



November 20, 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](mailto:cojohnson@pa.gov)

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

Dear Judge Johnson:

Enclosed, please find the **Reply Brief of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in the above-noted proceeding.

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. A Microsoft Word version of this Reply Brief will be submitted to Your Honor electronically.

Respectfully submitted,

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**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**Certificate of Service**

I hereby certify that I have this day served copies of the **Reply Brief of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** upon the parties of record in the above-captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party), and consistent with the Commission's Emergency Order issued on March 20, 2020, in the manner and upon the persons listed below.

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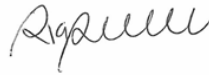
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November 20, 2020

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**REPLY BRIEF OF THE COALITION FOR AFFORDABLE UTILITY SERVICES AND  
ENERGY EFFICIENCY IN PENNSYLVANIA**

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## **I. INTRODUCTION AND OVERVIEW**

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, files this Reply Brief in response to the Main Brief of Pennsylvania American Water Company (PAWC or the Company) and in support of its positions and the recommendations advanced by CAUSE-PA's expert witnesses Mitchell Miller, Daniel G. Vitek, Esq, and Judith Lewis, Esq. CAUSE-PA's expert witnesses made recommendations regarding the effects of Pennsylvania American Water Company's (PAWC or the Company) proposed increase on PAWC's residential customers, especially low and moderate-income customers, and the critical need for improvements to PAWC's low income programming to ensure that essential water and wastewater services are reasonably affordable and accessible for economically vulnerable consumers.

Consistent with the argument advanced in CAUSE-PA's Main Brief and as further explained herein, PAWC's proposed rate increase should be rejected in its entirety. As the evidence presented in this proceeding has clearly shown, it is both unjust and unreasonable to raise rates at this time in light of the devastating economic impact of the COVID-19 pandemic. PAWC's existing rates are already categorically unaffordable, with many economically vulnerable households already paying in excess of 10% of their income on water service alone. The assistance available through PAWC's universal service programming is wholly inadequate to ensure that low income Pennsylvanians can remain connected to water and wastewater services in their home. Thus, PAWC should be directed to squarely address and improve affordability for its low income customers regardless of whether any rate increase is ultimately granted to ensure that economically vulnerable consumers can afford to connect to and maintain critical water and wastewater services in their homes – especially in light of the ongoing pandemic.

Through testimony, CAUSE-PA's expert witnesses presented a number of recommendations targeted at addressing PAWC's existing affordability issues to ensure that all PAWC customers can reasonably access affordable, life-sustaining water and wastewater services to their homes. In support, CAUSE-PA's experts provided substantial evidence and analysis demonstrating that PAWC's current rates are unaffordable, that critical reforms to PAWC's existing universal service programs are necessary to ensure just and reasonable rates, and why CAUSE-PA's affordability recommendations must be adopted. PAWC opposes these critical reforms, yet it has failed to advance any persuasive argument or evidence for why it should be permitted to charge rates which are categorically unaffordable and inaccessible to PAWC's economically vulnerable consumers.

CAUSE-PA urges ALJ Johnson and the Commission to act to protect vulnerable consumers and ensure that PAWC's customers are protected from categorical rate unaffordability and the corresponding inaccessibility of services. As explained more thoroughly below and in CAUSE-PA's Main Brief, ALJ Johnson and the Commission should reject the proposed rate increase and order PAWC to improve its low income program and consumer protections to ensure universally accessible service consistent with applicable law, regulation, and policy.

## **II. SUMMARY OF ARGUMENT**

CAUSE-PA continues to urge the Commission to reject PAWC's proposed rate increase at this time due to the ongoing and unprecedented economic impact of COVID-19 on Pennsylvania's consumers. It is unjust and unreasonable to raise rates as the pandemic continues to unfold and Pennsylvania's economic future is uncertain. PAWC's low income customers already struggled with rate unaffordability before the pandemic – and before PAWC proposed to substantially raise its monthly costs for water and wastewater services necessary to staying in homes and practicing



proper hygiene necessary to combat the continued spread of COVID-19. Steps must be taken to ensure that all consumers – especially vulnerable customers – can afford to connect to and maintain service, especially in the face of the pandemic.

In its Main Brief, PAWC asserts that the Commission should ignore the current reality faced by consumers across Pennsylvania and focus on PAWC's capital projects - and the scant improvements that PAWC proposes to make to its low income assistance programs. This approach is tone deaf and out of touch with the realities facing PAWC's residential customers – so many of whom are out of work or have otherwise suffered other previously unimaginable economic tolls as a result of the pandemic. PAWC repeatedly asserts that the minimal improvements it proposes in this case are sufficient to address the increased need for assistance. However, as the record in this case clearly indicates, PAWC's existing low income programs were insufficient to meet the needs of low income customers even before the onset of the pandemic. By design, PAWC's existing programs produce inequitable levels of affordability – with those at the very bottom of the poverty scale facing the highest levels of unaffordability. The need for affordability has grown exponentially since PAWC has filed this case – and will likely reach crisis levels if PAWC is permitted to substantially raise residential rates while PAWC's customers face economic ruin.

For these reasons and the reasons set forth in this Reply Brief and CAUSE-PA's Main Brief, CAUSE-PA asserts that it is inappropriate to raise critical water and wastewater rates at this time. Instead, PAWC should be required to evaluate how COVID-19 has affected its service territory and consumers, including its low income consumers, and to revise and improve its programming to equitably address the lack of affordability for low income customers at current rates.

### **III. OVERALL POSITION ON RATE INCREASE**

#### **A. Reply to Overall Position on Rate Increase**

CAUSE-PA stands firmly by the conclusion reached in its Main Brief that it is inappropriate to raise rates for critical water and wastewater services necessary to remaining at home and practicing necessary hygiene to combat the spread of COVID-19 in the midst of the ongoing pandemic. Through its expert witnesses, the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), and the Council on Economic Opportunity (CEO) also opposed any rate increases by PAWC as a result of the devastation caused the COVID-19 pandemic and based on economic data from earlier this year.<sup>1</sup>

In its Main Brief, PAWC asserts that rejection of PAWC's rate increase proposal is contrary to long-standing rate making principles.<sup>2</sup> PAWC leans on the conclusions of its expert witness, James W. Cawley, who characterized the recommendations to reject any proposed rate increase during the unprecedented global pandemic as "one sided" and "customer centric" and argued that rejection of PAWC's rate increase would deprive PAWC a reasonable and timely return on its investments.<sup>3</sup> PAWC asserts that this approach would raise "serious constitutional concerns" and constitute "confiscatory ratemaking."<sup>4</sup> PAWC further claims that rejecting its rate increase would undermine its financial stability and ability to provide safe and reliable services and to make system improvements and capital investments.<sup>5</sup> PAWC asserts that traditional ratemaking principles must be applied even in times of economic distress and "can be joined with

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<sup>1</sup> OSBA St. 1, pp. 4-6; CEO St. 1, pp. 4-5; OCA St. 1, pp. 10, 22, 29.

