

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION**

v.

PENNSYLVANIA POWER COMPANY

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Docket No. R-2016-2537355

**JOINT PETITION FOR
PARTIAL SETTLEMENT OF RATE INVESTIGATION**

October 14, 2016

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TO THE HONORABLE MARY D. LONG, ADMINISTRATIVE LAW JUDGE:

Pennsylvania Power Company (“Penn Power” or the “Company”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Bureau of Investigation and Enforcement (“I&E”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), and Wal-Mart Stores East, LP and Sam’s East, Inc. (collectively, “Wal-Mart”), (collectively, the “Joint Petitioners”), by their respective counsel, submit this Joint Petition For Partial Settlement Of Rate Investigation (“Joint Petition”) and request that the Administrative Law Judge (“ALJ”): (1) approve the partial settlement of this proceeding as set forth in this Joint Petition (the “Settlement”) without modification; and (2) recommend that the Pennsylvania Public Utility Commission (“Commission”) adopt the Settlement without modification and permit Penn Power to file the tariff supplement annexed

hereto as Exhibit 1 (“Settlement Rates”) to become effective pursuant to the terms set forth therein.¹ In support of this Settlement, the Joint Petitioners represent as follows:

I. BACKGROUND

1. On April 28, 2016, Penn Power filed with the Commission Supplement No. 17 to Tariff Electric – Pa. P.U.C. No. 36 (“Supplement No. 17”) which reflects an increase in annual distribution revenues of \$42 million, or 9.57% of its total electric operating revenues.² On the same date, requests for an increase in distribution rates were filed by Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), and West Penn Power Company (“West Penn”) (collectively, the “Companies”). By a single Order issued on June 9, 2016 (the “Investigation Order”), the Commission initiated a formal investigation to determine the lawfulness, justness, and reasonableness of the Companies’ existing and proposed rates, rules, and regulations. Accordingly, Supplement No. 17 was suspended by operation of Section 1308(d) of the Public Utility Code until January 27, 2017. Thereafter, all of the Companies’ cases were assigned to ALJ Mary D. Long for purposes of conducting hearings and issuing a Recommended Decision.

2. On May 12, 2016, I&E entered its appearance in this case. Additionally, the Company was served with Petitions to Intervene on behalf of the parties and on the dates set forth below:

CAC	May 31, 2016
CAUSE-PA	June 14, 2016
PennFuture	June 14, 2016

¹ The Clean Air Council (“CAC”), Citizens for Pennsylvania’s Future (“PennFuture”) and The Pennsylvania State University (“PSU”) have indicated that they do not oppose the Settlement.

² Penn Power Statement No. 1, page 10, provides a breakdown of the proposed revenue change.

Wal-Mart	June 15, 2016
PSU	June 22, 2016

3. The Petitions to Intervene filed by CAC, CAUSE-PA, PennFuture and Wal-Mart were granted by the ALJ in the Prehearing Order issued on June 22, 2016. PSU's Petition to Intervene was granted by Interim Order issued on June 24, 2016.

4. Complaints against Penn Power's rates were filed by the following parties that actively participated in this proceeding, which were served on the Company on the dates shown below:

OCA	May 3, 2016
OSBA	May 9, 2016

In addition, Complaints against Penn Power's rates were filed by the following four residential customers, which were served on the Company on the dates shown below:

Richard Collins	May 24, 2016
John S. McDowell	June 17, 2016
John Catterson	June 22, 2016
Roland Gassman	June 28, 2016

The Company filed timely Answers denying the material averments of all Complaints prior to the entry of the Investigation Order. By letter dated June 14, 2016, Penn Power notified the ALJ and the parties that it would rely upon 52 Pa. Code § 5.61(d), which provides that answers to complaints docketed in Commission-instituted investigations of rates are not required except as directed by the Commission or presiding officer. Neither the Commission nor the ALJ directed the Company to submit answers to any complaints.

