



March 7, 2022

VIA E-FILE

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

**Re: Pa. PUC v. Aqua Pa., Inc., and Aqua Pa. Wastewater, Inc.,
R-2021-3027385, R-2021-3027386**

Reply Exception of CAUSE-PA

Dear Secretary Chiavetta:

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

As indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully submitted,

Ria M. Pereira, Esq.
Counsel for CAUSE-PA

CC: *Certificate of Service*
Commission's Office of Special Assistants (OSA) at ra-OSA@pa.gov (Via e-mail only)
The Honorable Mary D. Long, malong@pa.gov (Via e-mail only)
Nick Miskanic, nmiskanic@pa.gov (Via e-mail only)
Daniela Alban, dalban@pa.gov (Via e-mail only)

Encl.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2021-3027385
	:	R-2021-3027386
Aqua Pennsylvania, Inc., and	:	
Aqua Pennsylvania Wastewater, Inc.	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of the **Reply Exception 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 in the manner and upon the persons listed below.

VIA EMAIL ONLY

Commission’s Office of Special Assistants ra-OSA@pa.gov	Administrative Law Judge May. D. Long Office of Administrative Law Judge Pennsylvania Public Utility Commission 301 Fifth Avenue, Suite 220 Pittsburgh PA 15222 malong@pa.gov nmiskanic@pa.gov dalban@pa.gov
Paul Zander Matthew Lamb Marc Hoffer Pennsylvania Public Utility Commission Bureau of Technical Utility Services pzander@pa.gov mlamb@pa.gov mhoffer@pa.gov	Kimberly A. Joyce, Esquire Mary McFall Hopper, Esquire Alexander R. Stahl, Esquire Aqua Pennsylvania 762 W. Lancaster Ave. Bryn Mawr, PA 19010 KAJoyce@essential.com MMHopper@aquaamerica.com ASTahl@aquaamerica.com
Michael W. Hassell, Esquire Garrett Lent, Esquire Post & Schell 17 North Second Street Harrisburg, PA 17101-1601 MHassell@postschell.com GLent@postschell.com	Steven C. Gray, Esq. Commonwealth of Pennsylvania Office of Small Business Advocate 555 Walnut Street, 1st Floor Harrisburg, PA 17101 sgray@pa.gov

<p>Christine Maloni Hoover, Esq. Harrison W. Breitman, Esq. Lauren E. Guerra, Esq. Erin L. Gannon, Esq. Christy M. Appleby, Esq. Mackenzie C. Battle, Esq. Office of Consumer Advocate 555 Walnut Street 5th Floor, Forum Place Harrisburg, PA 17101-1923 CHoover@paoca.org HBreitman@paoca.org LGuerra@paoca.org EGannon@paoca.org cappleby@paoca.org MBattle@paoca.org cc: OCAAqua2021@paoca.org</p>	<p>Brian Kalcic Excel Consulting 225 S. Meramec Avenue Suite 720 T St. Louis, MO 63105 excel.consulting@sbcglobal.net</p>
<p>Scott Granger, Esquire Bureau of Investigation & Enforcement 400 North Street Commonwealth Keystone Building Harrisburg, PA 17120 sgranger@pa.gov</p>	<p>George A. Bibikos, Esquire GA Bibikos LLC 5901 Jonestown Road #6330 Harrisburg, PA 17112 gbibikos@gabibikos.com</p>
<p>Adeolu A. Bakare, Esq. Charis Mincavage, Esq. McNees Wallace & Nurick LLC 100 Pine Street Harrisburg, PA 17101 abakare@mcneeslaw.com cmincavage@mcneeslaw.com</p>	<p>Francine Wiener 1903 2nd Street Langhorne, PA 19047 fhwhome@gmail.com</p>
<p>John Day 614 Runyon Avenue Piscataway, NJ 08854 john@johnday.us</p>	<p>Richard J. Gage 120 Treaty Drive Chesterbrook (Wayne), PA 19087 brittagage@aol.com</p>
<p>Robert Rosenthal R.A. Rosenthal Inc. 524 Strathmore Dr. Mechanicsburg, PA 17050 ask-rosey@comcast.net</p>	

Respectfully submitted,
PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA



Ria M. Pereira, Esq., PA ID: 316771
118 Locust Street
Harrisburg, PA 17101
717-236-9486
pulp@putilitylawproject.org

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
 :
 v. : Docket Nos. R-2021-3027385
 : R-2021-3027386
 Aqua Pennsylvania, Inc., and :
 Aqua Pennsylvania Wastewater, Inc. :

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

Counsel for CAUSE-PA

Ria M. Pereira, Esq., PA ID: 316771
Elizabeth R. Marx, Esq., PA ID: 309014
John W. Sweet, Esq., PA ID: 320182
Lauren N. Berman, Esq., PA ID: 310116
PENNSYLVANIA UTILITY LAW PROJECT
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
PULP@pautilitylawproject.org

Date: March 7, 2022

I. INTRODUCTION

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 Exception in response Exception 3 of the Bureau of Investigation and Enforcement (I&E), and in support of Exceptions 17-19 of the Office of Consumer Advocate which are squarely aligned with the positions and the recommendations advanced by CAUSE-PA and its expert witness Harry Geller, Esq. in this proceeding.

