

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Nos. R-2024-3049248
Office of Consumer Advocate	:	C-2024-3049646
Office of Small Business Advocate	:	C-2024-3049713
	:	
v.	:	
	:	
City of Lock Haven Water Department	:	
	:	
Petition of the City of Lock Haven Water	:	Docket No. P-2024-3049249
Department for Authorization to	:	
Implement a PENNVEST Surcharge	:	

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**CITY OF LOCK HAVEN WATER DEPARTMENT  
STATEMENT IN SUPPORT OF THE  
JOINT PETITION FOR SETTLEMENT**

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The City of Lock Haven Water Department (“Lock Haven” or the “City”) hereby submits this Statement in Support of the Joint Petition for Settlement (“Settlement” or “Joint Petition”) filed in the above-captioned proceeding.

The Settlement is joined by the Bureau of Investigation and Enforcement, the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”).<sup>1</sup> As such, the Settlement represents a full resolution of all issues by all parties in this proceeding.

Lock Haven believes that the Settlement is in the best interests of the City and its customers. The Settlement provides for \$210,000 in additional annual base rate operating revenue for PUC-jurisdictional customers, and also provides for a PENNVEST Surcharge (“PVS”) to allow

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<sup>1</sup> See Joint Petition at 1.

the City to timely recover the interest and principal charges associated with low-interest PENNVEST loans that are necessary to make critical, mandated system improvements. Given that Lock Haven has not increased rates since 2011, this increase will provide funding that is sorely needed to cover increasing costs and provide the City with revenue that is necessary to maintain its operations. Additionally, if approved, the Settlement will allow for rate design changes which eliminates the declining block rate structure and moves all classes closer to the cost of service.

The Settlement was reached after extensive formal and informal discovery, eight (8) formal mediation sessions, and other in-depth discussion concerning the issues raised by the City’s filing. It therefore represents a reasonable resolution of this proceeding, is in the public interest and should be approved expeditiously and without modification.<sup>2</sup>

## **I. BACKGROUND**

On May 24, 2024, Lock Haven initiated this proceeding seeking to increase the base water rates for customers located both inside (non-jurisdictional) and outside (PUC-jurisdictional) the City by \$990,432 per year, or 64.2%. Of this amount, the City specifically sought Commission approval to increase rates for jurisdictional customers located outside the City by \$377,823 or 71.4%. On that same date, Lock Haven also filed a separate Petition for Authorization to Implement a PENNVEST Surcharge (“PENNVEST Petition”). Through this Petition, Lock Haven proposed to implement a PENNVEST Surcharge to allow the City to timely recover the interest and principal charges associated with low-interest loans from PENNVEST that have and will continue to be awarded to the City since its last rate case.

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<sup>2</sup> See Joint Petition at ¶¶ 34-35.

The procedural history is discussed in greater detail in the Joint Petition.<sup>3</sup> The parties engaged in formal and informal discovery, participated in eight (8) formal mediation session and also engaged in informal discussions to try to achieve a settlement of some or all of the issues in this case. As a result of the mediation and settlement negotiations, the Joint Petitioners were able to reach a Settlement on all issues as set forth in the Joint Petition. As discussed herein, the settlement is in the public interest and should be approved expeditiously without modification.

## **II. THE SETTLEMENT IS IN THE PUBLIC INTEREST AND SHOULD BE APPROVED EXPEDITIOUSLY AND WITHOUT MODIFICATION**

### **A. Standard of Review of Settlements**

The Commission encourages parties in contested on-the-record proceedings to settle cases.<sup>4</sup> Settlements eliminate the time, effort and expense the parties must expend litigating a case and at the same time conserve administrative resources. 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. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding.<sup>5</sup>

The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a “burden of proof” standard, as is utilized for contested matters.<sup>6</sup>

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<sup>3</sup> Joint Petition at ¶¶ 1-18.

<sup>4</sup> See 52 Pa. Code § 5.231.

<sup>5</sup> 52 Pa. Code § 69.401.

<sup>6</sup> See, e.g., *PUC v. Borough of Schuylkill Haven Water Department*, Docket No. R-2015-2470184, et al., Opinion and Order entered Oct. 22, 2015 adopting the Recommended Decision dated Sept. 1, 2015 at 9-10, 2015 Pa. PUC LEXIS 422; *PUC v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, et al., Opinion and Order entered July 14, 2011, at 11; *Warner v. GTE North, Inc.*, Docket No. C-00902815, Opinion and Order entered April 1, 1996, 1996 Pa. PUC LEXIS 78.

