue its current practice and solicit various brokers and counterparties to procure credits. It will compare prices offered for credits and purchase sufficient credits to meet the AEPS requirements from the supplier with the lower offer price. Pike may increase the frequency of purchasing credits to a quarterly basis where it is more economical for customers. I also note that Pike has obtained AEPS credits directly from brokers in the past (2017), and for 2018, AEPS credits were procured with the help of Enel X. Pike utilized Enel X for procurement assistance in 2019 and 2020. Additionally, for its 2021-2024 Plan, AEPS credits were procured with the help of Enel X. Pike may utilize either strategy for its 2024-2027 Plan.

PCLP Statement No. 1 at 13:10-18.

25. Pike's proposed waivers are approved:

a. 52 Pa. Code § 54.185(e)(2) (plan identifying the schedules and technical requirements of competitive bid solicitations and spot market energy purchases).

b. 52 Pa. Code § 54.185(e)(6) (copies of agreements or forms to be used in the procurement of electric generation supply for default service customers).

PUBLIC VERSION

c. Partial waiver of 52 Pa. Code 69.1805, 69.1805(1), 69.1805(2) and 69.1805(3) (inclusion of short and long-term contracts in procurement mix and tailoring procurement to customer classes).

d. 52 Pa. Code §69.1807(3) (competitive bid solicitation process guidelines).

IV. CONDITIONS OF SETTLEMENT

26. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission modifies the Settlement, then any Joint Petitioner may elect to withdraw from this Settlement and may proceed with litigation and, in such event, this Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of any Order modifying the Settlement.

27. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated these proceedings on PCL&P's Petition.

28. This Settlement and its terms and conditions may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

29. The Commission's approval of the Settlement shall not be construed to represent approval of any Joint Petitioner's position on any issue, except to the extent required to effectuate the terms and agreements of the Settlement in these and future proceedings involving PCL&P.

PUBLIC VERSION

30. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any Joint Petitioner in these proceedings if they were fully litigated.

31. This Settlement is being presented only in the context of these proceedings in an effort to resolve the proceedings in a manner which is fair and reasonable. The Settlement is the product of compromise between and among the Joint Petitioners. This Settlement is presented without prejudice to any position that any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings except to the extent necessary to effectuate the terms and conditions of this Settlement. This Settlement does not preclude the Joint Petitioners from taking other positions in proceedings involving other public utilities under any other proceeding.

32. If the ALJ, in the Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions. However, to the extent any terms and conditions of the Settlement are modified, or additional matters are proposed by the ALJ in the Recommended Decision, the Joint Petitioners do not waive their rights to file Exceptions in support of the Settlement. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed, provided such Replies support the Settlement.

33. The Joint Petitioners agree that this document may be signed or executed in separate counterparts or signature pages that shall be binding upon the Joint Petitioners and such counterparts shall be considered as one document.

PUBLIC VERSION

V. SETTLEMENT IS IN THE PUBLIC INTEREST

34. This Settlement was achieved by the Joint Petitioners after an extensive investigation of PCL&P's filing, including informal and formal discovery and the submission of direct, rebuttal, and surrebuttal testimony.

35. "It is the policy of the Commission to encourage settlements." 52 Pa. Code § 5.231(a). Acceptance of the Settlement follows the intent of this policy and 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 PCL&P's customers.

36. Joint Petitioners have submitted, along with this Settlement, their respective Statements in Support setting forth the basis upon which each believes the Settlement to be fair, just and reasonable and, therefore, in the public interest. The Joint Petitioners' Statements in Support are attached hereto as **Appendices B through D**.

VI. CONCLUSION

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

1. That the Honorable Deputy Chief Administrative Law Judge Mark Hoyer and the Commission approve this Settlement including all terms and conditions thereof, without modification;

2. That PCL&P's Petition at Docket No. P-2023-3039927 be marked closed and the Interventions be marked closed and satisfied and that such marking should not preclude the Petitioner or any Intervenor from any compliance matter to enforce this settlement.