<sup>2</sup> PAWC Main Brief at 8.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id. at 8-9.

programs to assist customer in financial need.”<sup>6</sup> PAWC argues that it has accounted for the current unprecedented economic instability by reaching a Non-Unanimous Settlement which represents a reduction in the Company’s initial proposed revenue increases.<sup>7</sup>

The United States Supreme Court has held that the determination of just and reasonable rates through the rate-making process requires a balancing of investor and consumer interests, concluding that “regulation does not insure that the business shall produce net revenues.”<sup>8</sup> By claiming that rejecting a rate increase at this truly unprecedented time would be unbalanced and confiscatory, PAWC ignores not only the true extent of the economic devastation wrought by the COVID-19 pandemic, but also how rate unaffordability might impact PAWC’s ability to operate. The COVID-19 pandemic has posed unprecedented economic challenges to Pennsylvania and has most profoundly impacted vulnerable low income communities – threatening the health, safety, and welfare of whole communities, and leaving hundreds of thousands of Pennsylvanians to wonder how they will put food on the table and keep a roof over their head.<sup>9</sup> It is not unconstitutional to give appropriate weight to the stark economic considerations existing outside of the ratemaking formula.<sup>10</sup> The Pennsylvania Supreme Court has held that:

There is ample authority for the proposition that the power to fix "just and reasonable" rates imports a flexibility in the exercise of a complicated regulatory function by a specialized decision-making body and that **the term "just and reasonable" was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation** but rather to confer upon the regulatory body the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors *consonant with constitutional protections applicable to both*.<sup>11</sup>

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<sup>6</sup> Id. at 9.

<sup>7</sup> Id.

<sup>8</sup> Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 604 (1944).

<sup>9</sup> See CAUSE-PA Main Brief at 13.

<sup>10</sup> Popowsky v. Pa. PUC (appeal of Metro. Edison Co.), 665 A.2d 808, 812, 542 Pa. 99, 108 (1995).

<sup>11</sup> Id.

The Commission is obliged to consider broad public interest in the ratemaking process.<sup>12</sup> In the midst of the COVID-19 crisis, it is inappropriate to raise rates for critical water and wastewater services necessary for customers to remain in their homes and exercise proper hygiene to curb the further spread of the pandemic.<sup>13</sup> Well over 2 million Pennsylvanians have filed for unemployment since mid-March.<sup>14</sup> Low income consumers have been particularly hard hit by the economic repercussions of COVID-19, and low wage and hourly workers have experienced the highest levels of job losses and reductions of workforce.<sup>15</sup> Half of adults in households with incomes of less than \$25,000 who lost employment income as a result of COVID-19 lacked confidence if they could pay the next month's rent or mortgage on time, compared with 8.4% of adults in households with an income of \$100,000 or more.<sup>16</sup> PAWC's low income customers already struggled to afford service and were disproportionately payment troubled before the pandemic.<sup>17</sup>

PAWC attempts to argue that rejecting a rate increase would deny the Company a fair rate of return and prevent PAWC from operating safely.<sup>18</sup> However, there is no evidence that denying PAWC its proposed rate increase would jeopardize PAWC's ability to deliver safe service, and no party has recommended that PAWC never be allowed to raise rates. We simply assert that now is not the appropriate time – as COVID-19 continues to spread at ever-increasing rates, profoundly

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<sup>12</sup> Id., citing Pa. Elec. Co. v. Pa. PUC, 509 Pa. 324, 331, 502 A.2d at 134 (1985).

<sup>13</sup> CAUSE-PA Main Brief at 21.

<sup>14</sup> Id. at 16.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> See CAUSE-PA Main Brief at 10-11.

<sup>18</sup> PAWC Main Brief at 8.

affecting the health and economic welfare of all Pennsylvanians.<sup>19</sup> It is reasonable and well-within the bounds of traditional ratemaking principles to take into account the full and true nature of economic circumstances faced by PAWC’s customers – even if those circumstances are as unprecedented as the circumstances we collectively face today.

Contrary to PAWC’s contention, this approach is neither “one sided” nor “customer centric” – it is an appropriately balanced approach in light of the uniquely devastating economic challenges of the day.<sup>20</sup> Ensuring that rates are affordable and accessible is not simply about customers. Rather, ensuring that rates are affordable supports the overall stability of the system, as dramatic increases to customers’ monthly rates will cause more customers to miss payments – resulting higher arrearage levels, higher levels of uncollectible expenses, and ultimately higher rates of termination.<sup>21</sup> It is critical to keep in mind that PAWC bears the sole burden of proving that its rates are just and reasonable – yet PAWC has not taken any steps to analyze the effects of COVID-19 on its service territory and its customers to determine the impact of its rate proposal on the ability of consumers to remain connected to service in their homes.<sup>22</sup> Instead, PAWC rests its case on a claimed constitutional right to increased profits – even in the face of overwhelming evidence that those it serves cannot reasonably afford to pay for current rates – let alone the substantial increase proposed by PAWC. This is simply not how just and reasonable rates are achieved.

Without a full assessment of the impact of COVID-19 on the ability of PAWC’s customers to pay for and remain connected to life-sustaining services in their home, it is impossible to

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<sup>19</sup> See *id.* at 21.

<sup>20</sup> PAWC Main Brief at 8.

<sup>21</sup> CAUSE-PA Main Brief at 18; CAUSE-PA St. 1 at 19: 11-14.

<sup>22</sup> CAUSE-PA Main Brief at 50-51.

properly evaluate the full depth of devastation that consumers in PAWC’s service territory continue to grapple with as a result of the pandemic. As Mr. Miller pointed out in his direct testimony:

[I]t is clear that COVID-19 will have lasting impacts on the economy that cannot be adequately accounted for in the current rate proceeding. With such profound uncertainties, now is not the time to raise rates for water and wastewater services – services that directly impact whether consumers can remain safely in their homes and exercise necessary hygiene to protect against COVID-19.<sup>23</sup>

PAWC expert witness Toby Bishop argues that recommendations to reject PAWC’s rate increase fail to account for PAWC’s capital program, which would be funded through rates and which Mr. Bishop claimed would benefit the economy of PAWC’s service territory.<sup>24</sup> But as Mr. Miller explained, “[d]ramatically increasing the costs of basic services that are essential to stave off the spread of COVID-19... is not an appropriate path to economic recovery at this time.”<sup>25</sup> Indeed, now – as we face an active, unfolding, and unprecedented economic and health crisis – is not the time for investing in costly capital projects. While it is critical that PAWC continue safe operations, there is no evidence on the record that PAWC requires increased revenues in order to maintain safe operations.<sup>26</sup> In fact, OCA’s expert witness Scott Rubin concluded that PAWC’s existing rates are higher than necessary to maintain safe service, recover its expenses, and earn a fair rate of return.<sup>27</sup> Mr. Rubin explained:

Most Pennsylvania businesses would be absolutely thrilled if they could pay all their bills (including various increases in expenses that may or may not occur next

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<sup>23</sup> CAUSE-PA St. 1 at 8: 5-9.