As discussed in detail below, CAUSE-PA agrees with the conclusion of Administrative Law Judge (ALJ) Mary D. Long that I&E's argument to impose restrictive income documentation requirements for Aqua Pennsylvania Inc. and Aqua Pennsylvania Wastewater Inc.'s (Aqua) universal service programs, including its proposed CAP, should be rejected. In particular, CAUSE-PA agrees with ALJ Long that removing a barrier to low income customers accessing universal service programs outweighs the theoretical risk of potential abuse, and supports the ultimate conclusion that Aqua's proposed process for income verification is just and reasonable.¹ As such, in addition to supporting several Exceptions to the RD set forth by the Office of Consumer Advocate (OCA) that would significantly improve the structure and accessibility of Aqua's universal service programs, CAUSE-PA in turn asserts that it is also critical that the Commission not require Aqua to establish program rules which would actively impede enrollment in Aqua's CAP by imposing restrictive and burdensome income documentation requirements.

CAUSE-PA also stands firmly by the positions set forth in its Exception to the RD that the ALJ erred as a matter of law when she concluded that Aqua's rate proceeding was not the proper venue to address issues and recommendations related to the design of Aqua's proposed Customer

¹ RD at 115. I&E Exceptions at 6-7.

Assistance Program (CAP) and Helping Hand arrearage forgiveness program.² As discussed in detail in CAUSE-PA's Exception, rate affordability must be considered as part of the Commission's determination of whether Aqua's proposed rates and associated terms and conditions of service are just, reasonable, and consistent with applicable laws, regulations, and Commission policy.³

For these reasons, and the reasons more fully explained below and in CAUSE-PA's Exception to the RD, CAUSE-PA respectfully asserts that the Commission should reject I&E's Exception to implement restrictive income documentation requirements for Aqua's universal service programs, including its proposed CAP, and grant CAUSE-PA's Exception to the RD to ensure for full and meaningful review of issues related to the design of Aqua's universal service programs in the context of this rate proceeding.

II. REPLY EXCEPTION TO I&E EXCEPTION NUMBER 3.

In its Main Brief, and again in its Exception Number 3, I&E recommended that the Commission require Aqua to impose burdensome income documentation requirements for admission to its low income assistance programs pursuant to its Universal Service Plan (USP).⁴ In support of its position, I&E incorrectly claimed that Aqua does not plan to verify income to enroll in and/or recertify eligibility for CAP.⁵ In the RD, ALJ Long correctly finds that I&E's recommendations to impose *additional* income verification requirements should be rejected.⁶ ALJ

² See CAUSE-PA Exception.

³ Id.; CAUSE-PA Exception at 12-14.

⁴ I&E MB at 60-61; I&E Exception at 6-7; CAUSE-PA RB at 17-21.

⁵ Id.

⁶ RD at 115.

Long reasons that the benefits of removing a significant barrier to low income customers' enrollment in CAP outweighs the potential risk of abuse or harm to other ratepayers.⁷

In its Exception Number 3 to the RD, I&E objects to the ALJ's recommendation that its proposed income documentation requirements should be rejected.⁸ I&E argues that Aqua is proposing a full scale USP with CAP discounts based on the Federal Poverty Level (FPL) of participants' households, and that incomes must be verified in order to administer these programs.⁹ Without justification, I&E argues that failure to perform its recommended income documentation requirements will subject the USP to abuse and will harm other ratepayers.¹⁰ In support of its position, I&E points to Chapter 14 of the Public Utility Code and argues that the Pennsylvania General Assembly intended to protect "responsible bill paying customers from rate increases attributable to other customers' delinquencies."¹¹ I&E further notes that Dollar Energy Fund (DEF) – Aqua's administrative service provider – has accounted for the costs of certain income verification in their proposal.¹²

To be clear, we again note that Aqua is proposing a verification process for its CAP, which ALJ Long approved in the RD.¹³ Specifically, Aqua proposes to use self-declared income to verify CAP eligibility and for the purposes of recertification.¹⁴ However, Aqua is not proposing to require applicants to submit physical documentation of income, as this requirement would present burdensome obstacles for those low income customers most in need of assistance.¹⁵ As discussed more fully in CAUSE-PA's Reply Brief, CAUSE-PA continues to oppose I&E's recommendation

⁷ Id.