PUBLIC VERSION

Respectfully submitted,

/s/Phillip D. Demanchick Jr.
Whitney E. Snyder, Esq., I.D. #316625
Thomas J. Sniscak, Esq., I.D. #33891
Phillip D. Demanchick, Jr., I.D. #324761
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
Phone: 717-236-1300
wesnyder@hmslegal.com
tjsniscak@hmslegal.com
pddemanchick@hmslegal.com

(Dated) 09/22/2023

*Counsel for
Pike County Light and Power Company*

/s/Gina L. Miller
Gina L. Miller, Esquire
Aron J. Beatty, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor Forum Place
Harrisburg, PA 17101
gmiller@paoca.org
abeatty@paoca.org

(Dated) 09/22/2023

/s/ Steven C. Gray
Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor Forum Place
Harrisburg, PA 17101
sgray@pa.gov

(Dated) 09/22/2023

APPENDIX A

No Public Version

APPENDIX B

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pike County Light & Power for :
Approval of Its Default Service Plan and : P-2023-3039927
Waiver of Commission Regulations :

**STATEMENT OF PIKE COUNTY LIGHT & POWER COMPANY
IN SUPPORT OF JOINT PETITION FOR UNANIMOUS SETTLEMENT**

I. INTRODUCTION

Pike County Light & Power Company (“Pike” or “PCL&P”) submits this Statement in Support of the Joint Petition for Unanimous Settlement (“Joint Petition” or “Settlement”). Pike, the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”) are the parties to the above-captioned proceedings (collectively “Joint Petitioners” or “Parties”). The Settlement resolves all issues in this proceeding regarding Pike’s Default Service Plan (“DSP”), including default supply procurement, continuation and increase of financial hedging, Alternative Energy Portfolio Standards credit procurement, and various requested waivers of related regulations. Accordingly, and as discussed more fully below, Pike offers its support for the Settlement and requests that the Deputy Chief Administrative Law Judge Mark A. Hoyer (“ALJ Hoyer”) and the Pennsylvania Public Utility Commission (“Commission”) grant the Joint Petition and approve the Settlement as submitted without modification.

The Settlement was achieved only after a comprehensive investigation of Pike’s Default Service Plan. Pike responded to numerous formal and informal discovery requests. Parties filed four rounds of testimony, including Pike’s direct testimony, other parties’ direct testimony, rebuttal testimony, and surrebuttal testimony. Moreover, numerous settlement discussions and negotiations occurred that ultimately led to the Settlement.

PUBLIC VERSION

The Settlement reflects a carefully balanced compromise of the interests of the Parties. As set forth below, the agreed upon financial hedging strategy and related terms would implement a hedging strategy that is similar to and builds upon the hedging strategies the Commission has approved in Pike's past DSP proceedings, with modifications to implement the recommendations the OCA and OSBA presented in testimony. For these reasons and the reasons set forth below, the Settlement is in the public interest, just and reasonable, supported by substantial evidence and should be approved without modification.

II. SPECIFIC SETTLEMENT TERMS

A. Default Supply Procurement and Hedging

Pike's default supply procurement has been a contentious issue in its past DSP proceedings. Pike is unique among Pennsylvania EDCs because of its modest size, significant EGS penetration rate, as well as the fact that Pike is affiliated with NYISO and not PJM PCLP St. No. 1 at 4:19-20. Pike serves approximately 5,243 retail customers. PCLP St. No. 1 at 4:3-4. The Commission has recognized that these unique circumstances "make it difficult for the Company to negotiate favorable, long-term contracts in a manner that would allow the Company to satisfy its default service obligations of providing service to customers at 'least cost to consumers over time,' as is required by Act 129."¹ Thus, the Commission has in Pike's prior default service proceedings approved Pike's acquisition of default supply from solely the NYISO spot market. These circumstances have not changed. Pike still has a significant supplier penetration rate, modest load, and acquires all of its supply from Orange and Rockland from the

¹ *Petition of Pike County Light & Power Company for Approval of its Default Service Implementation Plan*, Docket No. P-2015-2490141 (Order entered Mar. 10, 2016), slip op. at 12.