<sup>24</sup> CAUSE-PA Main Brief at 22; PAWC St. 15-R at 7: 6-13.

<sup>25</sup> CAUSE-PA Main Brief at 22-23, citing CAUSE-PA St. 1-SR at 11: 10-12.

<sup>26</sup> See, e.g., OCA’s Abridged Main Brief at 4 (“The OCA is not recommending that PAWC should have rates that are inadequate to ensure the provision of safe and reliable service to its customers. As described in this Main Brief, PAWC could continue operations, recover all of its expenses, and earn a profit with no revenue increase. In these extraordinary times, denying PAWC’s rate increase is a reasonable—and temporary—outcome until fewer customers are suffering financially and the future is more ascertainable for ratemaking.”) (*internal citation omitted*).

<sup>27</sup> OCA St. 1 at 28.

year), make all of their debt payments, and still have enough left over to earn a profit on their equity investment. Most Pennsylvania businesses would find that result absolutely amazing at this time. When compared to the economic devastation gripping its service territory, I cannot find anything just or reasonable about increasing PAWC's rates at this time.<sup>28</sup>

Finally, as more fully discussed below, while PAWC witness Mr. Cawley contends that the effects of rate increases can be mitigated for vulnerable low income customers through customer assistance programs, PAWC has failed to support measures that would allow its H2O customers to achieve affordable bills.<sup>29</sup> It is important to note that PAWC fails to set forth meaningful revisions to its H2O bill discount program to address the existing unaffordability of rates and inequitable distribution of assistance for program participants - even assuming no rate increase is approved.<sup>30</sup> Mr. Cawley's assertion would possibly carry more weight had the Company proposed some meaningful improvements, such as revising the discount structure of its H2O program to a percentage of income model or agreeing to implement meaningful arrearage forgiveness mechanisms for customers enrolled in the H2O bill discount program.<sup>31</sup> However, the Company has proposed no such changes. As Mr. Miller explained at length, PAWC's programs serve very few customers - just 3.3% of its residential customers.<sup>32</sup> And of those enrolled, many still face combined water and wastewater rates that far exceed 10% of their total gross household income – more than two times the generally accepted combined water and wastewater affordability rate of 4.5%.<sup>33</sup>

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<sup>28</sup> Id.

<sup>29</sup> PAWC Main Brief at 9.

<sup>30</sup> CAUSE-PA Main Brief at 25-64.

<sup>31</sup> See id.

<sup>32</sup> CAUSE-PA St. 1 at 33, T.8.

<sup>33</sup> CAUSE-PA St. 1 at 34-35, T.9 & T.10; CAUSE-PA Exhibits MM-1 to MM-6. In PAWC's Zone 1, a 2-person residential household with average usage and gross household income at or below 50% FPL currently has a

For the forgoing reasons, CAUSE-PA urges ALJ Johnson and the Commission to reject PAWC's rate increase in its entirety and implement the critical changes and improvements outlined in CAUSE-PA's Main Brief and Reply Brief in order to remediate current unacceptable levels of unaffordability and help consumers maintain critical water and wastewater services in their homes.

**B. The Rate Increase in the Proposed Non-Unanimous Settlement Is Not Just or Reasonable and Should Be Rejected.**

CAUSE-PA recognizes that a Non-Unanimous Settlement was proposed in this matter to permit PAWC, upon approval of the Settlement but no later than January 28, 2021, to charge rates for water and wastewater services in order to produce additional annual water and wastewater operating revenue of \$70.5 million.<sup>34</sup> The \$70.5 million increase will be offset by a short-term annualized credit of \$10.5 million in 2021 and 2022.<sup>35</sup> As discussed more fully in its Main Brief, and in its Objection to the Non-Unanimous Settlement, CAUSE-PA opposes the proposal, as it will impose an unreasonable, unjust, and categorically unaffordable rate increase on top of already unaffordable rates.<sup>36</sup> Allowing a rate increase designed to produce additional revenues of \$70.5 million would substantially increase the cost of essential and life-sustaining service and would have a detrimental impact on low income customers' ability to afford service necessary to prevent the spread of the pandemic.<sup>37</sup>

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combined water and wastewater burden of 12.8% after application of the H2O discount. Id. at 34-35, T.9 & T.10. A 4-person household at the same income level has a combined water and wastewater burden of 8.4%. Id.

<sup>34</sup> See Main Brief at 9, citing Settlement at 8.

<sup>35</sup> CAUSE-PA Main Brief at 9, citing Settlement at 8-9. As explained in CAUSE-PA's Main Brief, pursuant to the Settlement, the total net increase will be implemented in two installments: 1) a net increase of \$40 million on the effective date of the Settlement Rates; and 2) a second installment effective on January 1, 2022 that increases base rates by \$70.5 million, which will be off-set by a credit of \$10.5 million, for a net total increase of \$60 million for twelve months ending December 31, 2022. This credit will then cease to apply January 28, 2023.

<sup>36</sup> CAUSE-PA Main Brief at 9.

<sup>37</sup> Id. at 9-10.



While CAUSE-PA recognizes that the Non-Unanimous Settlement includes a few baseline protections for vulnerable consumers, we nevertheless assert that the Settlement is – as a whole – inadequate to redress existing unaffordability. If the Settlement were approved, existing levels of unaffordability will be further exacerbated by the compounding impact that the proposed rate increase will have on PAWC’s economically vulnerable consumers. In particular, the Settlement fails to set forth meaningful improvements to PAWC’s H2O bill discount program, which already fails to produce an equitable, consistent, and acceptable level of affordability and does nothing to address arrears accrued prior to entry in the program.<sup>38</sup> Although the proposed Settlement rates would be incrementally less than PAWC’s initially proposed rate increase, the Settlement fails to adequately account for the economic devastation faced by tens of thousands of PAWC customers. Therefore, the Non-Unanimous Settlement is not just or reasonable and should be rejected.

