



March 26, 2024

**Via E-Mail Only**

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**Re: Pennsylvania Public Utility Commission v. Pennsylvania-American Water  
Company  
Docket Nos. R-2023-3043189 (water); R-2023-3043190 (wastewater)**

*CAUSE-PA Main Brief*

Your Honors:

Please find the attached **Main Brief of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in the above-referenced proceeding.

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

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ria Pereira".

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**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:		
	:		
v.	:	Docket Nos.	R-2023-3043189
	:		R-2023-3043190
Pennsylvania-American Water Company	:		

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**Certificate of Service**

I hereby certify that I have this day served copies of the **Main Brief of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party), as modified by the Prehearing Order in this matter dated January 5, 2024, in the manner and upon the persons listed below.

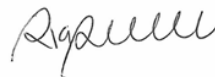
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March 26, 2024

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :  
 :  
 v. : Docket Nos. R-2023-3043189  
 : R-2023-3043190  
 Pennsylvania-American Water Company :

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**MAIN 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 Main Brief in support of its positions, and the recommendations advanced by CAUSE-PA's expert witness Harry S. Geller, Esq. CAUSE-PA's expert witness made recommendations regarding the effects of Pennsylvania-American Water Company's (PAWC or the Company) proposed increase on PAWC's residential customers, especially low income customers, and the critical need for improvements to PAWC's low income programming to ensure that rates are reasonably affordable for economically vulnerable consumers.

Rate affordability, and the universal accessibility of water and wastewater services at all income levels, is a fundamental component to determining just and reasonable rates. PAWC's low income customers already face demonstrably unaffordable rates for basic water/wastewater services – even before any rate increase is approved. We urge the Honorable Deputy Chief Administrative Law Judge (ALJ) Pell, Honorable Administrative Law Judge (ALJ) Coogan, and the Public Utility Commission (Commission) to deny PAWC's proposed rate increase in its entirety. As discussed herein, PAWC has failed to meet its burden of showing that its rate proposals are just, reasonable, and in the public interest.

To address the acute affordability issues that PAWC's residential low income customers face at existing rates, CAUSE-PA urges the ALJs and the Commission to take the following steps to ensure that low income customers are able to reasonably access water and wastewater services to their homes. While these reforms are necessary regardless of whether any rate increase is ultimately approved, they become even more pressing if the ALJs and the Commission ultimately allow PAWC to increase its basic rates for water/wastewater services:

- Reject PAWC’s proposed winter averaging methodology.
- Reject PAWC’s proposed Revenue Decoupling Mechanism (RDM). If the Commission ultimately approves PAWC to implement an RDM, Bill Discount Program (BDP) participants should be exempt from RDM charges.
- Reject the proposed Environmental Compliance Investment Charge (ECIC) in its entirety. If PAWC is permitted to implement an ECIC, BDP participants should be exempt from ECIC charges.
- Implement changes to the BDP structure and discount levels, as outlined below.
- Update PAWC’s estimated low income customer count on an annual basis, and work with BCS to identify an appropriate method for updating this count.
- Set target enrollment benchmarks for the BDP, so that enrollment targets are set at 20% per year of PAWC’s estimated low income customer counts until the Company reaches at least 75% enrollment of this estimated group.
- Establish quantitative goals related to affirmative customer outreach for the purpose of enrolling low income customers in the BDP, as outlined below.
- Increase annual hardship funding by an additional \$1 million over existing funding levels.
- Eliminate upfront payment requirements for PAWC’s Hardship Fund.
- Increase of the maximum Hardship Fund grant to \$600 for water and \$600 for wastewater.
- Allow income-qualified water and wastewater customers to receive multiple Hardship Fund grants per year, up to the maximum \$600 for water and wastewater, respectively.
- Develop and submit a comprehensive Universal Service Plan for periodic Commission review and approval, as outlined above.
- Develop and submit a detailed consumer education and outreach plan (CEOP) for inclusion in the Universal Service Plan.
- Screen all new and moving customers for income level and eligibility for assistance at the time their service is established.
- Develop call scripting and checklists for its Customer Service Representatives (CSRs) to assist in screening customers for eligibility in its low income assistance programs, as discussed below.
- Revise PAWC policies, procedures, and training materials to reflect that customers who provide information related to payment troubles, inability to pay, or low income status should be assisted to apply for PAWC’s Help to Others (H2O) program, including PAWC’s BDP and Hardship Fund, *before* they are provided with the option to enroll in payment arrangements.
- Develop and implement a comprehensive conservation and line repair/replacement program available to all customers at or below 200% of the Federal Poverty Level (FPL), no later than 6 months after the final order in this proceeding.
- Implement systematic and regular processes for monitoring and oversight of DEF’s administration of its low income assistance programming.

