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November 10, 2020

via Electronic Mail

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Pennsylvania Public Utility Commission v. Pennsylvania-American Water
Company
Docket No. R-2020-3019369

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Commission on Economic Opportunity's Main Brief in the above-referenced matter.

Copies of this letter and the Brief are being served on the Administrative Law Judge and the parties of record as evidenced in the attached Certificate of Service. 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.

Respectfully,

S/Joseph L. Vullo
Joseph L. Vullo

JLV/jar
encls.

cc: Certificate of Service

PENNSYLVANIA PUBLIC UTILITY COMMISSION V. PENNSYLVANIA-AMERICAN
WATER COMPANY

DOCKET NUMBER: R-2020-3019369

BRIEF OF INTERVENOR
COMMISSION ON ECONOMIC OPPORTUNITY

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I. INTRODUCTION AND OVERVIEW

A. Description of Company

The Pennsylvania American Water Company serves customers located in 37 counties across Pennsylvania. As of December 31, 2019, the Company provides water service to approximately 665,829 customers. The Company also provides wastewater service to approximately 74,354 customers in portions of Adams, Allegheny, Beaver, Berks, Chester, Clarion, Cumberland, Lackawanna, McKean, Monroe, Northumberland, Pike, Washington, and York Counties.

The Commission on Economic Opportunity (CEO) is a non-profit organization serving the low-income and elderly in Luzerne County, PA. In a typical year, the Commission serves more than 25,000 Luzerne County residents, of which 98% are at or below 150% of the federal poverty level. It is part of our responsibility to CEO's constituency to advocate for their interests in regulatory proceedings and address issues that will impact upon low-income ratepayers.

B. Procedural History

CEO intervened in this case through its Petition to Intervene filed on May 18, 2020. CEO was granted status as an active party at the June 4, 2020 Prehearing Conference. CEO participated in all other prehearing conferences, public input hearings and evidentiary hearings. CEO submitted the direct testimony of Eugene M. Brady, CEO Statement No. 1, and corresponding verification, and those items were admitted into evidence at the evidentiary hearings. CEO will defer to the other parties and accept the procedural history set forth by those parties.

C. Overview of PAWC's Filing

CEO sets forth the portion of the PAWC filing that corresponds to the issues CEO will address in this brief

PAWC proposes a multi-year increase to its water and wastewater rates pursuant to 66 Pa. C.S. § 1308(d). PAWC proposes to increase the Company's total annual operating revenues by \$138.6 million over two years. Specifically, PAWC proposes to increase rates by approximately \$92.4 million, or 12.9%, in 2021 (Rate Year 1) and \$46.2 million, or 5.8%, in 2022 (Rate Year 2). If approved, 67.38% of the proposed \$138.6 million increase will come from increased residential rates, this amounts to an approximately \$93.4 million increase for the residential class. **(CAUSE Statement No 1, p. 6).**

Under the Company's proposal the impact on a typical residential water customer using an average of 3,458 gallon per month will vary widely across rate zones. Over the two year rate period the cumulative increases in a typical residential customer's rates will be as follows: Rate Zone 1-20.%; Zone 2-48.7%; Zone 3-109.5%; Zone 4-53.6% and Zone 5-53.6%. **(CAUSE Statement No 1, p. 21).**

Part of the residential water customer's increase will be due to an increase of the monthly service charge, from \$16.50 to \$18 in year one and to \$18.50 in year two. **(CEO Statement No. 1, p. 5).**

D. Overview of the Non-Unanimous Settlement

CEO opposes the non-unanimous settlement in that it provides for an increase in rates. CEO sets forth its position on a rate increase below.

II. SUMMARY OF ARGUMENT

CEO has intervened in numerous rate cases, including prior rate cases filed by this Company. CEO has never taken a position in any prior rate case as to whether a requested rate increase should be granted. However, in this case CEO is contending that the Company's requests for rate increases should be denied. CEO takes this position because of the COVID-19 pandemic and the impact it has had. That impact is continuing, and, at the time of this submission, cases are on the rise in the United States and in this Commonwealth, with all indications that the virus and its impact will continue for some time. A large part of the impact has been economic and low-income individuals have been hit particularly hard. The pandemic is an unusual event, hopefully a once in a lifetime event, and as such should compel the Commission to take the unusual step of denying these requests for rate increases.