5. A prehearing conference with respect to rate proceedings of all the Companies was held on June 17, 2016. At that time, the Companies' request to consolidate their four rate cases for hearings, briefing and decision, which was supported by I&E, OCA and OSBA and not

opposed by any other party, was granted. Accordingly, a schedule was established for the submission of testimony and the conduct of evidentiary and public input hearings for the consolidated proceeding. Specifically, and consistent with Commission practice, a schedule was adopted whereby all case-in-chief, supplemental, rebuttal and surrebuttal testimony would be submitted in advance of hearings and oral rejoinder could be offered at the hearings. Evidentiary hearings were scheduled for September 6 – 9, 2016, at which time, it was anticipated, all testimony and exhibits would be submitted for the record and all witnesses presented for cross-examination, if any.

6. Pursuant to Notices issued by the Commission on July 5 and 12, 2016, twelve public input hearings were held, as follows, which included locations within or adjacent to the Company’s service area (Lyndora):

Date	Location	Time
07.21.2016	Reading, PA	1:00 p.m.
07.21.2016	Reading, PA	6:00 p.m.
07.26.2016	Erie, PA	1:00 p.m.
07.26.2016	Erie, PA	6:00 p.m.
07.28.2016	Lyndora, PA	1:00 p.m.
07.28.2016	Lyndora, PA	6:00 p.m.
08.04.2016	State College, PA	1:00 p.m.
08.04.2016	State College, PA	6:00 p.m.
08.11.2016	Washington, PA	1:00 p.m.
08.11.2016	Greensburg, PA	6:00 p.m.
08.18.2016	East Stroudsburg, PA	1:00 p.m.
08.18.2016	East Stroudsburg, PA	6:00 p.m.

7. Accompanying Supplement No. 17, the Company presented complete and separate data for the historic test year ended December 31, 2015, the future test year ending December 31, 2016, and the fully projected future test year ending December 31, 2017. The Company’s supporting information included the prepared direct testimony of nine initial

witnesses and the various exhibits sponsored by them. Considerable additional information was supplied by the Companies in response to approximately 2,700 interrogatories and data requests, many of which were multipart questions. On July 7, 2016, supplemental testimony for one witness was served by the Company.

8. In accordance with the previously established schedule, on July 22, 2016 Complainant/Intervenor direct testimony and accompanying exhibits were served by I&E, OCA, OSBA, CAUSE-PA, and Wal-Mart.

9. On August 17, 2016, supplemental direct testimony was submitted on behalf of the OCA. Also on August 17, 2016, rebuttal testimony and accompanying exhibits were served by Penn Power, I&E, OCA, OSBA and CAUSE-PA. On August 25, 2016, the ALJ issued an Interim Order granting Met-Ed's Motion to strike the direct testimony of Paul Alvarez submitted on behalf of the Environmental Defense Fund ("EDF") and the direct testimony of Michael Murray submitted jointly on behalf of PennFuture and EDF. On August 26, 2016, Penn Power resubmitted two statements of rebuttal testimony, Statement Nos. 3-R and 10-R, with the portions that respond to Messrs. Alvarez and Murray removed, and, on September 6, 2016, the OCA resubmitted the rebuttal testimony of Roger D. Colton (OCA Statement No. 4-R) with the portions that respond to Messrs. Alvarez and Murray removed. Finally, on August 31, 2016, surrebuttal testimony and accompanying exhibits were served by Penn Power, I&E, OCA, OSBA, and CAUSE-PA.³

10. Negotiations were conducted by the Joint Petitioners in an effort to achieve a settlement of the issues in this case. As a result of those negotiations, the Joint Petitioners were

³ All parties' statements and exhibits were identified for the record at the evidentiary hearing held on September 7, 2016, and the Companies' statements and exhibits were also enumerated in their Hearing Exhibit No. 1.

able to agree to the Settlement set forth herein that resolves all issues among the Joint Petitioners except for one issue pertaining to Rider O of Penn Power's Tariff No. 36, which sets forth the terms of Penn Power's Distribution System Improvement Charge ("DSIC"). That issue has been reserved for briefing and decision. In light of the Settlement and the fact that all parties to this proceeding waived cross-examination, a hearing was held on September 7, 2016 solely for the purpose of entering testimony and exhibits into the record.

