



June 1, 2020

VIA E-File

The Honorable Conrad A. Johnson
Administrative Law Judge
Pennsylvania Utility Commission
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222
cojohnson@pa.gov

Re: Pa. PUC v. Pennsylvania American Water Company, Docket Nos. R-2020-3019369
(Water); R-2020-3019371 (Wastewater)

**Answer of CAUSE-PA in Support of OCA's Expedited Motion for an Extension of the
Statutory Suspension Period of Pennsylvania American Water Company's Base Rate
Proceedings**

Dear Judge Johnson,

Please find the attached **Answer of CAUSE-PA in Support of OCA's Expedited Motion for
an Extension of the Statutory Suspension Period of Pennsylvania American Water
Company's Base Rate Proceedings**.

Pursuant to the Commission's Emergency Order issued on March 20, 2020, and as indicated on
the attached Certificate of Service, service on the parties was accomplished by email only, unless
otherwise noted.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ria M. Pereira".

Ria M. Pereira, Esq.

Counsel for CAUSE-PA

CC: Rosemary Chiavetta, Secretary
Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2020-3019369
	:	R-2020-3019371
Pennsylvania American Water Company	:	

**ANSWER OF CAUSE-PA IN SUPPORT OF OCA’S EXPEDITED MOTION FOR AN
EXTENSION OF THE STATUTORY SUSPENSION PERIOD OF PENNSYLVANIA
AMERICAN WATER COMPANY’S BASE RATE PROCEEDINGS**

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code §§ 5.61-5.63, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, hereby files this Answer to the Expedited Motion of the Office of Consumer Advocate for an Extension of the Statutory Suspension Period of Pennsylvania American Water Company’s Base Rate Proceedings (Expedited Motion). As explained below, CAUSE-PA supports the relief requested by the Office of Consumer Advocate (OCA), and seeks further relief as described below pursuant to 52 Pa. Code § 5.62. In support thereof, and in response to OCA’s Expedited Motion, CAUSE-PA asserts the following:

1. CAUSE-PA agrees with and incorporates by reference herein the procedural history set forth in Section II of the Expedited Motion, including but not limited to the description of emergency actions taken up to May 28, 2020 by Pennsylvania Governor Tom Wolf to protect the public from further spread of the novel coronavirus, COVID-19.

2. CAUSE-PA adds to this prior background the fact that, on Friday, March 13, 2020, the Commission issued an Emergency Order, which took decisive and dramatic steps to prohibit public utilities from terminating service to residential consumers, except in emergency circumstances.¹ In doing so, the Commission squarely recognized the profound economic impact that the emergency actions taken in response to COVID-19 would have on residential consumers and the need for emergency action to ensure that households would remain connected to critical service throughout the emergency, even if they cannot afford to pay for service. In issuing its Order, the Commission concluded: “Irreparable injury to the public is likely to occur with disruption of service, creating a clear and present danger to life.”²
3. On Thursday, March 19, 2020, three days after the instant Motion was filed, Governor Tom Wolf ordered the closure of all non-life-sustaining businesses in Pennsylvania.³
4. On Friday, March 20, 2020, the Commission issued a further Emergency Order which concluded that, pursuant to the Governor’s Proclamation of Disaster Emergency, “[a]ll statutory and regulatory deadlines may be suspended, extended, waived or changed during the pendency of the Proclamation of Disaster Emergency.”⁴ The Commission further ordered that, “[f]ollowing the termination of the Proclamation of Disaster Emergency, all deadlines suspended may be extended by an additional thirty (30) days”⁵

¹ Public Utility Service Termination Moratorium Proclamation of Disaster Emergency – COVID-19, Emergency Order, Docket No. M-2020-3019244 (March 13, 2020).

² Id. at 2.

³ Order of the Governor of the Commonwealth of Pennsylvania Regarding the Closure of All Businesses that are Not Life Sustaining (March 19, 2020), <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200319-TWW-COVID-19-business-closure-order.pdf>.

⁴ Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, Emergency Order, Docket No. M-2020-3019262 (March 20, 2020).

⁵ Id. at 4.

5. In its March 20 Emergency Order, the Commission delegated authority to each of its Bureaus to “*suspend extend, waive or change a statutory or regulatory deadline which may hinder, rather than further, the mission of the Commission*,” after consultation with all interested parties, as deemed necessary and appropriate.”⁶
6. In its Motion, OCA rightly concludes that “[g]iven the current, extraordinary circumstances, the statutory suspension period will limit the ability of OCA, and the other parties, to adequately investigate and analyze the Company’s filings and will likely prevent public input hearings from being convened in a timely manner, thus preventing the development of a full and complete record.” (Expedited Motion at 6) Failure to grant an extension of the statutory suspension period would hinder the Commission in its statutory duties to ensure that rates are just and reasonable. CAUSE-PA shares and agrees with each of the reasons listed by OCA in the Expedited Petition, specifically including the following:
 - a. Like OCA, all offices of counsel for CAUSE-PA, the Pennsylvania Utility Law Project, are closed. While Counsel has been permitted to access their offices on an extremely limited basis, Counsel may not fully return to their offices until Governor Wolf’s Emergency Order is lifted. Notwithstanding the willingness and ability of counsel for CAUSE-PA to work remotely from home, CAUSE-PA shares the OCA’s concerns that parties’ ability fully and appropriately investigate the filing by Pennsylvania American Water Company (PAWC) and create a record for the Commission to review would be hindered. Indeed, whether to proceed on the current time-frame is a question of due process, as these challenges will present insurmountable logistical issues that will necessarily impact the ability of CAUSE-

⁶ Id. (emphasis added).