Should the rate increases be granted the Company should be required to provide measures that would allow its low-income ratepayers the ability to lessen their utility costs through conservation. In particular, the Company's request to increase its fixed monthly residential customer charge should be denied as such an increase in a fixed charge would lessen a low-income ratepayer's ability to conserve energy and therefore reduce their bill. Additionally, should a rate increase be granted there should be increases in discounts available for low-income customers and increased funding in the Company's hardship funding. Should rate increases be granted, these additional measures that would allow a low-income customer to conserve energy and lessen their bill would be necessary to make any rate increase 'just and reasonable.'

III. OVERALL POSITION ON RATE INCREASE

As indicated above, CEO opposes any rate increase in this case. Section 1301(a) provides in relevant part that:

Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.

66 Pa. C.S. §1301(a). Generally, the requirement that utility rates be just and reasonable mandates that proposed rates do not unreasonably benefit the utility's investors at expense of utility ratepayers.

Popowsky v. Pennsylvania Public Utility Com'n, 669 A.2d 1029, Cmwlth.1995, appeal granted in part 680 A.2d 1165, 545 Pa. 657, reversed in part 706 A.2d 1197, 550 Pa. 449. The Commission has broad discretion in determining whether rates are reasonable. **Popowsky v. Pennsylvania Public Utility Com'n**, 683 A.2d 958 (Cmwlth.1996).

CEO contends that any rate increase would not be just and reasonable at this time due to the drastic economic impact of the COVID-19 pandemic. As of the week ending October 31, 2020, the Pennsylvania Department of Labor statistics show that 2,271,2371 Pennsylvanians have filed initial claims for unemployment compensation benefits since March 15, 2020.¹ As things stand now, the ongoing course of this virus and its corresponding economic impacts will certainly continue for some time.

In its September 2019 Order in regard to the **2019 Amendments to Policy Statement on Customer Assistance Program, 52 Ps Code §§69.261-69.267 (M-2019-30112599)**, the Commission reduced the maximum energy burden under a utility's Customer Assistance Program. The Commission found that the percentage of income spent on energy for low-income customers was too high and thus the Commission reduced the maximum energy burden for low-income customers under CAP. It is important to note that the reduction in the maximum energy burden was based on economic data that predated the COVID-19 pandemic and its resulting economic impacts. Its logical to conclude that the energy burden for residential ratepayers has increased with the loss of

¹ <https://www.uc.pa.gov/COVID-19/Pages/UC-Claim-Statistics.aspx>

income due to the pandemic and would only be exacerbated for the Company's residential customers should a rate increase be granted in this case.

As indicated above, the proposed rate increases represent significant increases. Under the Company's proposal the impact on a typical residential water customer using an average of 3,458 gallon per month will vary widely across rate zones. Over the two year rate period the cumulative increases in a typical residential customer's rates will be as follows: Rate Zone 1-20.%; Zone 2-48.7%; Zone 3-109.5%; Zone 4-53.6% and Zone 5-53.6%. **(CAUSE Statement No 1, p. 21)**. These increases will have dramatic consequences for ratepayers, particularly low-income ratepayers. The unemployment, lost wages, reduced hours and overall disruption of people's economic lives have caused great suffering and it is simply astounding that this added burden may be imposed upon vulnerable customers at this time.

Further, it is difficult to determine how this proposed rate increase will impact the Company's customers because the Company does not know how many low-income customers it serves. The Company knows only that as of May 2020 there were 22,608 low-income customers enrolled in its low-income discount programs; beyond that, the number of low-income customers can only be estimated. CAUSE witness Mitchell Miller estimates that there are 123,162 low-income customers served by the Company. **(CAUSE Statement No 1, p. 14)**. Increases ranging from 20% to a doubling of bills will crush low-income ratepayers who already lack the resources, or reserves, to help them through these difficult economic times.

IV. PAWC'S PROPOSED MULTI-YEAR RATE PLAN

As indicated above CEO opposes any rate increase. Should a rate increase be granted a multi-year rate plan would be preferable to a larger rate increase that takes place at one time.