PUBLIC VERSION

NYISO spot market pursuant to its Second Electric Supply Agreement (“ESA II”), which the Commission approved on August 26, 2021, at Docket No. P-2021-3025829.²

As part of the Commission-approved settlement with the OCA and OSBA in the Acquisition proceeding, Pike agreed to complete an alternative supply study (“Study”). PCLP St. No. 1 at 6:3-5. One of the options that the Study explained was engaging in a financial hedge for a portion of Pike’s load to decrease price volatility. Price volatility was a major concern of the OCA in past Pike DSP Proceedings. PCLP St. No. 1 at 6:11-14.

As explained in Pike’s testimony, Pike’s 2018 DSP proceeding produced a settlement where Pike would undertake a financial hedging strategy as part of its default service procurement. PCLP St. No. 1 at 6:16-18. The financial hedging allowed Pike to bring a level of price stability that is not present with spot market only purchases. Subsequently, Pike’s 2020 DSP Proceeding produced a settlement allowing Pike to continue to engage in such hedges under slightly modified terms, such as hedging a greater portion of the default service load and including an overhanging contract to give rate payers additional price protections. PCLP St. No. 1 at 7:2-8.

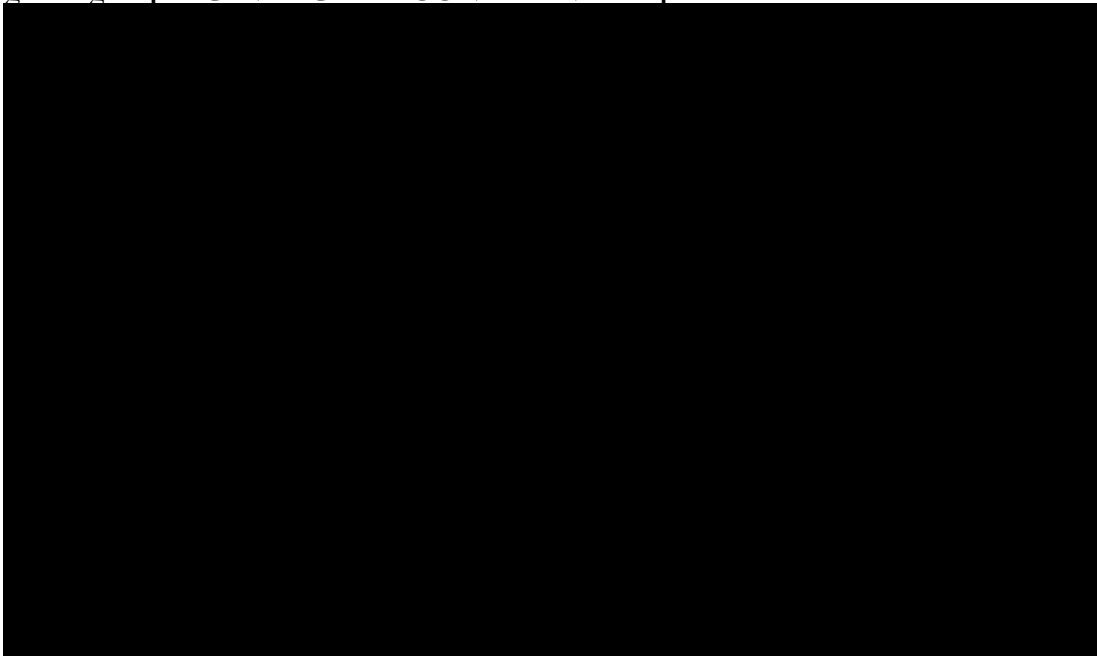
In the instant proceeding, Pike filed its DSP proposing a three-year plan (June 2024 – May 2027) under terms that were substantially similar to the Company’s financial hedging strategy from its 2018 and 2020 DSP proceedings, including adding an overhanging procurement similar to what was agreed upon in the previous proceeding. PCLP St. No. 2 at 7:16-20. The Company decided to continue its financial hedging strategy to build price stability by reducing the amount of energy purchased on the spot market over time and avoiding single point market

² *Petition of Pike County Light & Power Company for Approval of its Electric Supply Agreement II*, Docket No. P-2021-3025829, *et al.* (Order entered Aug. 26, 2021).