- Establish and implement clear metrics for auditing DEF-handled accounts, within 6 months of the final order in this proceeding, to be developed through a special meeting of PAWC's Customer Assistance Advisory Group (CAAG).
- Conduct and submit periodic third-party program evaluations to the Commission on administration of its low income assistance programs in line with the 6-year evaluation period required of Electric Distribution Companies (EDCs) and Natural Gas Distribution Companies (NGDCs).
- Implement additional tracking and reporting related to tenants, including notices provided to tenants, and PAWC's policies and procedures related to compliance with the Discontinuance of Service to Leased Premises Act (DSLPA).
- Review and revise PAWC policies and procedures for customers facing termination of service at the request of a sewer utility to ensure compliance under the Water Service Act, in consultation with PAWC's CAAG.

As discussed throughout this Main Brief, substantial reforms and enhancements are required to ensure that all customers – regardless of their incomes – can access reasonably affordable water/wastewater services in their homes. We urge the ALJs and the Commission to take decisive action to ensure that access to life-sustaining water and wastewater services is not dependent on income.

#### **A. Description of CAUSE-PA**

CAUSE-PA is an unincorporated association of low and moderate income individuals that advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating, and telecommunication services. CAUSE-PA membership is comprised of low and moderate income Pennsylvanians who are committed to the goal of helping low income families maintain affordable access to utility services and achieve economic independence.

CAUSE-PA filed a Petition to Intervene and Answer in this proceeding on December 4, 2023, which was granted by the Prehearing Order dated January 5, 2024. CAUSE-PA submitted the direct, rebuttal, and surrebuttal testimony of its expert witness, Harry S. Geller, Esq. As

discussed throughout this Main Brief, Mr. Geller’s testimony shed light on the substantial unaffordability felt by PAWC’s low income customers at both present and proposed rates, and recommended important reforms to address the unaffordability of rates for PAWC’s customers.

**B. Procedural History**

On November 8, 2023, Pennsylvania-American Water Company (PAWC or the Company) filed Supplement No. 35 to Tariff Water – PA P.U.C. No 5 and Supplement No. 34 to Tariff Wastewater – PA P.U.C. No. 16 to become effective January 7, 2024. PAWC’s tariffs would increase PAWC’s total annual operating revenues by approximately \$203.9 million, or approximately 20.2% (\$199.2 million from water operations and \$4.7 million from wastewater operations), over PAWC’s annualized total revenues at present rates including Distribution System Improvement Charge (DSIC) revenue for the fully projected future test year (FPFTY), July 1, 2024 through June 30, 2025.<sup>1</sup>

CAUSE-PA filed a Petition to Intervene and Answer in this proceeding on December 4, 2023, which was granted by the Prehearing Order dated January 5, 2024.

On December 21, 2023, the Commission suspended the respective water/ wastewater filings by operation of law until August 7, 2024, pursuant to Section 1308(d) of the Public Utility Code, unless permitted by the Commission to become effective at an earlier date.<sup>2</sup> The Commission ordered an investigation of PAWC’s filings to determine the lawfulness, justness, and reasonableness of rates, rules, and regulations contained in PAWC’s proposed tariffs and

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<sup>1</sup> Volume I, Statement of Specific Reasons.