Instead, the benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest.<sup>7</sup>

By definition, a “settlement” reflects a compromise of the positions that the parties of interest have held, which arguably fosters and promotes the public interest. When active parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest.<sup>8</sup> In their supporting statements, the Joint Petitioners conclude, after discovery and discussion, that this Settlement resolves all issues in this case, fairly balances the interests of the Company and its ratepayers, is in the public interest, and is consistent with the requirements of the Public Utility Code.

Not every issue was of equal concern to every Joint Petitioner. Accordingly, each of the Joint Petitioners’ statements in support does not necessarily address each and every aspect of the Settlement.

## **B. Revenue Requirement**

The Settlement provides for rates that will be designed to produce \$210,000 in additional annual base rate operating revenue for PUC-jurisdictional customers.<sup>9</sup> More broadly, because Lock Haven intends to implement rates consistently across its service territory (including both jurisdictional customers located outside the city and non-jurisdictional customers located inside the City), the settlement rates will produce a total of \$552,000 in additional annual base rate operating revenue for all customers.<sup>10</sup> While the increase allowed by the Settlement is significantly

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<sup>7</sup> *Id.*; see also *PUC v. Allied Utility Services, Inc.*, Docket No. R-2015-2479955, et al., Opinion and Order entered April 7, 2016 adopting the Recommended Decision dated Feb. 26, 2016 at 8, 2016 Pa. PUC LEXIS 73.

<sup>8</sup> See, e.g., *PUC v. York Water Co.*, Docket No. R-00049165, Opinion and Order entered Oct. 4, 2004 adopting the Recommended Decision dated Aug. 30, 2004.

<sup>9</sup> Joint Petition at ¶ 20.

<sup>10</sup> *Id.* Note that the City is only seeking Commission approval of the \$210,000 rate increase that will apply to outside-City, jurisdictional customers.

less than the City's original request of \$377,823 for jurisdictional customers, this agreement will provide additional income that is necessary to fund basic operations for the water system. The Settlement also provides that Lock Haven will not file another Section 1308(d) rate increase any sooner than twelve (12) months from the effective date of rates in this proceeding, thus providing a level of rate certainty to customers.<sup>11</sup>

Lock Haven has not increased its rates since 2011. While the City has been able to maintain present rates for over 14 years – both for customers located inside and outside the City – this additional revenue is necessary to meet rising operational costs and fund critical, mandated system improvements that are needed to update aging infrastructure. Notably, the City did not request a rate of return in this proceeding, and the Settlement does not reflect any such return. The City is simply focused on fundings its operations and making improvements to its aging infrastructure so that it can continue providing safe and adequate service to customers. The Settlement provides for the additional funding to help the City meet these requirements.

The Settlement also provides that Lock Haven will be permitted to file tariff supplements to become effective March 2, 2025.<sup>12</sup> This date reflects the original suspension date, which Lock Haven voluntarily extended in order to allow time for mediation.<sup>13</sup> Lock Haven is requesting expedited consideration of the Settlement in order to obtain approval by this date, to allow it to implement the rate increase as soon as possible to fund its operations, particularly given that it bills on a quarterly basis and it will take time for any approved increase to become fully implemented.

For these reasons, Lock Haven submits that the additional revenue provided under the Settlement is in the public interest and should be approved without modification.

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<sup>11</sup> Joint Petition at ¶ 21.

<sup>12</sup> Joint Petition at ¶ 20.

<sup>13</sup> See Joint Petition at ¶¶ 10, 12-13.

### **C. Rate Design**

Under the Settlement, the parties agreed to support Lock Haven's proposed changes to its rate design as included in its original filing. These changes include: (1) eliminating the quarterly minimum charges with usage allowances and instead implementing fixed service charges without usage allowances; (2) eliminating the multi-tier residential volumetric rates and implementing a two-tier inclining block structure for residential customers; and (3) eliminating a multi-tier declining block structure for non-residential customers and instead implementing a separate and distinct uniform rate for each non-residential rate class (Commercial/Industrial, Educational, and Public Health).<sup>14</sup> This change will move all customers closer to their cost of service, send appropriate water conservation signals, and ensure that all customer classes are paying their fair share.

Under the Settlement and the modified rate design, the average residential customer will actually experience a rate *decrease*. The average residential customer using 13,500 gallons per quarter will see their quarterly bill decrease from \$100.46 to \$90.42, a decrease of \$10.04 or 10.0%.<sup>15</sup> This is a result of the rate design changes which will positively impact residential customers in particular and move them toward cost of service.