PA and its counsel to protect the rights of its members and the vulnerable low and moderate income consumers that CAUSE-PA seeks to protect through intervention in this proceeding.

- b. CAUSE-PA also shares OCA's concern that the projections contained in PAWC's base rate case filings may no longer be reasonable given the changed circumstances as a result of the COVID-19 pandemic.
 - c. In its tariff filing, PAWC proposes a multi-year increase to its water and wastewater rates pursuant to 66 Pa. C.S. § 1308(d). (See PAWC St. 1 at 16: 14-17). PAWC proposes to increase the Company's total annual operating revenues by \$138.6 million over two years. (Id. at 7: 10-12).
 - d. CAUSE-PA recognizes the purpose behind base rate filings, including the need to replace and improve infrastructure. (See PAWC St. 1 at 7: 21-24). However, in light of the potential long-term impacts from COVID-19 on consumer's livelihoods, CAUSE-PA asserts that parties must be given an adequate opportunity to investigate whether consumer's have the ability to bear the rate increases that PAWC proposes. Without being given adequate time and opportunity to investigate PAWC's filings, it is impossible to properly determine whether PAWC's proposed rates are just and reasonable pursuant to 66 Pa. C.S. § 1301.
7. CAUSE-PA is also deeply concerned about the profound economic impact that the COVID-19 outbreak has had on low and moderate income households across the Commonwealth, many of whom have lost substantial income as a result of the pandemic. Low wage hourly workers with high-contact, public-facing jobs (like cashiers, wait staff, hotel staff, personal care aides, cooks, and teaching assistants) have been particularly hard

hit, as these jobs typically lack any paid leave, often rely heavily on tips, and cannot be completed remotely.⁷

8. A critical component to determining whether a proposed rate is just and reasonable is an examination of whether the rates charged are also affordable for those who reside in the utility's service territory. Given the magnitude of economic disaster caused by COVID-19, it is impossible to determine whether the proposed rates that PAWC seeks are just and reasonable without extending the statutory suspension period to allow parties to fully and thoroughly investigate PAWC's proposal.
9. Similarly, the parties must be given adequate opportunity to investigate whether PAWC's universal service programming is appropriately funded and available to consumers in light of the rate increase, pursuant to 66 Pa. C.S. § 2203(8), and to determine how many residential customers will now be in need of rate assistance as a result of the economic devastation caused by COVID-19. The anticipated level of need and program enrollment will directly impact the amount charged to other consumers through rates to support universal service programming. Thus, it is essential that the statutory suspension period be extended for the 45 days requested by OCA in order to accurately assess the need for universal service program assistance.
10. Notwithstanding its support for OCA's Expedited Motion, CAUSE-PA nevertheless files this Answer seeking additional relief. Specifically, CAUSE-PA respectfully requests that the Administrative Law Judge issue an Order requiring PAWC to update its filing and its associated rate request based on then-current market conditions, prior to commencing with

⁷ See, e.g., Who is Most at Risk of the Coronavirus Crisis: 24 Million of the Lowest-Income Workers, Politico (March 21, 2020), <https://www.politico.com/interactives/2020/coronavirus-impact-on-low-income-jobs-by-occupation-chart/>.

a new procedural schedule. The economy continues to shift as a result of the pandemic. As such, and consistent with the arguments raised above, PAWC must be required to update its filing based on then-present conditions to allow the parties to properly evaluate whether PAWC's rate proposal is just, reasonable, and in the public interest. Otherwise, if PAWC was not required to make an updated filing, the dual burdens of production and persuasion would be unfairly shifted to the other parties in the proceeding.

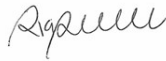
11. This additional request for relief is consistent with the Commission's March 20, 2020 Emergency Order, which held that "[f]ollowing the termination of the Proclamation of Disaster Emergency, all deadlines suspended may be extended by an additional thirty (30) days."⁸

WHEREFORE, CAUSE-PA respectfully requests – for the reasons more fully explained above – that the Honorable Conrad A. Johnson, Administrative Law Judge, issue an Order granting OCA's Expedited Motion to extend the statutory suspension period and to require PAWC to make an amended filing to its rate case after the pendency of the Proclamation of Disaster Emergency.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT

Counsel for CAUSE-PA



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Elizabeth R. Marx, Esq., PA ID: 309014
John Sweet, Esq. PA ID: 320182
118 Locust Street
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⁸ Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, Emergency Order, Docket No. M-2020-3019262, at 4, para 3 (March 20, 2020)

June 1, 2020

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Verification

I, Elizabeth R. Marx, on behalf of and as counsel for the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), hereby state that the facts contained in the foregoing Answer of CAUSE-PA are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

A handwritten signature in blue ink, reading "Elizabeth R. Marx", is positioned above a solid horizontal line.

Elizabeth R. Marx, Esq.
Counsel for CAUSE-PA

Date: **June 1, 2020**

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2020-3019369
	:	R-2020-3019371
Pennsylvania American Water Company	:	

Certificate of Service

I hereby certify that I have this day served copies of the **Answer of CAUSE-PA in Support of OCA's Expedited Motion for an Extension of the Statutory Suspension Period of Pennsylvania American Water Company's Base Rate Proceedings** upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 and consistent with the Commission's Emergency Order issued on March 20, 2020.

VIA EMAIL ONLY	
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Respectfully Submitted,
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June 1, 2020