<sup>2</sup> Suspension Order, December 21, 2023.

associated filings – and the lawfulness, justness, and reasonableness of existing rates, rules, and regulations of PAWC’s existing rates.<sup>3</sup>

On December 21, 2023, a hearing notice was issued for both filings setting a telephonic prehearing conference for January 3, 2024, at 10:00 A.M. On December 28, 2023, parties to the proceeding, including CAUSE-PA, filed prehearing memoranda. At the prehearing conference on January 3, 2024, ALJ Coogan and ALJ Pell granted CAUSE-PA’s Petition to Intervene, affording CAUSE-PA full status as an active party in this proceeding. On January 5, 2024, Prehearing Order #1 was issued, establishing a procedural schedule. On January 5, 2024, an Order was issued which granted PAWC’s Petition for Protective Order.

On January 12, 2024, the Commission issued a hearing notice for public input hearings. In-person public input hearings were conducted in Port Vue on January 30, 2024; Scranton on January 31, 2024; Exeter Township on February 1, 2024; and Harrisburg on February 6, 2024. Telephonic public input hearings were conducted on February 5, 2024, and February 7, 2024.

On February 1, 2024, CAUSE-PA and other active parties to this proceeding served prepared written direct testimony in this matter. On February 21, 2024, CAUSE-PA and other active parties to this proceeding served prepared written rebuttal testimony in this matter. On March 4, 2024, CAUSE-PA and other active parties in this proceeding served prepared written surrebuttal testimony in this matter. On March 6, 2024, the Company submitted its rejoinder outline in this matter, with oral rejoinder testimony conducted at the evidentiary hearings.

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<sup>3</sup> Id.

On January 25, 2024, Prehearing Order #2 was issued, granting in part and denying in part OCA's Motion to Compel dated January 12, 2024. On January 29, 2024, Prehearing Order #3 was issued, which granted OCA's Motion to Compel dated January 19, 2024.

Evidentiary hearings were held on March 7 and 8, 2024, during which expert testimony of the parties' witnesses, including the direct, rebuttal, and surrebuttal testimony of Harry S. Geller on behalf of CAUSE-PA, was admitted into the record in this matter. During these evidentiary hearings, the ALJs provided briefing instructions, which were subsequently memorialized in a Briefing Order dated March 11, 2024.

### **C. Overview of PAWC's Filing**

On November 8, 2023, PAWC submitted a rate filing, Supplement No. 45 to Tariff Water-PA P.U.C. No. 5 and Supplement No. 47 to Tariff Wastewater-PA P.U.C. No. 16, which proposes to increase rates by approximately \$203.9 million, or approximately 20.2%, based on a fully projected future test year ending June 30, 2025.<sup>4</sup> PAWC proposed that \$130,938,997 of this increase be allocated to the residential class.<sup>5</sup> According to the Company, if approved, the total bill for a residential water customer in Rate Zone 1 - Water who uses approximately 3,201 gallons per month would increase from \$70.65 to \$88.24 per month, or by 24.9%.

In its filing, PAWC also requests approval of two alternative rate mechanisms in accordance with 66 Pa. C.S. § 1330: a Revenue Decoupling Mechanism and an Environmental Compliance Investment Charge.<sup>6</sup> These rate mechanisms would make the resulting rate impact on residential consumers even higher. As we will discuss below, these proposed mechanisms will

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<sup>4</sup> Volume I, Statement of Specific Reasons.

<sup>5</sup> CAUSE-PA St. 1 at 6: 6-8.

<sup>6</sup> Volume I, Notice of Proposed Water and Wastewater Rate Changes.

have broad and inequitable impacts on PAWC’s residential customers and will disproportionately impact low income customers’ ability to maintain safe service to their home.

