



December 22, 2020

VIA E-File

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, Filing Room
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.
Docket No. R-2020-3018835
Exceptions of CAUSE-PA

Dear Secretary Chiavetta,

Enclosed, please find the **Exceptions 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.

Respectfully,

A handwritten signature in black ink that reads "John W. Sweet". The signature is written in a cursive style with a horizontal line above the name.

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CC: *Certificate of Service*
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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2020-3018835
	:	
Columbia Gas of Pennsylvania, Inc.	:	

Certificate of Service

I hereby certify that I have this day served copies of the **Exceptions 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 and consistent with the Commission’s March 20 Emergency Order at Docket M-2020-3019262.

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A handwritten signature in black ink, appearing to read "John W. Sweet". The signature is written in a cursive style with a horizontal line above the name.

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I. INTRODUCTION

By Secretarial Letter dated December 4, 2020, the Office of Administrative Law Judge issued the Recommended Decision (RD) of Administrative Law Judge Katrina Dunderdale in the requested base rate increase of Columbia Gas of Pennsylvania, Inc. (Columbia or Company). The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, files these Exceptions to the Recommended Decision.

As a preliminary matter, ALJ Dunderdale appropriately recommended that the Commission deny Columbia's proposed increase in its entirety. (RD at 46-52). CAUSE-PA unequivocally supports this decision, for the reasons explained more thoroughly in its Main and Reply Briefs. (CAUSE-PA MB at 6-11; RB at 3-7). In short, it is neither just nor reasonable – nor is it in the public interest – to raise rates for essential, life sustaining services in the midst of the unprecedented public health and economic crisis.

Notwithstanding CAUSE-PA's unequivocal support of the ALJ's recommendation to deny Columbia's request for a rate increase, CAUSE-PA takes exception with the RD because it fails to adopt several critically important recommendations of CAUSE-PA, as set forth by CAUSE-PA's expert witness and former Director of the Commission's Bureau of Consumer Services, Mitchell Miller. (See CAUSE-PA St. 1 at 43-44).

First, the RD fails to require Columbia to adopt the Commission's maximum energy burden standards set forth in the Commission's formal Customer Assistance Program (CAP) Policy Statement. (RD at 238-240). As Mr. Miller explained in testimony, Columbia's current CAP rates are categorically unaffordable, and must be addressed in the context of this rate proceeding to ensure that Columbia's economically vulnerable consumers are not subjected to unjust and

unreasonable rates. (CAUSE-PA MB at 11-16). The urgency of this issue is even more pronounced in the context of the ongoing pandemic, which has disproportionately impacted low-income communities. (CAUSE-PA MB at 6-10, 15, 30-31; CAUSE-PA St. 1 at 9-12, 14, 17-18, 41-42).

Second, the RD fails to direct Columbia to recover universal service costs across all rate classes. (RD at 398-399). As Mr. Miller explained, energy poverty is not caused by residential consumers – it is a broad societal issue, caused by a myriad of external factors that are not attributable to a single rate class. (CAUSE-PA MB at 29-31; CAUSE-PA RB at 18-23). Thus, the cost of universal service programs to address and remediate energy poverty is not appropriately relegated solely to the residential customer class. (CAUSE-PA MB at 29-38). Universal service programs are public purpose programs, which inure to the clear and articulable benefit of all public utility consumers. (CAUSE-PA RB at 23-25). As such, commercial and industrial customers should no longer be able to bypass universal service costs, as they have done for two decades. (CAUSE-PA MB at 32; CAUSE-PA RB at 20-21). CAUSE-PA urges the Commission to reverse the RD on this important issue, and require Columbia to allocate universal service costs equitably across all rate classes.