PUBLIC VERSION

exposure, *i.e.*, making a fixed price commitment for 100% of the overall target hedge percentage (%) at a single point in time. PCLP St. No. 2 at 4:12-15.

In this proceeding the OCA agreed that the hedging plan is working. Specifically, OCA Witness Serhan Ogur testified that Pike's financial hedging plan has been functioning as intended thereby reducing volatility in Pike's default service charges. OCA St. No. 1 at 10:9-11. However, in an effort to improve the hedging plan, the OCA recommended, *inter alia*, the following changes: **[BEGIN HIGHLY CONFIDENTIAL]**



[END HIGHLY CONFIDENTIAL]. The OCA subsequently updated its recommended procurement schedule in its surrebuttal testimony to account for a recent Company procurement. OCA St. 1SR at 2:19-22.

For its part, OSBA raised a few concerns with the Company's proposed procurement plan. Specific to the hedging plan, the OSBA was concerned over **[BEGIN HIGHLY CONFIDENTIAL]**



[REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL].

The Settlement adequately addresses the concerns of the OCA and the OSBA by incorporating their proposed recommendations into the DSP Plan. The Settlement incorporates the OCA's proposed hedging procurement schedule, as revised and set forth in its Surrebuttal testimony (Settlement ¶¶ 22(a)-(d)), incorporates the ability to [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]

[REDACTED]

Thus, the instant settlement continues a program that has been providing price stability to customers with continued improvements that benefit customers. This includes increasing the percentage of default service load that is hedged, increasing the delivery length of the hedge, and allowing for [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL].

Certain pricing protections in the Highly Confidential Settlement also protect consumers from paying too much for the benefit of price stability. Pursuant to the Settlement, if bids are not within a certain threshold, Pike will not accept them and will try to procure the hedge again

PUBLIC VERSION

the past (2017), and for 2018, AEPS credits were procured with the help of Enel X. Pike utilized Enel X for procurement assistance in 2019 and 2020. Additionally, for its 2021-2024 Plan, AEPS credits were procured with the help of Enel X. Pike may utilize either strategy for its 2024-2027 Plan.

PCLP Statement No. 1 at 13:10-18.

D. Waivers of Regulations

The Commission has granted each of the waivers Pike requested in past DSP proceedings, and Pike has requested similar waivers in the instant proceeding. The parties have agreed to the following waivers of regulations:

a. 52 Pa. Code § 54.185(e)(2) (plan identifying the schedules and technical requirements of competitive bid solicitations and spot market energy purchases).

b. 52 Pa. Code § 54.185(e)(6) (copies of agreements or forms to be used in the procurement of electric generation supply for default service customers).

c. Partial waiver of 52 Pa. Code 69.1805, 69.1805(1), 69.1805(2) and 69.1805(3) (inclusion of short and long-term contracts in procurement mix and tailoring procurement to customer classes).

d. 52 Pa. Code §69.1807(3) (competitive bid solicitation process guidelines).

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

“It is the policy of the Commission to encourage settlements.” 52 Pa. Code § 5.231(a). Acceptance of the Settlement follows the intent of this policy and 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 Pike’s customers. This is particularly true here. In the past, Pike’s DSP proceedings have been fully litigated, including some cases being appealed to the Commonwealth Court. Approval of the settlement is a just and reasonable outcome of this proceeding and resolves all issues raised in this proceeding.

IV. CONCLUSION

The Settlement is the result of a detailed examination of Pike's proposed DSP Plan, extensive discovery by multiple parties, multiple rounds of testimony and reasonable compromise by the Parties. Pike fully supports the Settlement and requests that Deputy Chief Administrative Law Judge Mark Hoyer recommend that the Pennsylvania Public Utility Commission approve the Joint Petition without modification.

Respectfully submitted,

/s/Phillip D. Demanchick Jr.

Whitney E. Snyder, Esq., I.D. #316625

Thomas J. Sniscak, Esq., I.D. #33891

Phillip D. Demanchick, Jr., I.D. #324761

Hawke McKeon & Sniscak LLP

100 North Tenth Street

Harrisburg, PA 17101

Phone: 717-236-1300

wesnyder@hmslegal.com

tjsniscak@hmslegal.com

pddemanchick@hmslegal.com

Counsel for:

Pike County Light & Power Co.