Finally, and in relevant part, PAWC proposes in the context of the present proceeding to increase the eligibility limit of its Help to Others (H2O) Bill Discount Program (BDP) to 200% FPL, though it does not propose any other critical improvements to ensure the program is accessible and provides adequate assistance to those who are currently eligible for the program. As discussed in detail below, PAWC’s proposal to expand eligibility, without addressing existing program shortcomings, is wholly insufficient to adequately protect financially vulnerable customers from unaffordability of services at either existing or proposed rates.

#### **D. Legal Standards (Burden of Proof)**

In any rate case filed pursuant to section 1308 of the Public Utility Code, such as the current case filed by PAWC, the burden of proof is on the public utility to show that the rate involved is just and reasonable.<sup>7</sup> The public utility must satisfy its burden of proof by a preponderance of the evidence, meaning it must present evidence that is more convincing than the evidence presented by the other parties.<sup>8</sup>

Section 1301(a) of the Public Utility Code mandates that “every rate made, demanded, or received by any public utility ...shall be just and reasonable, and in conformity with regulations or orders of the commission.”<sup>9</sup>

The Commission has a “duty to set ‘just and reasonable’ rates, reflecting a ‘balance of consumer and investor interests.’”<sup>10</sup> In determining just and reasonable rates, the Commission has

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<sup>7</sup> 66 Pa. C.S. §§ 315(a), 1308(a); NRG Energy, Inc. v. Pa. PUC, 233 A.3d 936, 939 (Pa. Commw. Ct. 2020).

<sup>8</sup> NRG Energy, Inc. v. Pa. PUC, 233 A.3d 936, 939 (Pa. Commw. Ct. 2020).

<sup>9</sup> 66 Pa. C.S. § 1301(a).

<sup>10</sup> Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301.



discretion to determine the proper balance between interests of ratepayers and utilities.<sup>11</sup> 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.<sup>12</sup>

In determining the justness and reasonableness of rates the “PUC is obliged to consider broad public interests in the rate-making process.”<sup>13</sup> The PUC’s discretion is described as follows:

[T]he 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.<sup>14</sup>

Section 102 of the Code defines “rates” broadly to include the following:

**Every individual, or joint fare, toll, charge, rental, or other compensation whatsoever of any public utility ... made, demanded, or received for any service** within this part, offered, rendered, or furnished by such public utility, or contract carrier by motor vehicle, whether in currency, legal tender, or evidence thereof, in kind, in services or in any other medium or manner whatsoever, and **whether received directly or indirectly, and any rules, regulations, practices, classifications or contracts affecting any such compensation, charge, fare, toll, or rental.**<sup>15</sup>

Thus, when considering whether rates are just, reasonable, and in the public interest, it is imperative that the Commission also consider the rules, regulations, programs, and practices affecting such rates. Neither statutory law nor the Constitution imposes a unilateral obligation on

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<sup>11</sup> 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))

<sup>12</sup> 66 Pa. C.S. § 315.

<sup>13</sup> Id. citing Pa. Elec. Co. v. Pa. PUC, 509 Pa. 324, 331, 502 A.2d 130, 134 (1985).

<sup>14</sup> Id.

<sup>15</sup> McCloskey v. Pa. PUC, 219 A.3d 1216, 1223 (Pa. Commw. Ct. 2019) (citing 66 Pa. C.S. §102 (emphasis in original)).

customers to pay for the cost of service without a reciprocal obligation of the utility to satisfy standards of reasonable service.<sup>16</sup>

As discussed below, PAWC has failed to meet its burden of proof to demonstrate that its rate proposal is just, reasonable, and in the public interest. To the contrary, PAWC proposes rates, rate design, programs, and policies through this proceeding that are patently inequitable and will impose unreasonable terms and conditions of service for PAWC's residential customers, particularly economically vulnerable low income customers across its broad and growing service territory. To the contrary, as demonstrated through substantial record evidence, PAWC's proposals will exacerbate existing disparities in access to safe, affordable water service and will result in patently inequitable rates for service. As such, PAWC's rate proposals and associated terms and conditions of service are unjust, unreasonable, and contrary to the public interest.