Finally, the RD states that there is no need to change Columbia Gas' universal service program outreach. (RD at 241). As Mr. Miller explained, Columbia's CAP serves only a fraction of its estimated eligible customer base, and participation levels have been stagnant for a decade. (CAUSE-PA MB at 22). There is a real and compelling need for Columbia to improve its universal service program outreach, especially in light of the severe economic impact of the COVID 19 pandemic on low-income communities. (CAUSE-PA MB at 20-24). CAUSE-PA urges the Commission to adopt its recommendation to develop a comprehensive outreach plan, subject to reasonable benchmarking, designed to reach 50% CAP participation by 2025. (Id.)

II. EXCEPTIONS

A. **CAUSE-PA Exception 1: The ALJ erred as a matter of law and established Commission policy by failing to direct Columbia to comply with the terms of its 2018 settlement, in which it agreed to adopt the Commission’s recommended CAP energy burdens. (RD at 238-240).**

In this rate case, the Commission has the “duty to set ‘just and reasonable’ rates, reflecting a ‘balance of consumer and investor interests.’”¹ In determining just and reasonable rates, the PUC has broad discretion to determine the proper balance between interests of ratepayers and utilities.² Pursuant to section 315 of the Public Utility Code, the burden of proving that a rate proposal is just and reasonable rests on the public utility.³ As a matter of law and established Commission policy, it would be categorically unjust and unreasonable to approve Columbia’s CAP rates without adjusting Columbia’s applicable energy burden standards in compliance with the Commission’s revised energy burden standards.⁴

In its Main Brief, CAUSE-PA argued that Columbia should be ordered to adopt the maximum CAP energy burdens set forth in the Commission’s formal CAP Policy Statement to ensure that CAP rates are just, reasonable, and universally accessible for Columbia’s economically vulnerable consumers. (CAUSE-PA MB 11-16). In her Recommended Decision, ALJ Dunderdale found that Columbia’s CAP energy burdens should not be changed in this proceeding, noting “[t]he Commission anticipated utilities would address the energy burdens in their USECPs, and not in their base rate proceeding.” (RD at 238). However, ALJ Dunderdale also noted that “**Columbia Gas’ behavior, vis a vis, the energy burden is disturbing.**” (RD at 238 (emphasis added)). The

¹ Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301.

² Id. citing Pa. PUC v. Philadelphia Electric Co., 522 Pa. 338, 342-43, 561 A.2d 1224, 1226 (1989); Pa. PUC v. Pa. Gas & Water Co., 492 Pa. 326, 337, 424 A.2d 1213, 1219 (1980), cert. denied, 454 U.S. 824, 102 S. Ct. 112, 70 L. Ed. 2d 97 (1981))

³ 66 Pa. C.S. § 315.

⁴ Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301; Final CAP Policy Statement and Order, Docket No. M-2019-3012599 (Nov. 5, 2019).

Recommended Decision acknowledges that “[I]n the settlement **in its last rate case in 2018, the Company agreed to adjust its CAP energy burdens** to be in compliance with the recommended maximum CAP energy burdens once the Energy Affordability Study was released.” (Id. (emphasis added)).

CAUSE-PA agrees with ALJ Dunderdale that Columbia’s behavior is, indeed, disturbing. (R.D. at 238). Columbia already agreed to implement the Commission’s recommended maximum CAP energy burdens as part of a comprehensive settlement in its last rate case, which was approved by the Commission, and now refuses to comply. (CAUSE-PA MB at 14-15). This is particularly egregious, given Columbia is seeking a \$100 million per year rate increase in the midst of the worst economic crises in recent history, yet refuses to address longstanding unaffordability within its CAP to ensure that low-income consumers can reasonably afford to heat their home. Columbia should be ordered to comply with its agreement and accordingly adjust its energy burden standards.