Date: September 22, 2023

APPENDIX C

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pike County Light & Power Company :
For Approval of Its Default Service Plan (DSP) and : P-2023-3039927
Waiver of Commission Regulations for the Period :
June 1, 2024 through May 31, 2027 :

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

(PUBLIC VERSION)

The Office of Consumer Advocate (OCA), a signatory party to the Joint Petition for Settlement (Joint Petition or Settlement) in the above-captioned proceeding, respectfully requests that the terms and conditions of the Settlement be approved by Deputy Chief Administrative Law Judge Mark A. Hoyer and the Pennsylvania Public Utility Commission (Commission). It is the position of the OCA that the proposed Settlement is in the public interest and in the interests of the residential customers of Pike County Light & Power Company (Pike or Company).

I. INTRODUCTION

Pursuant to Pennsylvania law, Pike must acquire generation resources for customers who do not receive service from an electric generation supplier or whose generation supplier fails to deliver supply. 66 Pa. C.S. § 2807(e). On April 13, 2023, Pike filed its Petition for Approval of Default Service Plan (DSP) for the Period June 1, 2024 through May 31, 2027 pursuant to 66 Pa. C.S. § 2807(e) of the Pennsylvania Public Utility Code, the Commission’s Default Service Regulations and the Commission’s Policy on Default Service.

PUBLIC VERSION

The Office of Consumer Advocate filed an Answer and Notice of Intervention in the proceeding on May 19, 2023. As reflected in its Notice of Intervention, the OCA's overarching objective in this case was to protect Pike's residential customers by seeking to ensure that Pike's DSP meets the requirements of Act 129 of 2008 (providing, *inter alia*, for default service procurement) and that any rates that result from this proceeding are both just and reasonable and consistent with Pennsylvania law. To accomplish its objective, the OCA determined to investigate various aspects of Pike's proposed DSP, including Pike's energy procurement strategy, the design of residential Default Service rates, and Alternative Energy Credit (AEC) compliance.

To assist with its analysis of Pike's proposed DSP, the OCA retained the services of expert witness Dr. Serhan Ogur.¹ The OCA submitted Dr. Ogur's Direct Testimony in this proceeding on July 21, 2023 in accordance with the procedural schedule established for this case. Thereafter OCA submitted the Rebuttal Testimony of Dr. Ogur on August 4, 2023, and the Surrebuttal Testimony of Dr. Ogur on August 17, 2023.² During the pendency of litigation, the parties engaged in settlement discussions, which ultimately culminated in a global settlement of all issues in the case as more fully set forth in accompanying Joint Petition.

¹ Dr. Serhan Ogur is a Principal with Exeter Associates, Inc. Dr. Ogur received a B.A. degree in Economics from Bogazici University (Istanbul, Turkey) in 1996 and a Ph.D. in Economics from Northwestern University in 2007. Dr. Ogur has 21 years of experience in the energy industry specializing in organized wholesale and retail electricity markets. He was previously employed as an Economic Analyst at the Illinois Commerce Commission; a Senior Economist at PJM Interconnection LLC; and a Senior System Operator at Fellon-McCord & Associates. OCA St. 1, Appendix A.

² OCA recognizes the respective testimonies of Pike and the Office of Small Business Advocate (OSBA), noting that Pike submitted both direct and rebuttal testimonies and OSBA submitted direct and surrebuttal testimonies as set forth in the Joint Stipulation for Admission of Testimony and Exhibits into the Evidentiary record filed in this case on August 29, 2023.

A. Background

The OCA adopts the background set forth in Paragraphs 1-19 of the Joint Petition.

By way of further background, in his Direct Testimony, OCA Witness Dr. Ogur addressed three aspects of Pike's proposed DSP: (1) the functioning of Pike's current hedging strategy (2) Pike's default service loads and retail competition in the Company's service territory and (3) Pike's proposed hedging strategy.