## **II. SUMMARY OF ARGUMENT**

It is unjust, unreasonable, and contrary to the public interest to raise rates for essential, life-sustaining water and wastewater services when PAWC's customers – particularly its low income customers -- are already struggling to afford and remain connected to services at existing rates. Indeed, rates cannot be just and reasonable if they are not reasonably affordable to all those who rely on service. Pennsylvania consumers have faced profound economic pressures in recent years, including the economic impacts of the COVID-19 pandemic and more recent steep inflation in the costs of basic goods.<sup>17</sup> PAWC customers have faced a series of rate increases in recent years – further exacerbating the inability of low income customers to afford and stay connected to

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<sup>16</sup> See Nat'l Utilities, Inc. v. Pa. PUC, 709 A.2d 972, 979 (Pa. Commw. Ct. 1998), following D.C. Transit Sys., Inc. v. Washington Metro. Area Transit Comm'n, 466 F.2d 394, 411 (D.C. Cir. 1972), cert denied.

<sup>17</sup> CAUSE-PA St. 1 at 6-7.

services.<sup>18</sup> Without access to running water, Pennsylvanians cannot perform basic life functions – drinking water, cooking, cleaning, showering, and even flushing the toilet.<sup>19</sup> Lack of access to consistent water/wastewater services threatens the health, housing stability, and general welfare of customers, their families, and their communities.<sup>20</sup>

As discussed throughout this Main Brief and supported by expert witness testimony in this matter, PAWC has failed to meet its burden of showing that its tariff proposals are just, reasonable, and in the public interest. We urge the ALJs and the Commission to reject PAWC’s proposed rate increase and alternative rate mechanisms in their entirety. In addition, immediate steps must be taken to address *existing* unaffordability, which would be greatly exacerbated by any approved increase in rates. PAWC must be required to adopt meaningful improvements to its low income assistance programs, and enhance its consumer education and outreach related to these programs. Finally, PAWC must make important changes related to its policies and procedures for tenants facing termination or disconnection pursuant to the Discontinuance of Service to Leased Premises Act (DSPLA) and related to the Water Services Act.

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

PAWC has failed to meet its burden in the present proceeding to show that its proposed rate increase and alternative rate mechanisms – and associated programs, terms, and conditions of service – are in the public interest will result in just and reasonable rates consistent with the Public Utility Code. PAWC’s proposed rate increase would significantly increase the costs of basic water services for PAWC’s residential customers and exacerbate preexisting unaffordability of PAWC’s

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<sup>18</sup> CAUSE-PA St. 1 at 6-7.

<sup>19</sup> Id.

<sup>20</sup> Id.

rates without adequate remediation to ensure service is universally accessible to all customers within its rapidly expanding service territory. As such, CAUSE-PA contends that PAWC's proposals to dramatically increase residential rates and institute inequitable alternative rate mechanisms should be denied.

PAWC's customers have already had to contend with a series of steep rate increases in recent years, with PAWC's most recent approved rate increase taking effect on January 28, 2023.<sup>21</sup> As a result, PAWC's water/wastewater service are already unaffordable for many of its residential customers – particularly its low income customers. PAWC's further proposals to dramatically increase rates for service would significantly impair the ability of PAWC's low income customers to afford and stay connected to running water and sanitation services in their home. For these reasons and the reasons discussed below, we urge the ALJs and the Commission to reject PAWC's proposed rate increase in its entirety.