The Commission’s current maximum CAP energy burdens are the result of a multi-year investigation, which determined that the Commission’s former maximum CAP energy burden standards - currently in effect for Columbia’s CAP customers - are categorically unaffordable. (CAUSE-PA MB at 11-13, 15-16). In adopting its revised standards, the Commission explicitly stated that its previous standards “**do not reflect reasonable or affordable payments** for many low-income customers.”⁵ If Columbia’s CAP rates are not reasonable, as the Commission has

⁵ Final CAP Policy Statement and Order, Docket No. M-2019-3012599, at 27 (Nov. 5, 2019) (emphasis added). The Commission went further in its declaration that the former energy burden standards, which Columbia continues to apply, are categorically unreasonable and unaffordable, explaining: “**This would be our conclusion even if the currently specified burdens are considered only presumptively reasonable or affordable.**” Id. (emphasis added).

already declared in its formal policy statement, then the rates cannot be approved as “just and reasonable” rates in this proceeding. (CAUSE-PA MB at 11-20).⁶

In addition to concluding that the Commission’s prior energy burden standards are neither affordable or reasonable, the Commission has also definitively concluded that the Commission’s prior energy burden standards “fail to satisfy the statutory objectives of universal service and continue to lead to disproportionate termination numbers.”⁷ As Mr. Miller explained, Columbia’s low-income customers – including those enrolled in CAP – have a markedly higher termination rate compared to average residential customers. (CAUSE-PA MB at 8). These same customers also carry a disproportionate level of debt, which has been exacerbated by the ongoing economic crisis. (CAUSE-PA MB at 9-10). If Columbia’s current CAP rates fail to satisfy the statutory objectives of universal service to ensure low-income households remain connected to service, then they cannot be approved as “just and reasonable” rates in this proceeding.⁸

In testimony, Mr. Miller explained that, even with financial assistance, many low-income households are forced to forego other necessities or keep their home at unsafe temperatures. (CAUSE-PA St. 1 at 25.) Mr. Miller explained the effects of energy insecurity and, consequently the importance of providing affordable bills to low-income customers. (CAUSE-PA St. 1 at 16-17.)

The overwhelming energy burden on low-income households makes it difficult to pay for other basic necessities such as housing, food, and medicine; threatens stable and continued employment and education; has substantial and long-term impacts on mental and physical health; creates serious risks to the household and the larger community; and negatively impacts the greater economy. (CAUSE-PA St. 1 at 16-17.)

⁶ Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108.

⁷ Final CAP Policy Statement and Order at 30-31.

⁸ Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301.

On a larger scale, energy poverty negatively impacts the entire economy. (CAUSE-PA MB at 19). Termination of gas service, which is a common catalyst to homelessness that costs communities' additional resources. (CAUSE-PA St. 1 at 21).

The need for relief is immediate. COVID-19 has ravaged low-income and minority communities, leading to disproportionate impacts both in terms of infections and deaths within the community and economic devastation. (CAUSE-PA MB at 6-10, 19-20, 30-31, 35-36). Furthermore, as Mr. Miller explained, helping low-income customers better afford service will ensure they are able to have heat and hot water to properly wash, sanitize, and remain in their homes to help avoid the spread of COVID-19. (See CAUSE-PA St. 1 at 40-41). Allowing Columbia to charge CAP rates that violate the statutory objectives of universal service and to lead to disproportionate terminations is not an acceptable outcome.⁹

Importantly, the record in this proceeding is replete with undisputed evidence that the cost of adopting the Commission's maximum energy burden standards would amount to just \$0.22 per month – or \$2.67 per year – for other residential consumers. (CAUSE-PA MB at 19; CAUSE-PA St. 1 at 26-27). CAUSE-PA asserts that this is a very small price to pay for the potentially vast resulting benefit of ensuring that economically vulnerable households can reasonably afford to maintain critical natural gas services to their home, and will not impose an insurmountable burden on non-low-income households. (CAUSE-PA MB at 19). Notably, the Commission has already agreed with this conclusion, finding that the cost to reduce CAP energy burden standards “will not significantly increase CAP costs for most utilities.” (CAUSE-PA MB at 19-20).¹⁰ As explained

⁹ Final CAP Policy Statement and Order at 30-31; see also Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301.

¹⁰ Final CAP Policy Statement and Order at 29.

below, requiring Columbia to equitably recover costs of universal service programs from all ratepayers would help to even further reduce the cost to residential customers.