#### **IV. RECOMMENDATIONS FOR ACTION RELATED TO THE COVID-19 EMERGENCY**

In its Main Brief, PAWC indicates that it has agreed to undertake the following temporary measures in light of the COVID-19 pandemic: (1) waive reconnection fees for customers at or below 200% the Federal Poverty Level (FPL) for one year from the date of the final Order in this proceeding; (2) waive the goof faith payment requirement for PAWC’s H2O Help to Others Hardship Fund for one year from the date of the final Order in this proceeding; (2) permit customers to self-certify income for purposes of qualifying for PAWC’s Hardship Fund until the earlier of (i) March 31, 2021; or (ii) the date on which Governor Tom Wolf’s March 6, 2020 COVID-19 emergency Executive Order is rescinded; (4) expand community outreach to at-need communities in PAWC’s service territory, including developing a community outreach plan to

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<sup>38</sup> See Settlement at 12-13.

target communities who have been significantly impacted from COVID-19; increase the annual contribution to the H2O Help to Other Program from \$400,000 for water operations and \$50,000 for wastewater operations to \$5,000 and 100,000, respectively; and (6) increase efforts to identify new sources of H2O hardship grant funding.<sup>39</sup>

PAWC, however, disagrees with CAUSE-PA's expert witness Mitchell Miller's recommendation that PAWC conduct a third-party needs assessment to assess low-income communities within the Company's service territory.<sup>40</sup> PAWC claims that conducting such an analysis is overly onerous and expensive, as it involves varied analyses based on the different locations and demographics in PAWC's service territory. PAWC claims that a third-party needs assessment is not necessary as PAWC believes it is already providing customers with "reasonable" assistance.<sup>41</sup>

A third-party needs assessment is essential to understanding the impact of COVID-19 on PAWC's service territory and its customers, especially PAWC's low income residential customers who have faced disproportionate economic impacts as a result of the continued spread of the COVID-19 pandemic.<sup>42</sup> As Mr. Miller described in his direct testimony, PAWC has only collected very limited information on how COVID-19 has affected its residential customers.<sup>43</sup> 37,150 residential customers were eligible for termination as of May 2020 – an increase from 30,599 customers who were eligible for termination in May 2019.<sup>44</sup> By October 2020, that number grew to 52,724 – *representing a 63% increase in residential consumers eligible for termination year*

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<sup>39</sup> PAWC Main Brief at 58-59.

<sup>40</sup> Id. at 59.

<sup>41</sup> Id.

<sup>42</sup> Id. at 27-28.

<sup>43</sup> Id. at 27, citing CAUSE-PA St. 1 at 42: 13-17.

<sup>44</sup> Id.

*over year.*<sup>45</sup> These are shocking figures, and show quite clearly that the pandemic has had a profound impact on the ability of residential consumers to afford PAWC's rates for basic water and wastewater services to their homes.

While CAUSE-PA appreciates the temporary measures that PAWC has agreed to in light of the COVID-19 pandemic, there is no basis for PAWC's claim that it is providing "reasonable" assistance to customers during the pendency of the pandemic or that a third-party needs assessment is unnecessary as a result of the same. As explained in greater detail in CAUSE-PA's Main Brief, without an unbiased evaluation about the full scope and effect of the pandemic on PAWC's service territory, it becomes difficult for PAWC to accurately gauge whether its additional assistance measures are sufficient to meet the substantial and increasing needs that have arisen as a result of COVID-19.<sup>46</sup> By refusing to adequately analyze the effects that COVID-19 has had on its service territory and customers, PAWC fails to appreciate the extreme nature of the pandemic and the full toll that it has taken on its customers. During the Public Input Hearings conducted in this matter, numerous PAWC customers testified as to their ongoing struggles to afford their bills and in opposition to PAWC's proposed rate increases. With rates of daily new cases of COVID-19 continuing to increase throughout Pennsylvania, it is essential that PAWC is provided with an unbiased assessment of needs within the communities it serves.

Notably, the fact that PAWC's service territory encompasses a wide and varied geographic region is not a reason to forego an analysis – if anything, it is a reason why PAWC must pursue such an assessment. It is critical that PAWC know and understand the communities it serves –

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<sup>45</sup> PAWC Main Brief at 27, citing Public Utility Service Termination Proclamation of Disaster Emergency – COVID-19, PUC Docket No. M-2020-3019244, Response of PAWC to the PUC's Request for Data (response filed October 15, 2020).

<sup>46</sup> PAWC Main Brief at 27-28.

especially at a time when so many of those it serves are hurting in such a deep and profound manner. As Mr. Miller explained in his surrebuttal testimony, while this assessment may require various complex dimensions to fully understand the impact of COVID-19 in various geographies and communities, the resulting analysis is critical to determining whether an increase in the cost of essential service is just and reasonable.<sup>47</sup> Indeed, it is precisely because of the sprawling and diverse nature of PAWC's service territory that an unbiased assessment of community need is instrumental in determining whether PAWC's customer assistance measures are adequate to protect customers, especially low income customers, from the deep economic repercussions of the pandemic. As such, ALJ Johnson and the Commission should direct PAWC to conduct a third-party needs assessment which analyzes the effects of COVID-19 on PAWC's service territory and its customers, especially its low income customers. Based on this needs assessment, PAWC should be required to propose aggressive mitigation efforts so that customers can continue to access safe, affordable, and uninterrupted water and wastewater services crucial to keeping families safe and combating the continued spread of the pandemic.<sup>48</sup>

## **V. LOW INCOME CUSTOMER ASSISTANCE**

### **A. H2O Discount Program Design**

#### ***1. H2O Discount Program Design – Discount Program Structure***

In its Main Brief, PAWC noted that CAUSE-PA expert witness Mr. Miller and OCA expert witness Roger Colton recommended that PAWC transition its H2O bill discount program to a tiered discount or percentage of income payment (PIP) structure, rather than a flat percentage discount.<sup>49</sup> Similarly, PAWC noted that CEO expert witness Eugene M. Brady recommended that

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<sup>47</sup> CAUSE-PA Main Brief at 23, citing CAUSE-PA St. 1-SR at 9: 8-11.

<sup>48</sup> See also PAWC Main Brief at 21-22.

<sup>49</sup> PAWC Main Brief at 60.

PAWC increase its H2O bill discount for water services to 90% of the service charge and 15% of the usage charge.<sup>50</sup> Despite these myriad recommendations, PAWC rejected changing its H2O bill discount structure – noting, with little explanation, that it was “unable to implement a tiered discount program.”<sup>51</sup> PAWC contends that it currently does not have the information that would be needed to incorporate a tiered bill discount into its bill analysis.<sup>52</sup> PAWC further claims that it currently does not have a way to ask participants to update their income information or a way at present to “maintain adequate information to categorize customers into tiers.”<sup>53</sup> PAWC characterizes Mr. Miller’s and Mr. Colton’s recommendations that PAWC transition its H2O discount to a tiered discount structure as a “preference” and incorrectly opines that neither witness has demonstrated that PAWC’s current discount structure is not adequate or reasonable.<sup>54</sup> As explained at length in CAUSE-PA’s Main Brief – and as evidenced by the lack of enrollment and disproportionate termination rate of low income customers – PAWC’s current discount structure is inequitable, inadequate, unjust, and unreasonable, and fails to ensure that low income consumers can maintain services to their home.<sup>55</sup> Thus, the program must be substantially reformed to ensure that all consumers in PAWC’s service territory can access running water in their homes.

It is important to first be clear that Mr. Miller’s recommendation that PAWC transition its H2O bill discount to a percentage of income program structure is *not simply a “preference.”* Tying discount levels to a customer’s ability to pay will allow the program to target a consistent level of

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<sup>50</sup> Id. at 61.

<sup>51</sup> Id.

<sup>52</sup> Id.

<sup>53</sup> Id.