⁸ I&E Exceptions at 6-7.

⁹ Id. at 7.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ CAUSE-PA RB at 17-18.

¹⁴ Id.

¹⁵ Id.

to implement stringent income documentation requirements for Aqua’s universal service programs, including its proposed CAP.¹⁶

CAUSE-PA objects to I&E’s unsupported accusation that Aqua’s universal service programs will be at risk of abuse if I&E’s restrictive income documentation requirements are not implemented. I&E has not presented any evidence to support its contention that failure to impose restrictive income documentation requirements will cause universal service application processes to be subject to abuse and ultimately harm other ratepayers and residential customers.¹⁷ Indeed, I&E’s assertion in this respect is purely speculative, and not reflective of the realities of low income program administration. CAUSE-PA asserts that it is not reasonable to conclude that requiring an applicant to submit a piece of paper will prevent fraud – or that fraud is occurring or has occurred at all.¹⁸

As discussed more fully in CAUSE-PA’s Reply Brief and by CAUSE-PA’s expert witness Mr. Harry Geller, Esq., imposing more restrictive income documentation requirements – as I&E recommends – will act as a barrier to low income customers successfully enrolling in universal service programs and hinder the success of the proposed CAP in its nascency.¹⁹ Historically, Aqua’s low income programs have had extremely low enrollment levels – especially when measured against the number of low income customers Aqua estimates are eligible for assistance.²⁰ In order to address critical problems related to access and affordability of Aqua’s universal service programs, including its proposed CAP, CAUSE-PA supports OCA’s Exceptions 17, 18, and 19,

¹⁶ Id.

¹⁷ CAUSE-PA RB at 18.

¹⁸ Id.

¹⁹ Id. at 18-19.

²⁰ Id. at 18-19.

which argue for various improvements to the structure and accessibility of Aqua's universal service programs - including its proposed CAP.²¹

In its Main and Reply Briefs, CAUSE-PA detailed critical improvement necessary to ensure just and reasonable rates for low income customers. Based on testimony and record evidence showing that low income customers faced steep challenges to affordability both as existing and proposed rates,²² CAUSE-PA recommended several improvements to Aqua's universal service programs, including:

- Requiring Aqua to set forth a comprehensive and coordinated consumer outreach and education plan, expand outreach to payment troubled customers, actively screen and solicit callers for enrollment in available assistance programs, and set concrete target enrollment numbers for all low income programs;²³
- Approving Aqua to implement its proposed CAP, with critical modifications to the proposed discount and income tiers to help ensure equitable distribution of assistance more closely tied to relative need;²⁴
- Requiring Aqua to closely monitor and analyze water and wastewater burdens of CAP participants and transition its proposed bill discount structure of its CAP to a Percentage of Income Program structure if participants are not reaching acceptable levels of affordability;²⁵
- Requiring Aqua to streamline the application process for its CAP discount and arrearage forgiveness programs and allow households to apply for both types of assistance in a single application;²⁶
- Requiring Aqua to allow existing Helping Hands program participants to enroll in CAP without the need to resubmit information and/or documentation.²⁷

²¹ See OCA Exceptions 17 (The ALJ Erred in her Determination to Adopt Aqua's Proposed Program Design Without Modification); OCA Exception 18 (The ALJ Erred in her Decision to Adopt Aqua's Proposed Customer Assistance Program Application Process); OCA Exception 19 (The ALJ Erred by not requiring that Aqua adopt the OCA and CAUSE-PA's Recommendation for a Community Education and Outreach Plan (CEOP)).

²² CAUSE-PA MB at 7-11, 18-20. CAUSE-PA RB at 5-16.

²³ Id. at 37-40.

²⁴ Id. at 16-24.

²⁵ Id.

²⁶ Id. at 24-28.

²⁷ Id.

CAUSE-PA supports OCA's Exceptions 17, 18, and 19, as the positions set forth in each of these Exceptions are consistent with the recommendations advanced by CAUSE-PA in this proceeding, and will greatly help low income participants to access universal services and to afford their monthly water and/or wastewater bills.

While OCA's Exceptions to the RD will help to improve affordability for Aqua's low income customers, it is also critical that the Commission not require Aqua to establish universal service program rules which would serve as a significant barrier to successful program enrollment by imposing restrictive income documentation requirements.