For these reasons, and as explained more thoroughly in CAUSE-PA’s Main and Reply Briefs, the Commission should order Columbia to comply with its agreement to implement the recommended maximum CAP energy burdens. (CAUSE-PA MB at 11-20; CAUSE-PA St. 1 at 15-17, 25-27). Columbia does not deny that it made the agreement, it simply refuses to comply and seeks to unreasonably delay implementation for nearly 5 years. This delay is causing immediate and continuing harm to its CAP customers in real time, by continuing to charge unaffordable and unreasonable rates. The risks created by energy unaffordability to the health, safety, and welfare of individuals and the greater community is too great for Columbia to continue to charge its CAP customers unaffordable and unreasonable rates.¹¹

B. CAUSE-PA Exception 2: The ALJ erred as a matter of law by not directing Columbia to equitably recover universal service costs across all rate classes. (RD at 398-399).

The Choice Act explicitly states that the Commission must ensure universal service programs are “appropriately funded and available” to ensure that low-income customers can “maintain natural gas service” to their home.¹² In turn, the Choice Act authorizes the recovery of public purpose program costs, including universal service program costs, through a *nonbypassable* rate mechanism. (CAUSE-PA MB at 32). Section 2203(6) of the Choice Act provides:

After notice and hearings, **the commission shall establish for each natural gas distribution company an appropriate nonbypassable, competitively neutral cost-recovery mechanism which is designed to recover fully the natural gas**

¹¹ Id. at 27.

¹² 66 Pa. C.S. § 2202, 2203(7), (8). Section 2202 defines “universal service and energy conservation” as the “[p]olicies, practices and services that help residential low-income retail gas ... to maintain natural gas supply and distribution services. The term includes retail gas customer assistance programs...”. 66 Pa. C.S § 2202.

distribution company's universal service and energy conservation costs over the life of these programs.¹³

Yet for two decades, commercial and industrial customers have been allowed to bypass universal service program costs. It is critical that the Commission put an end to the inequitable assignment of universal service program costs solely to the residential class.

In their respective Main Briefs, CAUSE-PA and OCA argued that Columbia should be directed to recover its universal service costs across all rate classes. (CAUSE-PA MB at 29-38; OCA MB at 159 to 185). In her Recommended Decision, ALJ Dunderdale recommended that the Commission reject the recommendation that USP costs be distributed among all the classes. (RD at 398). ALJ Dunderdale acknowledged that CAUSE-PA's and OCA's arguments "carry merit and were accompanied by a breadth of evidence presented from its experts." (*Id.*) However, the RD declined to require equitable cost recovery of universal service program costs "absent a clear directive from the Commission to consider these societal and macroeconomic theories in a base rate proceeding." (*Id.*) ALJ Dunderdale explained: "Although the Final CAP Policy Statement Order does not ban the allocation of USP costs among the rate classes, more than silence is needed before a base rate proceeding should consider a regulatory issue that carries such wide-ranging policy implications." (*Id.*)

The Commission has not been silent on this issue. To the contrary, the Commission provided a clear directive to specifically consider allocation of universal service costs in base rate proceedings. In its Final CAP Policy Statement and Order, the Commission explicitly concluded that it is "**appropriate to consider recovery of the costs of CAP from all ratepayer classes**" and declared that "[u]tilities should be prepared to address recovery of CAP costs (and other

¹³ 66 Pa. C.S. § 2203(6).

universal service costs) from any ratepayer classes in their individual rate case filing.”¹⁴ The Commission indicated that it “will no longer routinely exempt non-residential classes from universal service obligations.”¹⁵

While the Commission did not order utilities to propose a *specific* allocation, it explicitly indicated that individual utility rate cases are the appropriate to consider recovery of the costs of CAP costs from all ratepayer classes.¹⁶ In doing so, the Commission acknowledged that “poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just ‘residential class’ problems.”¹⁷