<sup>54</sup> Id.

<sup>55</sup> CAUSE-PA Main Brief at 15, 19, 33-64.

affordability for both customers at higher usage levels and those at lower income levels.<sup>56</sup> Mr. Miller's recommendation that PAWC implement a PIP design is critical to improving affordability for low income customers who already face steep water and wastewater PAWC bills, and to redressing inequities in the distribution of benefits across income tiers.<sup>57</sup> As described more fully in CAUSE-PA's Main Brief, many H2O bill discount participants already face significant water and wastewater burdens, even at current rates.<sup>58</sup> Mr. Miller provided extensive analysis and data showing that many H2O bill discount participants, especially those with household incomes at or below 50% FPL, face water and wastewater burdens in excess of 4.5% - a percentage which is generally considered to be the maximum affordability burden.<sup>59</sup> An H2O participant with a 4-person household and income at 50% FPL (with average usage rates) has a combined water and wastewater burden of 8.4% at current rates.<sup>60</sup> At proposed rate, the same household's combined water and wastewater burden will increase to 9.4% – even assuming the slightly improved discount PAWC proposes in its filings.<sup>61</sup>

Equitable distribution of benefits to achieve a consistent and acceptable level of affordability is not a “preference;” it is a critically important aspect of a just and reasonable assistance program. PAWC's current discount structure fails to equitably target assistance to provide consistent levels of affordability to customers with the lowest incomes and/or customers with larger families and correspondingly higher usage levels.<sup>62</sup> As more fully discussed in

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<sup>56</sup> CAUSE-PA St. 1 at 38, 64.

<sup>57</sup> Id.

<sup>58</sup> CAUSE-PA Main Brief at 34.

<sup>59</sup> Id., citing CAUSE-PA St. 1 at 34: 1-8; 35: 1-2.

<sup>60</sup> CAUSE-PA Main Brief at 35, citing CAUSE-PA St. 1 at 34-35, T. 9 & T. 10.

<sup>61</sup> CAUSE-PA Main Brief at 35, citing CAUSE-PA St. 1 at 39, T. 12 & T.13.

<sup>62</sup> CAUSE-PA Main Brief at 36, citing CAUSE-PA St. 1 at 37: 7-9; see also CAUSE-PA Main Brief at 36 (describing how, according to Mr. Miller, PAWC's H2O customers have significantly higher usage levels compared

CAUSE-PA’s Main Brief, the wide discrepancies in affordability levels amongst H2O participants is attributed to the fact that the discount offered to H2O participants is the same regardless of whether a customer has a household income at 0% FPL, 150% FPL, or somewhere in between.<sup>63</sup> In CAUSE-PA Exhibits MM-1 to MM-6, Mr. Miller showed in detail how the application of a flat discount under PAWC’s existing H2O discount structure produces uneven and ultimately inequitably results.<sup>64</sup> As described more fully in Table 3 of CAUSE-PA’s Main Brief, H2O customers at the lowest end of the poverty scale and/or the highest usage level face combined water and wastewater burdens in excess of 10 and 20% of total household income for water and wastewater services alone - far exceeding the widely accepted 4.5% maximum affordability burden for water and wastewater services.<sup>65</sup> As a whole, customers with lower household incomes and higher usage levels must devote a greater portion of their monthly incomes to pay their PAWC bills compared to families with higher monthly incomes. As Mr. Miler explains, this leaves “very little income to pay for rent, food, medicine, energy, and other critical needs that a household must have in order to meet even the most basic human needs.”<sup>66</sup>

In the face of the extensive analyses provided about the continued unaffordability for H2O participants, PAWC’s characterization of Mr. Miller’s critical, necessary improvements to the H2O discount structure as simply a “preference” is beyond disconcerting. This cavalier attitude toward achieving equitable levels of affordability for its low income customers shows that PAWC

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to residential customers as a whole, which is likely attributed to a number of factors, including that low income households are more likely to live in older homes which are in need for repairs to plumbing and lack water efficiency devices.).

<sup>63</sup> See CAUSE-PA Main Brief at 37, citing CAUSE-PA St. 1 at 59: 10-12.

<sup>64</sup> See CAUSE-PA Main Brief at 38; CAUSE-PA Main Brief, Appendix D.

<sup>65</sup> CAUSE-PA Main Brief at 38-39, citing CAUSE-PA Exhibits MM-1(b) & MM-3(b).

<sup>66</sup> CAUSE-PA Main Brief at 39, citing CAUSE-PA St. 1 at 28: 5-8.

does not properly grasp the struggles that its low income customers face in affording and maintaining critical services – a struggle that has become all the more pronounced as a result of COVID-19.<sup>67</sup>

In its Main Brief, CAUSE-PA extensively addressed the arguments put forth by PAWC's expert witness Ashely E. Everette that a PIP was infeasible for PAWC given 1) PAWC and Dollar Energy Fund (DEF) do not verify income data from all H2O participants; 2) PAWC does not have the mechanism in place to require customers to provide income information; and 3) PAWC does not have adequate information to correctly categorize low income customers into tiers.<sup>68</sup> As Mr. Miller explained, it is not infeasible for PAWC to implement a PIP, even if it requires revisions to its policies and procedures related to income collection.<sup>69</sup> Indeed, DEF itself administers a number of other utility assistance programs that are structured as a PIP.<sup>70</sup> In fact, PAWC already requires detailed income information for applicants to its hardship fund grant assistance program,<sup>71</sup> so it is certainly not a new concept for PAWC to begin collecting specific income information from applicants to its bill discount program.

In recognition of limitations in PAWC's policies, procedures, and information technology, Mr. Miller recommended that PAWC be directed to implement a PIP within 2 years of a final order in this case if no rate increase is approved, or no later than the effective date of PAWC's 2022 rate increase if a rate increase is approved.<sup>72</sup> Hence, while CAUSE-PA recognizes that certain changes

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<sup>67</sup> See id. at 39-40.

<sup>68</sup> CAUSE-PA Main Brief at 41-42, citing PAWC St. 4-R at 14: 11-12; 15: 1-6.

<sup>69</sup> CAUSE-PA Main Brief at 42, citing CAUSE-PA St. 1-SR at 13: 7-11. Indeed, DEF, PAWC's H2O program administrator, also administers other Pennsylvania CAPs that utilize a PIP model. CAUSE-PA St. 1-SR at 13: 12-15.

<sup>70</sup> See CAUSE-PA Main Brief at 42.

<sup>71</sup> See CAUSE-PA St. 1 at 45: 10-13 (discussing income documentation requirements of the Hardship Fund and indicating that such documentation requirements should be simplified as a result of COVID-19).

<sup>72</sup> CAUSE-PA Main Brief at 40, citing CAUSE-PA St. 1 at 65: 2-6.



to PAWC's policies and procedures will need to be implemented in order to implement a PIP, inadequacies in PAWC's current operations should not act as a barrier to making critical changes to improve affordability for H2O bill discount participants.