11. The Joint Petitioners acknowledge that, except to the extent specifically set forth herein, they have not sought, nor would they be able, to agree upon the specific rate case adjustments which support their respective conclusions. Nonetheless, they are in full agreement that this Settlement is in the best interest of customers and the Company and, therefore, is in the public interest.

II. TERMS AND CONDITIONS OF SETTLEMENT

The Settlement consists of the following terms and conditions:

A. Revenue Requirement

12. Penn Power will be permitted to charge, effective for service rendered on and after January 27, 2017, the Settlement Rates set forth in Exhibit 1. The Settlement Rates are designed to produce an increase in distribution base rate operating revenues of \$27.5 million for the twelve months ending December 31, 2017, as shown on the proof of revenues provided as Exhibit 2. The Joint Petitioners acknowledge and agree that: (1) the Settlement Rates were designed on the basis of the sales and billing units proposed by the Company in its initial filing; and (2) the Company's overall revenue requirement to be recovered by the Settlement Rates has been reduced such that the Settlement Rates reflect only the average loss in revenues projected to

occur over the five-year period (plan years 2017 through 2021) encompassing the Company's Commission-approved Phase III Energy Efficiency and Conservation Plan.

13. The Joint Petitioners agree that the baseline for restarting charges under the Company's DSIC Rider (Rider O) will be based on gross plant balances per Exhibit RAD-46, which includes Commission-approved 2016 and 2017 Long-Term Infrastructure Improvement Plan ("LTIIP") plant total investment of \$30.49 million.

14. The Company's total revenue requirement includes \$11.798 million associated with smart meter deployment. Once the aggregate investment and expense revenue requirements exceed \$11.798 million, the Company may begin deferring costs that are eligible for recovery under its Smart Meter Technologies Charge ("SMT-C") Rider (Rider G). When the \$11.798 million threshold is exceeded and the Company begins deferring costs in excess of that amount, the Company will file a smart meter rate under its SMT-C Rider to recover all investment and expense revenue requirements in excess of the \$11.798 million included in base distribution rates.

15. The Company will amortize its legacy meter stock, as updated in this case, over the original five-year period which began on May 3, 2015, under the settlement approved by the Commission at Docket No. R-2014-2428744 on April 9, 2015, until fully amortized.

16. The Company will continue to maintain its Storm Reserve Account on the Company's balance sheet, which began on May 3, 2015, per the settlement approved by the Commission at Docket No. R-2014-2428744 on April 9, 2015. The Company's total revenue requirement includes \$1 million to be recovered for purposes of funding this reserve.

17. For accounting purposes, the Company will continue to depreciate assets using the average service life methodology based upon its depreciation rates as established in the Company's service life study and annual depreciation report approved by the Commission at M-2015-2501746 until modified by subsequent Commission order. The Company will recognize its cost of removing plant in service through an amortization based on the Company's five-year average of experienced cost of removal.

18. On or before May 1, 2017, the Company will provide to the statutory advocates an update to Penn Power Exhibit RAD-47, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ended December 31, 2016. On or before May 1, 2018, the Company will provide to the statutory advocates an update to Penn Power Exhibit RAD-46, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ended December 31, 2017. In the Company's next base rate proceeding, the Company will prepare a comparison of its actual expenses and rate base additions for the twelve months ended December 31, 2017 to its projections in this case. However, it is recognized by the Joint Petitioners that this is a black box settlement that is a compromise of Joint Petitioners' positions on various issues.