As CAUSE-PA witness Mr. Miller explained in testimony, universal service programs and other public purpose programs are designed to prevent far-ranging societal impacts by ensuring that all Pennsylvanians have access basic human needs like heat and hot water. (CAUSE-PA St. 1 at 39-42.) Energy poverty is a societal problem caused by a myriad of external factors and can have far-ranging consequences on all corners of public and private life. (*Id.* at 39-42). The majority of universal service program participants are either employed but not being paid a wage adequate to afford basic household needs, or retired and not receiving enough in Social Security or retirement to afford basic life necessities. (CAUSE-PA St. 1 at 39-40). Thus, employers at least partially contribute to the cause of energy poverty because they do not pay their employees enough to cover basic expenses. (*Id.*)

Non-residential customers not only contribute to the *cause* of energy poverty, they also *benefit* from universal service programs in real and substantial ways, and it is only fair that they

¹⁴ Final CAP Policy Statement and Order at 80 (emphasis added).

¹⁵ *Id.* at 7, 97; see also 52 Pa. Code §§ 69.625(1), 69.266(b).

¹⁶ Final CAP Policy Statement and Order at 7, 97.

¹⁷ *Id.* at 94.

contribute to fund the programs. (CAUSE-PA MB at 34). For example, low-income customers faced with energy insecurity often struggle to cope with heightened levels of stress, anxiety, and depression, and must take time away from work to arrange payments, locate or apply for assistance programs, and arrange for reconnection – all of which can significantly undermine worker productivity and attendance and increase employee turn-over. (Id. at 40). As the Commission has observed, “[H]elping low-income families maintain utility service and remain in their homes is also a benefit to the economic climate of a community.”¹⁸

Especially pertinent to the current proceeding is the importance of universal service programming to help mitigate the economic and public health impacts of the COVID-19 pandemic and to help reduce the burden on the health system. (CAUSE-PA MB at 35). As Mr. Miller explained, “the effects of poverty on our healthcare system are especially profound and of particular concern due to the current pandemic.” (CAUSE-PA St 1 at 41). Even in relatively good times, low-income customers often forego food and/or medicine and keep their homes at unsafe temperatures in order to be able to afford utility service, all of which can lead to increased health risks – and corresponding increased costs and strain on the healthcare system. (CAUSE-PA St. 1 at 17). In the context of the COVID-19 pandemic, low-income and minority communities are hit the hardest by COVID-19 and are experiencing higher rates of infection, more severe health impacts, and higher incidences of death. (CAUSE-PA St. 1 at 41-42). Low-income and minority communities are also being hit harder economically and often lack access to affordable medical insurance. (CAUSE-PA St. 1 at 42).

Universal service programming, such as CAP and LIURP, help provide affordable service to low-income customers, which reduces the risk that they will forego food and medicine, keep

¹⁸ Id. at 94.

homes at unsafe temperatures, or otherwise resort to unsafe heating alternatives – such as the use of electric space heaters, generators, and ovens to heat their homes. (Id. at 41-42). These programs are relied upon to help low-income customers maintain natural gas service, which is necessary for hot water to wash and sanitize and heat for working/schooling from home; both of which are vital to helping curb the spread of disease, including COVID-19 (Id.) Universal service programs benefit all utility consumers and the economy by helping battle the pandemic by helping prevent further spread of COVID-19 in low-income and minority communities. (Id.)

Thus, and for the reasons explained more fully in CAUSE-PA’s Main and Reply Briefs, it is neither just nor reasonable for Columbia to continue to recover its universal service costs exclusively from the residential class.¹⁹ The cost of and need for universal service programs is caused by numerous societal factors that extend beyond the residential rate class, including utilities regularly and continually raising rates, employers paying substandard wages, and landlords failing to appropriately maintain housing stock. (CAUSE-PA St. 1 at 39-42). The cost of ensuring affordable access to such basic human needs as heat and hot water should be borne by all who enjoy the benefits of the public utility. (See CAUSE-PA St. 1 at 37-38).

C. CAUSE-PA Exception 3: The ALJ erred in recommending that, if the Commission considers all of the elements of Columbia’s rate proposal, “there is no need to change Columbia Gas’ outreach initiatives at this time.” (RD at 241).