CAUSE-PA also opposes I&E's Exception seeking to require that Aqua implement restrictive income documentation requirements for households to *recertify* enrollment in Aqua's universal service programs.²⁸ As discussed in CAUSE-PA's Reply Brief, Mr. Geller extensively describes how periodic recertification requirements pose particular difficulties for vulnerable low income customers, including Seniors or individuals with disabilities.²⁹ These households more often lack access to transportation, and struggle to gather and submit formal income documentation.³⁰ These vulnerable households are also more likely to rely on fixed income sources that tend not to change from year to year – making recertification requirements unnecessary and administratively burdensome.³¹ As Mr. Geller notes, available independent evaluations of Universal Service and Energy Conservation Plans (USECPs) of other regulated Pennsylvania utilities have shown that requiring submission of income documentation through program recertification is a significant cause of high program attrition.³²

²⁸ CAUSE-PA RB at 19.

²⁹ Id.

³⁰ Id.

³¹ Id.

³² Id.

I&E’s reliance on Chapter 14 to justify its restrictive income documentation proposal is misplaced. In evoking Chapter 14’s declaration of policy, I&E wholly fails to recognize that this declaration of policy also explicitly recognizes that Chapter 14 was enacted to improve payments for those “*capable of paying*” – rather than to unfairly penalize those who cannot afford services.³³ Ensuring robust access to Aqua’s universal service programs is in line with the intent of Chapter 14 to provide greater equity among all customers – as I&E recognizes in its Main Brief.³⁴

We also note that I&E’s proposal continues to lack critical details for how income documents will be collected, what income documents will be accepted, how income documents will be evaluated, and how applicants will be informed if their submitted documentation is not received or is considered unacceptable. Failing to provide these important details has the potential to lead to widespread ambiguities in program requirements that will further impede low income customers successfully enrolling in Aqua’s universal service programs, include the proposed CAP.

In sum, CAUSE-PA supports the income verification processes proposed by Aqua and opposes I&E’s recommendations to impose restrictive additional income documentation requirements for universal service enrollment and recertification. It is neither just nor reasonable to impose restrictive income documentation requirements that will impede low income customers from successfully enrolling in universal service programs critical to reducing monthly bills and staying connected to services.

Nevertheless, if the Commission ultimately decides to impose additional income verification/documentation requirements for Aqua’s universal service programs, including for its proposed CAP, CAUSE-PA recommends that Aqua’s proposed income verification process be implemented on a pilot basis to allow Aqua, the parties and stakeholders, and the Commission to

³³ Id. at 18-19.

³⁴ Id.

monitor how CAP enrollment, retention, and costs have been affected and to determine if there is any evidence of actual abuse of the universal service process.³⁵ If it is later determined that Aqua's verbal income verification process is subject to actual abuse, and that additional documentation requirements are necessary to address these issues, Aqua should be required to develop a process for applicants to submit income documentation that does not create unreasonable barriers to program enrollment, in consultation with the parties and other stakeholders.³⁶ CAUSE-PA recommends that parties and stakeholders discuss the following, prior to implementation of any further requirements for income verification:³⁷

1. Common barriers to obtaining income verification/ documentation;
2. Alternative methods of certifying and recertifying income if customers are unable to obtain necessary documentation;
3. Under what circumstances CAP participants will not be required to recertify, including if they have received a LIHEAP or LIHWAP grant within a certain program year;
4. Language access issues to obtaining income verification and documentation, and a list of resources and forms that will be translated into, at minimum, Spanish; and
5. Income verification for customers with fixed incomes, or incomes from a consistent funding source.

If Aqua ultimately imposes an income documentation requirement, this process should also be implemented on a pilot basis.³⁸ This would allow Aqua, the parties and stakeholders, and the Commission to monitor how these requirements affect CAP enrollment, retention, and costs, and make adjustments as needed to ensure that low income families can reasonably access assistance through the program.³⁹

³⁵ Id. at 19-21.

³⁶ Id.

³⁷ Id.

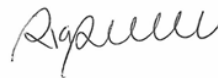
³⁸ Id.

³⁹ Id.

III. CONCLUSION

Stable access to affordable water and wastewater service is not a luxury – it is a basic human need. To be just and reasonable, rates for these services must be set to ensure that all Pennsylvanians – regardless of economic status – can access universal service programs critical to affording monthly water and wastewater rates and maintaining service in their homes. For the reasons stated above, CAUSE-PA respectfully asserts that the Commission should reject I&E’s Exception Number 3 to implement restrictive income documentation requirements for Aqua’s universal service programs, including its proposed CAP, and to grant CAUSE-PA’s Exception to the RD to ensure for full and meaningful review of issues related to the design of Aqua’s universal service programs in the context of this rate proceeding.

Respectfully submitted,
Counsel for CAUSE-PA



Ria M. Pereira, Esq., PA ID: 316771
Elizabeth R. Marx, Esq., PA ID: 309014
John W. Sweet, Esq., PA ID: 320182
Lauren N. Berman, Esq., PA ID: 310116
PENNSYLVANIA UTILITY LAW PROJECT
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
PULP@pautilitylawproject.org

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