



November 22, 2023

VIA E-FILE

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Aqua Pennsylvania, Inc. Petition for Approval of Third Long-Term Infrastructure Improvement Plan and Lead Service Line Replacement Program, P-2023-3043755

Comments of CAUSE-PA

Dear Secretary Chiavetta:

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its attorneys at the Pennsylvania Utility Law Project, file the following brief comments in response to the October 23, 2023, Petition of Aqua Pennsylvania, Inc. (Aqua) For Approval of its Third Long-Term Infrastructure Improvement Plan (LTIP) and Lead Service Line Replacement (LSLR) Program. Specifically, these comments address the narrow issue of the treatment of tenant consumers who are not the customer of record within the context of Aqua's proposed LSLR program.

As a preliminary matter, CAUSE-PA appreciates Aqua's consideration of tenant consumers in the development of its LSLR program and the steps that it has taken to protect customers from the dangers of partial LSLR replacements. However, while Aqua's LSLR plan specifically provides protections for tenant households where "the customer is not the property owner,"¹ the proposed plan fails to address situations where a tenant occupant is not the customer of record but receives service through a lead service line. This situation occurs in landlord-tenant leases where water is included as a component of rent.

Aqua's proposed LSLR plan contains provisions that will provide the "customer" with educational materials, water testing, pitcher filters, and flushing instructions.² Aqua also indicates that it will utilize "Step In Rights" to perform lead service line replacements where the "property owner is not the customer" and refuses a LSLR replacement leaving the customer at risk of lead exposure

¹ See Petition at ¶¶ 80-89.

² Petition at ¶ 79, 91; LSLR Plan at 7-9.

due to a partial line replacement.³ However, neither of the provisions provide any protections for tenant occupants who are not the customer of record, yet still face the health and safety risks from lead exposure. We support Aqua's efforts to provide free filters, testing, and educational materials as well as its use of Step In Rights to protect consumers from lead exposure. However, Aqua's proposal should not be limited to situations where the "customer is not the property owner." We recommend that Aqua provide these protections to any situation where a non-customer tenant receives service through a lead service line.

In the Commission's rulemaking process for its regulations governing LSLR programs under Act 120, CAUSE-PA submitted Joint Comments together with Green & Healthy Homes Initiative (GHHI) and Pittsburgh United.⁴ In the comments, we explained that a major impediment to the successful remediation of LSLs through Act 120 implementation is the fact that low income households are more likely to live in rental units.⁵ We further explained that economically vulnerable households rent from landlords who are either inaccessible or unwilling to take the necessary steps to protect the health and wellbeing of their tenants.⁶ We urged the Commission to ensure that tenants are protected from a landlord's refusal to participate in a LSL replacement program and urged the development of a comprehensive plan for outreach and education for tenants that are not direct customers of the utility, but who are the end user of water consumed at the property.⁷

Non-customer tenants, as occupants of a residence, are equally susceptible to the health risks associated with lead-contaminated water. Ignoring their inclusion in replacement programs risks perpetuating health disparity, as vulnerable populations residing in rental properties face elevated health risks without recourse. The burden of lead service lines disproportionately affects marginalized communities, where a higher percentage of residents are renters.⁸ Excluding non-customer tenants from replacement initiatives places these vulnerable tenants at risk of lead exposure and/or service termination, exacerbating social inequalities and hindering efforts to ensure equal protection from lead exposure.

Aqua must clarify its approach to addressing tenants who are served by LSLs but who are not customers of record with the utility and must provide the same protections to non-customer tenants that it provides to tenant customers. We recommend that Aqua, at a minimum, follow similar procedures to those followed by the Pittsburgh Water and Sewer Authority (PWSA). PWSA provides, at no charge, water testing kits and water filters to any resident of a household that receives a LSLR through its program or who may be exposed to lead due to the replacement of a water meter.⁹ PWSA also provides education and lead removing filters to any customer or non-customer tenant who is eligible for its low income programs.¹⁰ PWSA is also authorized by the

³ Petition at ¶ 88.

⁴ See *Act 120 Rulemaking*, L-2020-3019521, Joint Comments of CAUSE-PA, GHHI, and Pgh. United, (Submitted Nov. 22, 2019).

⁵ *Id.* at 8

⁶ *Id.*

⁷ *Id.* at 8-10.

⁸ See *Act 120 Rulemaking*, L-2020-3019521, Joint Comments of CAUSE-PA, GHHI, and Pgh. United, (Submitted Nov. 22, 2019).

⁹ See *Petition of Pittsburgh Water and Sewer Authority for Approval of Its Long-Term Infrastructure Improvement Plan*, P-2018-3005037, P-2018-3005039, Complete Amended LTIP at 14-17 (Submitted July 7, 2020).

¹⁰ *Id.*

Commission to exercise its Step In Rights to prevent partial LSLR replacements due to uncooperative landlords regardless of whether the tenant occupant is a customer of the utility.¹¹

We urge Aqua to clarify that it will provide the same protections to non-customer tenants as it provides to tenants who are customers of the utility. We recommend that Aqua change the relevant language to include protections and education to “Occupant” or “Resident” rather than just “Customer” to address situations where the end use consumer is *neither the customer nor the property owner* because they pay for water service as a portion of their rent. We further urge the Commission to provide clarifying instructions to other water utilities developing LSLR programs to include protection of non-customer tenants who into consideration in evaluating future LSLR program proposals.

CAUSE-PA appreciates the opportunity to offer these brief comments and urges Aqua and the Commission to take the necessary steps to protect vulnerable tenants from the harmful effects of lead exposure.

Respectfully Submitted,
Pennsylvania Utility Law Project



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Certificate of Service

¹¹ *Implementation of Chapter 32 of the Public Utility Code RE: Pittsburgh Water and Sewer Authority*; Docket Nos. M-2018-2640802 and M-2018-2640803, Updated Stage 2 Customer Service Compliance Plan at 76 (Submitted Sep. 12, 2022).

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Aqua Pennsylvania, Inc. Petition for Approval of : P-2023-3043755
Third Long-Term Infrastructure Improvement :
Plan and Lead Service Line Replacement :
Program, :

CERTIFICATE OF SERVICE

I hereby certify that I have, on this day, served copies of the **Comments of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA)** in the above captioned matter in the manner and upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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Dated: November 22, 2023