However, the rate of COVID-19 cases have been increasing and, even when over, the economic impacts will be lasting well into the second year of the Company's proposed plan.

V THROUGH XI

CEO will not be briefing the issues set forth in Sections V through XI and its subparts but reserves the right to address those issues in a Reply Brief.

XII. RATE STRUCTURE AND RATE DESIGN

CEO will address only the rate design issue set forth below and reserves the right to address the other issues regarding rate structure and design in its Reply Brief.

C. Rate Design Proposals

Part of the residential water customer's increase will be due to an increase of the monthly service charge, from \$16.50 to \$18 in year one and to \$18.50 in year two. CEO opposes any increase to the fixed monthly customer charge. The more a consumer's bill is comprised of fixed charges, the less motive, and opportunity, the consumer has to reduce consumption and therefore save money. One of the only defenses a family, particularly a poor family, has against increases in energy costs is to conserve – lower the thermostat, seal air leaks, change filters regularly, add more insulation, get a more efficient heating unit, etc. The Company's proposal to increase that fixed cost would negatively impact a customer's motive to conserve and the ability to save money. With the economic devastation caused by COVID-19 a rate increase in this case would create hardship on a large number of the Company's ratepayers; such a hardship would be compounded by a rate design-increasing the fixed monthly charge-that would take away a person's ability to reduce their bill.

XIII. RECOMMENDATIONS FOR ACTIONS RELATED TO THE COVID-19 EMERGENCY

CEO will not be addressing issues regarding recommendations for actions related to COVID-19 in its Main Brief but reserves the right to do so in a Reply Brief.

XIV. LOW-INCOME CUSTOMER ASSISTANCE

A. H2O Discount Program Design

Under the Company's current program water service residential customers who are low-income (150% federal poverty level) receive an 85% reduction in their monthly service charge. Should a rate increase be granted CEO is proposing, based upon the anticipated increase in rates and increase in the monthly customer charge, that the discount offered to eligible low-income customers be increased to 90%. This proposal would be contingent upon the adoption of CEO's proposal to increase annual hardship funding. Without that increase in hardship funding, the discount rate offered to low-income customers should be higher because it would represent the only aid to low-income customers to deal with the increase in rates and increased fixed monthly charge.

The Company is also proposing a 10% discount on a residential water customer's volumetric charge. Should the rate increase be granted CEO is recommending a 15% discount on the volumetric charge to lessen the impact of any rate increase on low-income customers.

B. Hardship Fund

CEO is proposing an increase in funding for the Company's hardship grant program. As a result of the 2017 rate case the Company increased the Company's annual contribution to its hardship grant program from \$300,000 to \$400,000.

The fund is comprised of customer and employee contributions as well as a contribution from the Company. The contribution from the Company is set at \$400,000 annually and CEO believes those funds are exhausted before the end of the program years demonstrating that there is a need for those funds that is not being met. This shortfall will be compounded by any rate increase granted here and by the COVID-19 pandemic and its impact on the economy. Even under the existing rates an increase in hardship funds is needed and an increase in rates in this economic climate will only further justify the need to increase funding.

CEO is recommending that the Company increase its annual contribution to the hardship fund to \$500,000 and that those funds be distributed based upon the percentage of low-income customers in each of the Company's service territories or county.

XIV C- through E, XV, XVI

CEO will not be addressing the issues in sections XIV C- through E, XV, XVI but reserves the right to address those issues in a Reply Brief.

XVII. CONCLUSION

Based upon the above CEO is recommending the following:

1. That the Company's requests for rate increases be denied;
2. That should the rate increase be granted then the Company should be required to increase its annual contribution to the hardship fund to \$500,000;
3. That should the rate increase be granted then the discount offered to eligible low-income water customers on their monthly service charge be increased to 90%;
4. That the Company's monthly service charge remain at \$16.50;

5. That the Company distribute its hardship funds based upon the percentage of low-income customers within the service region or county;
6. That should the rate increase be granted then the Company should provide a 15% discount on a water customer's volumetric charges.

Respectfully submitted,

s/JOSEPH L. VULLO, ESQUIRE

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