19. The Joint Petitioners agree and hereby stipulate that the Company shall use the rate of return on equity as calculated for electric utilities and published in the "Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities" for the most recent quarter for the following purposes:

- a. Calculating the Company's DSIC;
- b. Calculating the incremental revenue requirement associated with smart meter deployment that exceeds the smart meter revenue requirement being recovered in the

Settlement Rates as described in Paragraph 14 of this Joint Petition and therefore eligible for recovery through the Company's SMT-C Rider; and

c. Calculating the allowance for funds used during construction.

B. Distribution Base Rate Stay-Out

20. Penn Power will not file for another general increase to its distribution rates under Section 1308(d) of the Public Utility Code, 66 Pa.C.S. § 1308(d), prior to January 27, 2019. However, if a legislative body or administrative agency, including the Commission, orders or enacts fundamental changes in policy or statutes, including changes in federal or other tax rates, which would have an impact on the Company's rates, this Settlement shall not prevent the Company from filing tariffs or tariff supplements seeking increases in distribution base rates to the extent necessitated by such action. Additionally, the Company will not file a petition seeking a waiver of the five percent DSIC cap under Section 1358(a)(1) of the Public Utility Code, 66 Pa.C.S. § 1358(a)(1) prior to January 27, 2019.

21. Changes to rates charged under riders are not to be subject to the rate stay out contemplated under Paragraph 20, above, except as applied to any proposed waiver of the five-percent cap applicable to the Company's DSIC Rider.

22. The Company shall not be precluded from seeking extraordinary rate relief under Section 1308(e) of the Public Utility Code, 66 Pa.C.S. § 1308(e).

C. Act 40 of 2016

23. Section 1301.1(a), 66 Pa.C.S. § 1301.1(a), which was added to the Public Utility Code by Act 40 of 2016, provides in relevant part that a utility's federal income tax expense shall be calculated on a "stand-alone" basis for ratemaking purposes. As a consequence, consolidated

tax adjustments would no longer be reflected in calculating income tax expense for ratemaking purposes. Section 1301.1(b), 66 Pa.C.S. § 1301.1(b) deals with the use of amounts representing a “differential” calculated by reference to Section 1301.1(a).

24. The level of revenue requirement included in this Settlement reflects the resolution of the parties’ positions in the dispute regarding 66 Pa.C.S. § 1301.1(a). The Company submitted, in Company Exhibit RAD-68 (page 1), a calculation of what its consolidated tax adjustment would be in this case “resulting from applying the ratemaking methods employed by the commission prior to the effective date of subsection (a) [of Section 1301.1] for ratemaking purposes,” which was not contested by any party.

D. Revenue Allocation And Rate Design

25. The revenue allocation to each rate schedule reflected in the Settlement Rates is set forth in Exhibit 3 to this Joint Petition. Rate design for each rate schedule comprising the Settlement Rates is explained in Exhibit 4 to this Joint Petition. The allocations and rates set forth in Exhibits 3 and 4 and incorporated in the Settlement Rates reflect the Joint Petitioners’ agreement with regard to rate structure, rate design (including customer charges) and distribution of the increase in revenues in this case. Under the Settlement Rates, the Residential customer charge is \$11.00 per month in lieu of the Residential customer charge proposed by the Company of \$13.41 per month. Exhibit 5 reflects billing comparisons demonstrating the impact on an average customer’s bill if the Settlement Rates are approved.

E. Uncollectible Accounts Expense

26. Default service-related uncollectible accounts expense has been increased to recover an additional \$1.676 million, beginning on the date the Settlement Rates become effective, through the Company’s Default Service Support Rider for the residential and

commercial classes, and through the Hourly Pricing Default Service Rider for industrial class customers. The amounts of these uncollectible accounts expense shall be those set forth in Exhibit 2 to this Settlement, at line 14. The Distribution-related uncollectible account expense has been revised and \$1.220 million will be recovered through the Settlement Rates. The amounts of these uncollectible accounts expense shall be those set forth in Penn Power Exhibit LWG-2.