The Choice Act imposes a statutory obligation on the Commission to oversee universal service programming and to ensure that such programs are appropriately funded and accessible to enable low-income customers to maintain access to natural gas services in their home.²⁰

¹⁹ 66 Pa. C.S. § 2203(6); 66 Pa. C.S. § 1301; Final CAP Policy Statement and Order at 94-97.

²⁰ 66 Pa. C.S. §§ 2202, 2203(8).

In its Main Brief, CAUSE-PA argued that the Commission should require Columbia to develop a plan designed to achieve a minimum 50% CAP participation rate by 2025,²¹ subject to reasonable benchmarking - regardless of whether the Company is allowed to increase rates. (CAUSE-PA MB at 20-24). CAUSE-PA recommended that Columbia implement a range of tactics and work with stakeholders to develop a comprehensive plan to reach its enrollment goals. (CAUSE-PA MB at 23). CAUSE-PA further recommended that Columbia be required to report the Commission annually to help benchmark its progress and adjustment its efforts accordingly. (Id.) CAUSE-PA recommended that Columbia's success or failure to meet its CAP enrollment targets should be considered in future rate cases. (Id.)

In the RD, ALJ Dunderdale does not make a specific recommendation for what the Commission should do about Columbia's CAP outreach if the rate proposal is denied. (RD at 240-241). However, the RD sets forth an alternative recommendation that, if the Commission considers all elements of the rate proposal, "there is no need to change Columbia Gas' outreach initiatives at this time." (RD at 241). The RD provides no rationale for denying CAUSE-PA's recommendation. (RD at 240-241). Improved outreach is critically important regardless of whether a rate increase is approved – but is even more compelling if rates are permitted to increase.

In testimony, Mr. Miller pointed out that Columbia's CAP serves roughly one in three *confirmed* low-income customers in its service territory, which is merely a fraction of those *estimated* to be eligible for the program. (CAUSE-PA St. 1 at 23). He further explained that Columbia's CAP participation rate has remained stagnant over the last decade and throughout 2020, despite the emergence of the pandemic and unprecedented economic crisis. (CAUSE-PA St.

²¹ See 2019 Universal Service Report at 50 ("CAP participation rate is defined defined as the number of participants enrolled as of Dec. 31, 2019, divided by the number of confirmed low-income customers served.").

1 at 23-25.) He explained that improving CAP participation will help the Company reduce both its disproportionately high number of payment troubled low-income customers, and the amount of debt that they carry. (Id.) Mr. Miller stated:

Regardless of whether any rate increase is ultimately approved, Columbia must be required to measurably improve its CAP enrollment rates to reach a greater number of households in need of assistance to access and maintain safe and affordable natural gas services. (CAUSE-MB at 23, CAUSE-PA St. 1 at 25).

As explained in Mr. Miller testimony and CAUSE-PA's Main Brief, it is imperative that Columbia measurably improve its CAP enrollment rate to serve a greater number of low-income customers in its service territory regardless of whether any rate increase is allowed. (CAUSE-PA MB at 20-24; CAUSE-PA St. 1 at 23-25). The Commission should follow CAUSE-PA's recommendation and order Columbia to develop a plan to reach 50% CAP participation by 2025.

III. CONCLUSION

For the reasons set forth above, and as more fully explained in its Main and Reply Briefs, CAUSE-PA urges the Commission to amend ALJ Barnes' RD consistent with its above Exceptions. Columbia's low-income customers are struggling now more than ever. The emergence of the COVID-19 pandemic has exacerbated already existing inequities and Columbia must take immediate action to adjust its CAP rates to affordable levels, increase CAP participation, and recover the cost of the programs across all classes of customers. By ordering Columbia to take these necessary steps, the Commission can help ensure that low-income customers can afford continued access to heat and hot water to fight the spread of COVID-19 and help them endure the economic impact of the pandemic.

Respectfully submitted,
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Counsel for CAUSE-PA

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