CAUSE-PA urges ALJ Johnson and the Commission to direct PAWC to develop and implement a percentage of income discount rate program that ties discount levels to customer's ability to pay.<sup>73</sup> This percentage of income program should target water affordability at 2, 2.5, and 3% of household income for customers with household income at 0-50, 51-100, and 101-150% FPL, respectively.<sup>74</sup> These program reforms are critically necessary to improve unacceptable levels of unaffordability and to remediate the inequitable distribution of benefits within PAWC's existing H2O bill discount program.

## **2. *H2O Discount Program Design – Arrearage Management***

In his direct testimony CAUSE-PA's expert witness Mr. Miller extensively described how the level of affordability achieved through PAWC's H2O program is substantially hampered by PAWC not offering program participants a way to address and catch up on arrears accrued prior to program entry.<sup>75</sup> Mr. Miller recommended that, upon entry into the H2O bill discount program, participants pre-program arrears should be frozen and should no longer accrue late fees or charges.<sup>76</sup> Participants should then have 1/36<sup>th</sup> of pre-program arrears forgiven for in-full payments while the customer is enrolled in the H2O bill discount program.<sup>77</sup> Mr. Miller recommended that PAWC be ordered to adopt and implement its arrearage forgiveness program no later than the

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<sup>73</sup> See CAUSE-PA Main Brief at 40.

<sup>74</sup> Id.

<sup>75</sup> CAUSE-PA Main Brief at 42, citing CAUSE-PA St. 1 at 60: 7-10.

<sup>76</sup> CAUSE-PA Main Brief at 44, citing CAUSE-PA St. 1 at 63: 13-19.

<sup>77</sup> Id.

effective date of its 2022 rate increase, or if the rate increase is denied, within two years of the entry of the final order in this matter.<sup>78</sup>

Pursuant to the Stipulation between PAWC and the Commission on Economic Opportunity (CEO) dated November 5, 2020 (PAWC and CEO Stipulation), PAWC has agreed that, no later than six months after a final order in this proceeding, it will present an arrearage management plan to the Commission for review and approval, which will be designed through a multi-party stakeholder consultative process, with the participation of the Commission's Bureau of Consumer Services (BCS).<sup>79</sup>

The terms of the Joint Stipulation between PAWC and CEO, while laudable, fail to establish any specific parameters for how arrearage management will be structured – or if and how H2O bill discount participants might earn forgiveness on their pre-program arrears. Moreover, the Stipulation fails to establish a timeline for when arrearage management for H2O bill discount participants will be implemented. As described in detail in CAUSE-PA's Main Brief, participants typically enter the bill discount program with substantial arrearage levels and continue to carry significantly higher arrears than residential customers as a whole.<sup>80</sup> Providing a small monthly discount without addressing prior unaffordable arrears that have built up over time does little to alleviate persistent payment trouble and prevent the further build-up of arrearages. Addressing arrears of H2O bill discount participants is critical not only to improving affordability for low income customer but also to improving bill payment behaviors and reducing uncollectible expenses.<sup>81</sup>

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<sup>78</sup> CAUSE-PA Main Brief at 45, citing CAUSE-PA St. 1 at 65: 1-6.

<sup>79</sup> PAWC Main Brief, citing to CEO Stipulation, ¶ 11.

<sup>80</sup> CAUSE-PA Main Brief at 42-43.

<sup>81</sup> CAUSE-PA Main Brief at 43, citing CAUSE-PA St. 1 at 61: 10; 62: 1-5.

As such, CAUSE-PA urges ALJ Johnson and the Commission to require PAWC to implement a comprehensive arrearage forgiveness program, so that H2O bill discount participants can earn forgiveness on debt accrued prior to entry in to the H2O bill discount program.<sup>82</sup> Upon entry into the H2O bill discount program, participants arrears should be frozen and should no longer accrue late fees or charges. Customers should have 1/36<sup>th</sup> of their pre-program arrears forgiven for each in-full payment made while the customer is enrolled in the H2O bill discount program.<sup>83</sup> Because of limitations in PAWC's current computer information system, PAWC should be directed to adopt and implement this arrearage forgiveness program no later than the effective date of its 2022 rate increase, or if the rate increase is denied, within two years of the entry of the final order in this case.<sup>84</sup>

In the event that ALJ Johnson and the Commission adopt the proposed language in the Stipulation between CEO and the Company related to arrearage management, PAWC should be directed to file its arrearage management plan with the Commission as a Petition to which interested parties can respond. In order to ensure that PAWC's arrearage management plan is appropriately designed to address broad unaffordability faced by PAWC low income customers, it is essential that interested parties are able to provide meaningful input into the design and implementation the arrearage management plan.

## **B. Hardship Fund**

In a Stipulation between PAWC and CEO dated November 5, 2020, the Company agreed to increase the annual contributions to its Hardship Fund from its current level of \$400,000 to

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<sup>82</sup> CAUSE-PA Main Brief at 44.

<sup>83</sup> Id.

<sup>84</sup> Id. at 44-45.

\$500,000 for water operations and from \$50,000 to \$100,000 for wastewater operations.<sup>85</sup>

CAUSE-PA supports paragraph 5 of the Stipulation between PAWC and CEO. As discussed more fully in CAUSE-PA's Main Brief, increased funding for hardship grants is critically necessary – especially in light of the economic devastation resulting from COVID-19.

Notwithstanding our support for this increase in funding, CAUSE-PA asserts that this proposed increase in funding alone will not adequately improve the reach of PAWC's hardship fund program – nor will it remediate the existing and widespread affordability challenges faced by tens of thousands of PAWC's residential consumers or meaningfully reduce the shocking increase in residential arrearages accrued through the pandemic.<sup>86</sup> As discussed below, in addition to the reforms to PAWC's bill discount program discussed above, critical improvements to PAWC's fundraising and outreach efforts for low income customers are needed in order for low income customers to be properly informed about and enrolled in PAWC's low income programming.<sup>87</sup>

### **C. Low Income Customer Outreach, Data Collection, and Reporting**

In its Main Brief, PAWC indicates that has accepted several of Mr. Miller's recommendations for data collection in its Stipulation with CEO.<sup>88</sup> However, not all of Mr. Miller's recommendations were included in the Stipulation and CAUSE-PA urges the Commission to adopt Mr. Miller's remaining recommendations in the final order in this case. In its Stipulation

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<sup>85</sup> PAWC and CEO Stipulation at 2, ¶ 5.

<sup>86</sup> See CAUSE-PA Main Brief at 49; see also id. at 33-64 (for low income customer assistance recommendations); Public Utility Service Termination Proclamation of Disaster Emergency – COVID-19, PUC Docket No. M-2020-3019244, Responses of PAWC to the PUC's Request for Data (filed October 15, 2020).

<sup>87</sup> See also id. at 50.