F. Universal Service Programs

27. The Company will establish a Universal Service Advisory Committee (“USAC”) comprising representatives from the Company, the OCA, CAUSE-PA, I&E, the Commission’s Bureau of Consumer Service (“BCS”) and the organizations that administer the Company’s universal service and energy conservation program (“USECP”), which will hold meetings at least twice a year with respect to the Company’s USECP. The USAC’s purpose is intended to explore opportunities for enhancements to the Company’s USECP, as well as opportunities for outreach and education, language access, notification to low income customers regarding security deposit waivers and bill clarity. At the Company’s sole discretion, process or program changes raised through the USAC may be filed for approval by the Commission as proposed revisions to the Company’s USECP on a case-by-case basis. The first meeting will be held no later than June 1, 2017.

28. At the same time as reported to BCS, the Company will provide to OCA, I&E, and CAUSE-PA the reporting data required by 52 Pa. Code § 54.75 and 52 Pa. Code § 58.15.

29. The Company will file to increase the maximum credits allowable under its existing customer assistance program (“CAP”) by an amount proportionate to 50% of the average increase to residential rates agreed to in this Settlement. That average increase will be

calculated as the increase in total bill for the median-usage CAP customer, rounded to the nearest \$10. The Joint Petitioners reserve the right to evaluate further revisions to CAP credits and to recommend additional changes in the Company's future regularly-filed universal service proceeding as contemplated by 52 Pa. Code § 54.74. The Joint Petitioners retain the right to review and file testimony concerning any such proposals as permitted by the normal Commission process for review of USECPs.

30. The Company will modify its Low Income Usage Reduction Program such that funds not expended will roll over and be added to the budget available for expenditure in the following year(s) until the expiration of the Company's currently-effective USECP. The Company will address the continuation of the roll over in its next regularly-filed USECP.

31. Any recoverable universal service costs incurred by the Company to implement the terms of this Settlement, including costs associated with changes to processes supporting universal service programs under this Settlement, will be recoverable under the Company's Universal Service Charge ("USC") Rider (Rider C), without objection by the Joint Petitioners. The Joint Petitioners retain the right to review the prudence and reasonableness of any claimed cost and to object to the amounts associated with these changes.

32. No later than sixty days following the implementation of new rates, the Company will file a revised USECP to implement the terms of this Settlement.

33. The Company agrees to accept identification documents issued by foreign governments as acceptable identification to establish service where they include: the applicant's full name; a photograph; and an expiration date that has not expired as of the date of application.

34. The Company agrees to review the list of confirmed low income customers with consumption exceeding 12,000 kWh during the prior year and prioritize those customers for weatherization when possible. Once this list has been exhausted, the Company will review confirmed low income customers with lower annual kWh usage as well as eligible customers requesting weatherization.

35. In the event that the average annual CAP participation in the preceding reconciliation year exceeded 5,000 participants, actual costs recovered through Penn Power's USC Rider shall reflect CAP credits and actual pre-program arrearage forgiveness credits for all customers up to the 5,000 participation level. The Company shall offset the average annual CAP credits and pre-program arrearage forgiveness credits by 14.3% per participant for the preceding reconciliation year for any and all CAP customers exceeding the 5,000 participation level.

G. Smart Meters

36. For purposes of measuring savings achieved from the Company's deployment of smart meters, a cost baseline will be set as of December 31, 2017 from which savings will be measured for the following categories: (1) meter reading; (2) meter services; (3) back-office; (4) contact center; (5) theft of service; (6) revenue enhancements; (7) distribution operations; (8) load research; and (9) avoided capital costs. The cost savings baselines shall be those set forth in Penn Power Exhibit LWG-3, which is appended to the Joint Petition as Exhibit 6.