B. Default Supply Procurement and Financial Hedging Strategy

At the outset, Dr. Ogur recognized that Pike proposed a DSP for 2024-2027 that is similar in material aspects to its current DSP in place for the term of 2021-2024. OCA St. 1 at 4. Specifically, Pike proposed to purchase energy for residential, commercial and lighting default service customers on the New York Independent System Operator (NYISO) spot energy market. Consistent with its current DSP, in addition to spot market energy, Pike would also purchase capacity and ancillary services from NYISO as well as the required Pennsylvania Alternative Energy Credits ("AECs") under bilateral arrangements to provide default service to its residential customers. Pike St. No. 1, p. 10. Pike also proposed to continue its purchase of financial hedges, in the form of contracts for differences (or fixed-for-floating energy swaps), that would have the effect of fixing the spot market price for the period of time over which the hedge would be in effect for the portion of the supply that was hedged. *Id.* The result is that a portion of the supply will effectively have been purchased at a fixed price and a portion will have been purchased at spot market prices.

In its proposed DSP, Pike intended to enter into financial hedges for a portion of its default service load, with a target of (BEGIN CONFIDENTIAL) [REDACTED] (END CONFIDENTIAL) hedge coverage, using a ladder procurement approach, with the remaining (BEGIN

CONFIDENTIAL [REDACTED] **(END CONFIDENTIAL)** of default service load priced based on the NYISO spot market. Pike Highly Confidential Exhibit NPC-2, p. 2, Section III. Pike proposed to ladder its hedges in such a way as to capture market prices over time. *Id.*

After reviewing the effect of Pike's prior hedges on default customer rates, Dr. Ogur concluded that they functioned as intended, and reduced Pike's default service reconciliation balances, in turn lowering rate volatility. OCA St. 1 at 4.

Applying his analysis to Pike's past hedges, Dr. Ogur explained that increased diversification of the timing of Pike's hedged transactions **(BEGIN CONFIDENTIAL)** [REDACTED]
[REDACTED]
[REDACTED] **(END CONFIDENTIAL)**.

Taking into account all of the data produced in his analysis of Pike's hedging strategy, Dr. Ogur supported Pike's goal to avoid single point market exposure by layering financial hedges, but he also recommended key changes to Pike's proposed financial hedging strategy. More specifically, Dr. Ogur recommended that the financial hedge target for a given six-month default service pricing period be acquired on at least three, but preferably four, separate transaction dates. He also recommended that the Pike procure financial hedges with overlapping delivery periods. Finally, he recommended that Pike target **(BEGIN CONFIDENTIAL)** [REDACTED] **(END CONFIDENTIAL)** hedge for each month during the 2024-2027 DSP. OCA St 1 at 18. Dr. Ogur presented a primary procurement schedule recommendation for Pike, and with slight modifications to account for Pike securing an interim hedge, Dr. Ogur's primary recommendation is adopted in the Settlement.

In support of his recommendations, Dr. Ogur explained that staggering purchases over three or four transactions for a given six-month pricing period would mitigate the type of rate

volatility that a large increase in forward prices sustained over a few months could impose and bolster rate stability. OCA St. 1 at 19. Additionally, Dr. Ogur recommended procuring overlapping financial hedges to reduce inter-period price volatility and thus enhance rate stability, since the default service rates in two consecutive pricing periods would in part be based on the same financial hedge and thus the same fixed price for a portion of the energy requirements. *Id.* at 20. Dr. Ogur presented a primary procurement schedule recommendation for Pike, and with slight modifications to account for Pike securing an interim hedge, Dr. Ogur's primary recommendation is adopted in the Settlement.

II. SPECIFIC SETTLEMENT TERMS

A. Default Supply Procurement and Hedging (Settlement ¶22)

Paragraph 22 of the Settlement reflects Pike's acceptance of OCA witness Dr. Ogur's key recommendations with respect to its financial hedging activity. More specifically, the Settlement provides that Pike will implement the hedging strategy as subject to the provisions identified in the Settlement, and in Appendix A.³ Because the Settlement adopts the hedging strategy OCA recommended to protect default service customers from price volatility, the OCA supports these terms and avers that they are in the public interest.