<sup>88</sup> PAWC Main Brief at 62-63.

with CEO,<sup>89</sup> PAWC has agreed to take several steps to improve its low income outreach and data collection and reporting, including:

- Establish a Low Income Advisory Group (LIAG) that meets quarterly and will include community based organizations, representative from the Commission's Bureau of Consumer Services, interested stakeholders and interested parties in this case;
- Expand community outreach to communities in need within its service territory, including developing a community outreach plan to target areas impacted by COVID-19 and coordinating with LIAG to target areas with significant need and educate and enroll customers at or below 50% FPL;
- Expand its outreach channels for seeking charitable contributions to its H2O Hardship Fund, including working with the LIAG to identify new sources of funding;
- Develop a process for program data collection and reporting to better count low income customers regardless of how income information is obtained;
- Enhance its training materials and call scripts to specify how customers indicating trouble paying or are seeking financial assistance will be directed to PAWC customer assistance programs;
- Develop process for program data collection and reporting to better count low income customers, as follows:
  - Note accounts as low income whenever it received income information indicating a customer is below 150% FPL, including requests for payment arrangements and applications for low income programs;
  - Begin tracking the following metrics:
    - The reason H2O customers leave the program,
    - Consistent monthly data on low income arrearages, low income terminations by rate zone,
    - The Number of "Confirmed low income customers" for whom PAWC has obtained income information indicating the customer is below 150% FPL;

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<sup>89</sup> See Stipulation between CEO and PAWC.

- Utilize the data collected to analyze accessibility and reasons for customers leaving H2O and share this information with the parties in the LIAG to evaluate ways to improve accessibility to the H2O program.

CAUSE-PA strongly supports this section of the Stipulated agreement between PAWC and CEO, and urges the Commission to include these terms in any final order in this case. These terms largely follow the recommendations made by Mr. Miller in his direct testimony and are vital to measuring the needs, budgets, and goals of its low income programs.<sup>90</sup> They will also help PAWC in determining how to target outreach and how to connect customers in need with the appropriate source of assistance.<sup>91</sup>

Mr. Miller also made recommendations that are not included in the Stipulation, but should nevertheless be approved. Specifically, Mr. Miller recommended that PAWC periodically analyze the number of low income customers estimated to reside in PAWC's service territory.<sup>92</sup> Mr. Miller further recommended that PAWC break down this count of estimated low income consumers by rate zone and, if possible, census tract, to help better target identified needs within its service territory.<sup>93</sup> In rebuttal testimony, PAWC acknowledges the importance of tracking estimated low income customer count by census data and that it lacks the necessary data to evaluate the number of low income households in its service territory.<sup>94</sup> As Mr. Miller explained, monitoring the estimated low income count in its service territory is crucial to determining potential need for customer assistance among PAWC customers and would provide a more accurate portrayal of low

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<sup>90</sup> See CAUSE-PA St. 1 at 50.

<sup>91</sup> Id.

<sup>92</sup> CAUSE-PA St. 1 at 52, 69.

<sup>93</sup> Id.

<sup>94</sup> CAUSE-PA St. 1 at 11-12; CAUSE-PA Main Brief at 60; PAWC St. 1-R at 63, 73.

income population distribution within its service territory, thus allowing PAWC the ability to target outreach efforts more accurately to areas with the greatest unmet need.<sup>95</sup> As such, it is important that the Commission include this recommendation in its final Order, in addition to the terms stipulated in the agreement between PAWC and CEO.

#### **D. Comprehensive Universal Service Plan**

PAWC does not currently have a comprehensive Universal Service Plan (USP) for its H2O program that explains the benefits, eligibility, and rules for each low income program offered by PAWC.<sup>96</sup> In his direct testimony in this matter, Mr. Miller recommended that PAWC file a Petition with the Commission for review and approval of a comprehensive Universal Service Plan (USP) for the H2O program within one year of the effective date of rates in this proceeding.<sup>97</sup> He further recommended that the Company subsequently file for revisions of its USP every five years thereafter, consistent with the requirements for regulated gas and electric utilities in Pennsylvania.<sup>98</sup> In its Main Brief, PAWC opposes Mr. Miller's recommendations that the Company be instructed to file a Petition with the Commission for review and approval of a Universal Service Plan (USP) for the H2O program within one year of the effective date of rates in this proceeding.<sup>99</sup> PAWC erroneously claims that Mr. Miller's recommendation "elevates form over substance."<sup>100</sup> PAWC claims that it already maintains its low income program information in an easily accessible manner and that developing USPs are time intensive and require extensive

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<sup>95</sup> See Id.; CAUSE-PA Main Brief at 59-60.

<sup>96</sup> CAUSE-PA Main Brief at 62, citing CAUSE-PA St. 1 at 48: 4-12.

<sup>97</sup> CAUSE-PA St. 1 at 48-49.

<sup>98</sup> Id.

<sup>99</sup> PAWC Main Brief at 63, citing CAUSE-PA St. 1 at pp. 48-49.

<sup>100</sup> PAWC Main Brief at 63.

collaboration between the Company and stakeholders.<sup>101</sup> PAWC asserts that refining its low income programs can be done through the low income advisory group.<sup>102</sup>

Requiring PAWC to develop a comprehensive USP is hardly elevating form over substance. To the contrary, creation of a USP brings much needed clarity, transparency, and accountability to PAWC's rate-payer supported programs which, to date, have been grossly undersubscribed – reaching just 3.3% of residential consumers.<sup>103</sup> As more fully explained in CAUSE-PA's Main Brief, a comprehensive USP allows for “changes and improvements to a utilities' low income programs outside of rate case filings to more quickly address areas of concern and emerging need.”<sup>104</sup> Revising its low income policies and procedures solely with input from the low income advisory group is wholly inadequately as it does not require a formal process for review and approval through the Commission, or input from interested parties and stakeholders outside of the low income advisory group. PAWC is right: Developing a comprehensive USP requires input from utilities, parties, and stakeholders. This is a positive, not a negative, and will help to bring critical transparency to PAWC's operation of ratepayer funded assistance programs. CAUSE-PA's expert witness Mitchell Miller disagreed in his surrebuttal testimony that developing a USP would be unduly burdensome, given that ample USP models exist from other Pennsylvania utilities which can be drawn upon as examples.<sup>105</sup>

Moreover, it is hardly form over substance to require PAWC to provide the rules and guidelines governing its low income programs in a transparent manner that is easily accessible not

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<sup>101</sup> Id.

<sup>102</sup> Id. at 63-64.

<sup>103</sup> CAUSE-PA St. 1 at 33, T.8.

<sup>104</sup> CAUSE-PA Main Brief at 62, citing CAUSE-PA St. 1 at 48: 8-10.