H. Light Emitting Diode ("LED") Street Lighting

37. Any effort on the part of the Company to educate its customers regarding conversion of municipal street lighting from traditional sodium vapor or mercury vapor to LED lighting, whether on its own or in conjunction with other public or private entities, shall fully disclose the fact that any projected savings produced by such a conversion will necessarily be

reduced over time as the Company seeks new rates, including adjustments to align LED rates with the cost of providing service to such facilities.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

38. The Joint Petitioners have each prepared and attached hereto as Statements A-F, their Statements in Support setting forth the bases upon which they believe that the Settlement, including the Settlement Rates, is fair, just, reasonable, non-discriminatory, lawful and in the public interest. Additionally, letters of non-opposition from CAC and PSU are appended hereto. PennFuture will submit its letter of non-opposition separately.

39. The Joint Petitioners submit that the Settlement is in the public interest for the following additional reasons:

- The Settlement provides for an increase in annual base rate distribution revenues of \$27.5 million, or approximately 6.64% (based on total electric operating revenue), in lieu of the \$42.0 million, or 9.57% (based on total electric operating revenue), increase in base rate distribution revenues originally requested.
- The Settlement amicably and expeditiously resolves a number of important and potentially contentious issues. The administrative burden and costs to litigate these matters to conclusion would be significant.
- The Settlement Rates will allocate the agreed upon revenue requirement to each customer class in a manner that is reasonable in light of the rate structure/cost of service positions of all Joint Petitioners.
- The Joint Petitioners arrived at the Settlement terms after conducting extensive discovery, submitting testimony and engaging in in-depth

discussions. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (*see* 52 Pa. Code §§ 5.231, 69.391, 69.401), and is supported by a substantial record.

IV. ADDITIONAL TERMS AND CONDITIONS

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

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

42. This Settlement is being presented only in the context of this proceeding in an effort to partially resolve the issues presented in this proceeding in a manner that is fair and reasonable. The Settlement is the product of compromise. This Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

43. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. In reaching this Settlement, the Joint

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

44. All Joint Petitioners shall support the Settlement and will make reasonable and good faith efforts to obtain approval of the Settlement by the ALJ and the Commission without modification. If the ALJ, in her Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions with respect to any issues resolved by the Settlement. (This provision does not apply to a decision on the issue reserved for briefing and decision.) However, to the extent any terms and conditions of the Settlement are modified, or additional matters are proposed by the ALJ in her Recommended Decision, the Joint Petitioners do not waive their rights to file Exceptions in support of the Settlement. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed. The Joint Petitioners further reserve the right

to file Exceptions to the compliance filing in the event that any of the exhibits therein are inconsistent with the Joint Petition and the exhibits attached thereto.

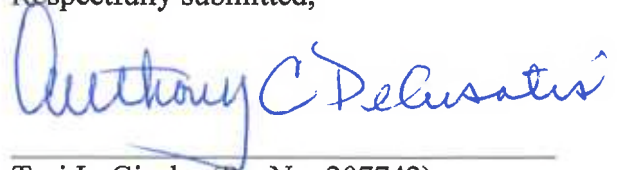
45. This Joint Petition may be executed in one or more counterparts, each of which is an original and all of which together constitute one and the same instrument.

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

1. That ALJ Mary D. Long and the Commission approve the Settlement embodied in this Joint Petition, including all terms and conditions thereof, without modification; and
2. That the Commission find the Settlement Rates to be just and reasonable and grant the Company permission to file the tariff supplement attached hereto as Exhibit 1 to become effective no later than January 27, 2017 for service rendered on and after that date,

which is designed to produce an increase in annual base rate distribution revenues of \$27.5 million.

Respectfully submitted,



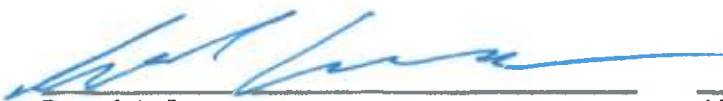
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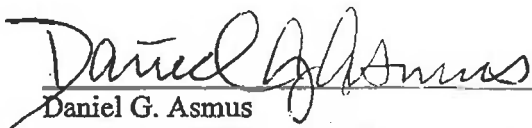
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