The Settlement also provides that Pike may (BEGIN CONFIDENTIAL) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

³ Appendix A adopts the exact hedging strategy recommendations OCA Witness Dr. Ogur made in his Confidential Surrebuttal Testimony in Figure 1, p. 4.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (END

CONFIDENTIAL)

B. Counterparties (Settlement ¶ 23)

Paragraph 23 of the Settlement memorializes Pike’s commitment to continue to seek additional counterparties for its hedging program. The Company will report to the OCA and OSBA any additional counterparties within sixty (60) days of entering into any agreements. In testimony, the OSBA recommended that (BEGIN CONFIDENTIAL) [REDACTED]

[REDACTED] (END CONFIDENTIAL). OSBA Highly Confidential Statement No. 1 at. 4-5.

OCA Witness Ogur agreed with some of the OSBA’s concerns regarding (BEGIN CONFIDENTIAL) [REDACTED]

[REDACTED]

[REDACTED] (END

CONFIDENTIAL). The OCA supports Pike’s commitment to (BEGIN CONFIDENTIAL)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (END CONFIDENTIAL), the

OCA supports this term of the Settlement.

C. Alternative Energy Portfolio Standards (Settlement ¶ 24)

The Settlement recognizes that Pike will continue to meet its AEPS credit procurement requirements by utilizing a competitive solicitation process dictated by market conditions. Although the OCA did not submit testimony regarding Pike's AEPS compliance proposal to continue its current process, the OCA reviewed it to ensure that Pike is meeting all compliance standards at reasonable prices. As the OCA did not identify any concerns with Pike's proposal to continue its AEPS credit procurement process, the OCA supports its continuance as memorialized in the Settlement.

D. Waivers of Regulation (Settlement ¶ 25)

Pursuant to the Settlement, Pike would again be permitted to have the following requested waivers in place:

- a. 52 Pa. Code § 54.185(e)(2) (plan identifying the schedules and technical requirements of competitive bid solicitations and spot market energy purchases);
- b. 52 Pa. Code § 54.185(e)(6) (copies of agreements or forms to be used in the procurement of electric generation supply for default service customers);
- c. 52 Pa. Code § 69.1805(1)- 52 Pa. Code § 69.1805(3) (policy statement on inclusion of short term and long term contracts in procurement mix and tailoring procurement to customer classes); and
- d. 52 Pa. Code § 69.1807(3) (competitive bid solicitation process guidelines).

As noted in Pike's DSP Petition, the enumerated waivers were granted by the Commission in prior Orders issued in 2019 and in 2021. *Petition* at 8-9. In this case, the OCA reviewed Pike's requested waivers to determine whether they were reasonable, necessary, and consistent with Pike's DSP obligations. As the OCA did not identify any issues, and as the waivers are necessary to provide Pike with the flexibility to maximize a procurement strategy that will mitigate price volatility, the OCA supports the grant of the identified waivers.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

As explained more thoroughly under each respective term identified in Section II above, the OCA supports the Settlement and avers that in totality, it establishes a default service methodology that will best serve the needs of Pike's customers and comply with all applicable standards. At the outset of this case, the OCA recognized the need for Pike's DSP to be thoroughly reviewed to ensure that it meets the needs of default service customers and that it is consistent with Pennsylvania law. As modified by the terms of this Settlement, the OCA submits that Pike's DSP is consistent with applicable standards and in the interest of Pike's residential default service customers.

IV. CONCLUSION

In this Settlement, the Company adopted all of the OCA's recommendations for improving the proposed Default Service Plan. The OCA submits that adoption of those recommendations should result in less volatile, more stable default service rates for the Company's residential customers. The OCA further submits that this Settlement represents a reasonable and proper resolution of the issues implicated in Pike's DSP proposal. In consideration of the various elements of the Settlement that have been described above, the OCA finds the Settlement to be in the public interest and in the interest of Pike County Light and Power Company's residential default customers and, for that reason, submits that the terms and conditions of the Settlement should be approved by the Commission.