This modified rate design is more consistent with current industry standards and is in the public interest. Therefore, the Settlement should be approved without modification.

### **D. PENNVEST Surcharge**

As explained in Lock Haven's PENNVEST Petition, the City needs an efficient recovery mechanism for a significant PENNVEST loan it received in 2022, the interest being paid in 2024 on a PENNVEST loan, and to recover the principal and interest payments for several additional

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<sup>14</sup> See Lock Haven Filing Requirements at 8 (relating to Section 53.52(a)(4)); Water Rate Study at 7, 21-22

<sup>15</sup> Appendix C, Customer Bill Impacts by Class.

PENNVEST loans it anticipates receiving in the coming years. Importantly, these loans are financing modifications to Lock Haven’s water supply system that are either mandated or crucially necessary in order to be able to continue to provide safe, adequate and reliable water service to its customers.

The Pennsylvania Department of Environmental Protection (“DEP”) has mandated major modifications to certain City infrastructure that will require significant investment to complete.<sup>16</sup> These projects were the primary drivers of Lock Haven’s rate filing, and they are critically necessary to ensuring that Lock Haven can continue providing safe and adequate water service to customers.

Specifically, Ohl Dam requires significant upgrades and is part of an ongoing two-phase repair project.<sup>17</sup> Because of the potential for downstream loss of life and extensive property damage during a dam breach, Ohl Dam is classified by DEP as a “High Hazard” structure and subject to passing the maximum flood event known as the “Probable Maximum Flood (PMF).” Engineering studies have revealed that the existing dam has inadequate spillway capacity, passing only 68% of the PMF. The DEP designated Ohl Dam as having a “significant deficiency in spillway capacity” and has directed the City to upgrade the spillway to current standards, in addition to other modifications.

Similarly, Keller Dam is also classified by the PADEP as a “High Hazard” structure and subject to passing the PMF.<sup>18</sup> Engineering studies have revealed that the existing spillway can only pass 68% of the PMF. PADEP has designated Keller Dam as having a “substantial

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<sup>16</sup> PENNVEST Petition at ¶¶ 14-28.

<sup>17</sup> PENNVEST Petition at ¶¶ 15-19.

<sup>18</sup> PENNVEST Petition at ¶¶ 20-23.

deficiency in spillway capacity” and has directed the City to upgrade the spillway to current standards and complete a variety of other improvements.

Further, Lock Haven has successfully explored, drilled and tested a groundwater source along McKinney Road in Youngdale, Wayne Township, Clinton County, PA as a supplemental water source.<sup>19</sup> The reasons are two-fold. First, the reservoirs are vulnerable during periods of extreme drought which puts their ability to supply ordinary system demand in jeopardy. Secondly, lowering either Ohl or Keller reservoir(s) for construction is an unnecessary risk, because it would make the system more vulnerable in water emergencies, such as those that have occurred in the past. As such, a supplemental water source must be developed before Lock Haven can proceed with the DEP-mandated dam projects discussed above (other than Ohl Dam Phase I, which has already been completed).

These projects are either currently or anticipated to be funded by low-interest PENNVEST loans. A recent PENNVEST loan was conditioned on the City filing the instant rate increase proposal with the PUC. Further, PENNVEST has advised that it will not approve further funding for Lock Haven until a rate increase is granted. The PVS specifically provides a mechanism to allow the City to timely recover interest and principal associated with PENNVEST loans, both now and in the future.

The Settlement includes a number of safeguards to ensure that PVS funds are used appropriately, and also provides a clear process for implementing and modifying the PVS.<sup>20</sup> The PVS will provide vital funding to ensuring the critical system upgrades described above are completed, thus allowing the City to continue provide adequate service to customers. Lock Haven submits that this resolution is in the public interest and should be approved.

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<sup>19</sup> PENNVEST Petition at ¶¶ 24-26.

<sup>20</sup> Joint Petition at ¶ 24.



### III. CONCLUSION

The Settlement represents a reasonable resolution of all issues raised by all parties in this proceeding. Its terms are in the public interest and will provide Lock Haven with additional funding that is essential to ensuring the City can continue provide safe and adequate service to its customers. The Settlement also reduces the administrative burden on the Commission and the litigation costs of all of the active parties. Accordingly, for the reasons set forth above and in the Joint Petition, Lock Haven submits that the Settlement is in the public interest and should be approved without modification.

Therefore, Lock Haven respectfully requests that the ALJ and the Commission expeditiously review and approve the Settlement without modification, and take any other action deemed to be in the public interest.

Respectfully submitted,

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