<sup>105</sup> CAUSE-PA Main Brief at 62-63, citing CAUSE-PA St. 1-SR at 20: 1-12.



only to parties, stakeholders, and the Commission – *but also to PAWC’s customers*. As OCA’s expert witness Roger Colton described in his direct testimony, more than two thousand customers were identified as eligible but not properly enrolled in the H2O discount program.<sup>106</sup> Similarly, Mr. Miller estimated that 123,162 out of 615,811 PAWC’s customers likely had incomes at or below 150% FPL as of May 2020.<sup>107</sup> Comparatively, only a very small percent of PAWC’s customers have been able to enroll in the H2O program.<sup>108</sup> Given the historically low enrollment rate in the H2O program, and the identified enrollment issues, it is essential that PAWC improve the accessibility of the H2O program and the transparency of the H2O program rules so that customers can learn about and successfully enroll in crucial low income assistance programs.

During the Public Input Hearings in this matter, numerous PAWC customers raised concerns about the high cost of their PAWC bills. While PAWC indicated to many of these customers that it would contact them individually to determine if they were eligible for customer assistance, customers should not have to attend public input hearings in order to learn about and access the H2O program. Instead, PAWC’s ratepayer supported low income programs should be clear, transparent, and subject to periodic review and improvement.<sup>109</sup> It is essential that customers have ready access to information about the guidelines and eligibility requirements of PAWC’s low income programming. As such, PAWC should be required to develop a comprehensive USP for review and approval by the Commission.<sup>110</sup> As described in CAUSE-PA’s Main Brief, the Plan

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<sup>106</sup> See OCA St. 4 at 5: 7-16.

<sup>107</sup> CAUSE-PA St. 1 at 14: 1-7. See also *id.* at 15-16 (as Mr. Miller explains, his estimate of low income customers in PAWC’s service territory is conservative, given the confirmed and estimated low income customer counts provided by electric and gas utilities, and the continued economic disruption caused by COVID-19).

<sup>108</sup> See CAUSE-PA St. 1-SR at 19: 6-12.

<sup>109</sup> CAUSE-PA Main Brief at 63.

<sup>110</sup> *Id.*, citing CAUSE-PA St. 1-SR at 20: 1-12.

should be drafted in consultation with interested parties and stakeholders and should memorialize the guidelines, benefits, and eligibility requirements of PAWC's low income programs – including any modifications as a result of the present case.<sup>111</sup> PAWC should be required to file a Petition for review and approval of its USP with the Commission within one year of the effective date of rates in this proceeding, and be required to Petition for approval of any Plan revisions at least every five years.<sup>112</sup>

#### **E. Winter Shut-Off Moratorium**

In his direct testimony, CAUSE-PA's expert witness Mr. Miller recommended that PAWC (1) begin to track its low income customers who are protected from termination as a result of the winter moratorium; and (2) extend the protections from termination offered pursuant to the winter moratorium to all PAWC water and wastewater customers with household incomes at or below 250% FPL, rather than just to customers using water for heating with incomes at or below 250% FPL.<sup>113</sup>

The Company agreed to begin tracking low customers who were protected from termination as a result of the winter moratorium as provided for under 52 Pa. Code §§ 56.100(a) and 56.251.<sup>114</sup> However, in its Main Brief, PAWC opposes extending the winter moratorium to all water and wastewater customers with incomes at or below 250% FPL, as is not required by Section 1406(e)(1) or the Commission.<sup>115</sup>

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<sup>111</sup> CAUSE-PA Main Brief at 63, citing CAUSE-PA St. 1 at 48: 14-15.

<sup>112</sup> CAUSE-PA Main Brief at 63, citing CAUSE-PA St. 1 at 48: 21-23.

<sup>113</sup> See CAUSE-PA St. 1 at 66-67.

<sup>114</sup> Joint Petition at ¶ 45; PAWC Main Brief at 64.

<sup>115</sup> PAWC Main Brief at 64.

A policy or procedure does not need to be explicitly proscribed in statute for it to be good public policy – essential to ensuring that terms and conditions of service are just and reasonable, and in accordance with the public interest. In its Main Brief, CAUSE-PA extensively discussed the necessity of extending PAWC’s winter shut-off moratorium to all waster and wastewater customers with household incomes at or below 250% FPL – and the severe consequences to those who face termination of water and wastewater service simply because they cannot afford to pay.<sup>116</sup> For the reasons stated therein and given that waster and wastewater services are critical in the winter months for customers to remain safely in their homes, CAUSE-PA urges ALJ Johnson and the Commission to direct that PAWC extend its winter moratorium protections not only to customers using water for heating but rather to all water and wastewater customers with household incomes at or below 250% FPL.<sup>117</sup>

## **VI. SERVICE QUALITY AND CUSTOMER SERVICE ISSUES**

On November 18, 2020, the Office of Consumer Advocate filed an abridged Main Brief in this matter. In its abridged Main Brief, OCA set forth extensive analysis and recommendations related to critical improvements to PAWC’s service quality and customer services.<sup>118</sup> CAUSE-PA strongly supports the positions set forth in OCA’s revised Main Brief related to PAWC’s service quality and customer service. In addition to its broad support for these positions, CAUSE-PA is strongly supportive of OCA’s position related to training on termination of service. As OCA explains in its abridged Main Brief, PAWC does not train personnel to detect conditions that would result in danger or harm to those at a residence if water service is

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<sup>116</sup> CAUSE-PA Main Brief at 64-65.

<sup>117</sup> Id. at 65.

<sup>118</sup> See OCA abridged Main Brief at 90-91.

terminated.<sup>119</sup> Without proper training, vulnerable customers who rely on essential water and wastewater services will face dangers to their health and safety.<sup>120</sup> In line with OCA's recommendation, PAWC should revise its training documents to expressly include situations in which water and wastewater service termination would result in a danger or harm to a customer's residence.<sup>121</sup> Moreover, where field personnel who observe unusual conditions at a residence which raise questions as to whether termination would adversely impact the health and safety of the resident's occupants, the safety of a PAWC employee, or the public, training materials should explicitly empower PAWC's employees to use their discretion to withdraw and seek guidance from management before performing a termination.<sup>122</sup> In sum, CAUSE-PA urges ALJ Johnson and the Commission to require PAWC to revise its policies, procedures, and associated training materials in line with OCA's recommendations set forth in Section XV of OCA's abridged Main Brief related to service quality and customer service issues.

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<sup>119</sup> Id. at 102.

<sup>120</sup> Id.

<sup>121</sup> Id.

<sup>122</sup> Id. at 102-103.

## VII. CONCLUSION

For the reason set forth above, as well as in CAUSE-PA's Main Brief and the testimony of CAUSE-PA's expert witnesses, CAUSE-PA urges the Honorable Administrative Law Judge Conrad A. Johnson and the Pennsylvania Utilities Commission to deny PAWC's proposed rate increase in its entirety and to take immediate steps to remediate substantial levels of unaffordability within PAWC's low income assistance programs. Moreover, and in the event that the Commission allows any rate increase, CAUSE-PA urges ALJ Johnson and the Commission to take necessary steps detailed herein to ensure that low income consumers are protected from the full impact of any rate increase during this unprecedented and uncertain time.

Respectfully submitted,

**PENNSYLVANIA UTILITY LAW PROJECT**

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