Respectfully Submitted,

/s/ Gina L. Miller

Gina L. Miller

Assistant Consumer Advocate

PA Attorney I.D. # 313863

E-mail: GMiller@paoca.org

Aron J. Beatty

Senior Assistant Consumer Advocate

PA Attorney I.D.# 86625

E-mail: abeatty@paoca.org

Counsel for:

Patrick M. Cicero

Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: September 22, 2023

4892-3906-3933

APPENDIX D

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Pike County Light & Power for :
Approval of Its Default Service Plan and : Docket No. P-2023-3039927
Waiver of Commission Regulations :

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

I. Introduction

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50.

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

II. Specific Settlement Terms

A. Default Supply Procurement and Hedging

Based on the OSBA’s review of the Pike County Light & Power Company (“Pike” or “PCL&P”) proposed hedging plan and past implementation activities, the OSBA identified several concerns. In particular, OSBA witness Mark Ewen expressed concern that the Company and its consultant [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] OSBA Statement No. 1, at 3-4. Although OSBA is supportive of efforts to reduce

price volatility for small business customers, these efforts must be implemented under a consistently applied set of guidelines.

To address this issue, the OSBA recommended that the Company formally incorporate into its written hedging plan metrics [REDACTED], as outlined in response to OCA Interrogatory Set II, No. 5 (a) and (b). OSBA Statement No. 1-S, at 2-3.

The OSBA also recommended that, regardless of any established annual transaction windows within the hedging plan, the Company should [REDACTED] OSBA Statement No. 1-S, at 3. The intention of these guideposts, [REDACTED], is to ensure that hedging transactions are completed in consistent fashion period after period, with reasonable bounds on [REDACTED].

These recommendations of the OSBA have been incorporated into the *Joint Petition*. *Joint Petition*, Paragraph 22.

B. Counterparties

At the time of submission of counterparty direct testimony, OSBA witness Ewen noted that the Company had been able to [REDACTED]

[REDACTED] Based on a review of transactions [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] The OSBA strongly urged the Company to [REDACTED]

██████████ to ensure competitive pricing of the hedging transactions. OSBA Statement No. 1, at 4-5.

In rebuttal testimony, the Company advised that ██████████
██████████ OSBA Statement 1-S, at 1-2. In addition, the *Joint Petition* includes a continued commitment by the Company to secure additional counterparties for its hedging program, with notice to the OSBA within 60 days of such an event. *Joint Petition*, Paragraph 23.

C. Alternative Energy Portfolio Standards

The OSBA does not object to the Company's proposed AEPS credit procurement practices. *Joint Petition*, Paragraph 24.

D. Waivers of Regulations

The OSBA does not object to the Company's proposed regulatory waivers. *Joint Petition*, Paragraph 25.

III. The Joint Petition is in the Public Interest

The *Joint Petition*, as set forth above, addresses the two critical issues set forth in the OSBA's testimony. First, the *Joint Petition* requires Pike to establish a written plan with metrics and guide points for the execution of its hedging program. This should support the goal of reducing the volatility of supply prices at a reasonable implementation cost, which will be a significant and material benefit for the Company's small businesses.

Second, the *Joint Petition* requires Pike to ██████████
██████████
██████████, likely providing better and more consistent pricing for all of Pike's ratepayers, including the Company's small business customers.

Therefore, the OSBA supports the *Joint Petition's* proposals as just and reasonable resolutions of these issues.

IV. Conclusion

Wherefore, for the reasons set forth above, and as detailed in the *Joint Petition*, the OSBA respectfully requests that the ALJ and the Commission approve the *Joint Petition*.

Respectfully submitted,

/s/ Steven C. Gray

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

For:
NazAarah Sabree
Small Business Advocate

Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
(717) 783-2525
(717) 783-2831 (fax)

Dated: September 21, 2023

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

VIA ELECTRONIC MAIL ONLY

Gina L. Miller, Esquire
Aron J. Beatty, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
gmliller@paoca.org
abeatty@paoca.org

Steven C. Gray, Esquire
Small Business Advocate
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101
sgray@pa.gov

/s/ Phillip D. Demanchick Jr. _____
Whitney E. Snyder
Thomas J. Sniscak
Phillip D. Demanchick Jr.

Dated this 22nd day of September, 2023