While we are opposed to PAWC's proposed rate increase in this proceeding, regardless of whether PAWC is approved to increase rates through the context of this proceeding, we urge the Commission to require PAWC to take necessary steps, outlined in this Brief, to ensure that all households in its service territory are able to afford service under just and reasonable terms. While the recommendations set forth herein, and propounded by CAUSE-PA's expert witness, are designed to address rate unaffordability at *existing* rates, they are also vital to mitigate financial harm for PAWC's low income customers if the Commission ultimately approves PAWC to increase its rates.

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<sup>21</sup> Pa. PUC v. PAWC, Opinion and Order, Docket Nos. R-2020-3019369, et al. (Opinion and Order Entered Feb. 25, 2021); Pa. PUC v. PAWC, Order, Docket Nos. R-2022-3031672, et al. (Order Entered Dec. 8, 2022).

The rate impact of PAWC's proposal depends on customer usage level and varies between rate zones, as demonstrated by Table 1 of Mr. Geller's direct testimony submitted in this matter.<sup>22</sup> For example, a typical water customer using 4,000 gallons/month and located in Zone 2 (water) will experience a monthly rate increase of more than 217% for their water service. Note that while we have used 4,000 gallons/month for illustrative purposes, the impact of PAWC's rate proposal will also vary by customer usage, which in turn varies by household size and the conditions of a customer's residence.<sup>23</sup> PAWC's own analyses estimates average usage at 40 gallons per person per day – amounting to almost 5,000 gallons per month for a family of four.<sup>24</sup>

The residential monthly bill impact for PAWC's wastewater customers varies widely between rate zones, as demonstrated by Table 2 of Mr. Geller's direct testimony.<sup>25</sup> For example, customers in Rate Zone 7 (York) will see an increase of more than 134% - while customers in Zones 1 and 5 will see a decrease of 5.2%.<sup>26</sup> Like its water rates, impact of PAWC's wastewater rate proposal will also vary by usage, falling disproportionately on larger families and low income households.

PAWC's proposed rate mechanisms will also result in disparate impacts to customers across PAWC's service territory. In the context of the present case, PAWC proposes to implement a Revenue Decoupling Mechanism (RDM) and an ECIC. As discussed below, both of these proposals will negatively impact PAWC's residential customers, and have disproportionately negative impacts on PAWC's low income customers. These proposed mechanisms will further exacerbate unaffordability at both proposed and existing rates.

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<sup>22</sup> CAUSE-PA St. 1 at 8, Table 1.

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

<sup>24</sup> PAWC St. 10 at 13; 12-14: 5; CAUSE-PA St. 1 at 15.

<sup>25</sup> CAUSE-PA St. 1 at 9, Table 2.

<sup>26</sup> CAUSE-PA St. 1 at 10: 1-9.

PAWC serves a significant number of low income customers who will be disproportionately and negatively impacted by PAWC's proposed increase in rate and its proposed alternative rate mechanisms. A household must have income at or below 150% of the federal poverty level (FPL) to be considered low income.<sup>27</sup> Pennsylvania's large public utilities track and classify their low income customer populations in two ways – estimated low income customers and confirmed low income.<sup>28</sup> As of December 2023 (the most recent data provided), PAWC indicates that it has 64,803 *confirmed* low income customers<sup>29</sup> and approximately 114,343 *estimated* low income customers.<sup>30</sup> As Mr. Geller explained in direct testimony, these figures likely represent a significant undercounting of customers in PAWC's service territory who are in need of critical rate assistance.<sup>31</sup>

Regardless of the measure used, it is undeniable that there are a substantial number of low income customers in PAWC's service territory, and their needs must be considered in any determination of the justness, reasonableness, and public interest of a public utility's rate proposals.<sup>32</sup>

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<sup>27</sup> CAUSE-PA St. 1 at 23: 1-4.

<sup>28</sup> CAUSE-PA St. 1 at 23: 1-12; see also Pa. PUC, BCS, 2022 Report on Universal Service Programs & Collections Performance, at 3,4 (Sep. 2023).

<sup>29</sup> PAWC identifies confirmed low income customers through a methods that include: (1) weekly reports of BDP enrollment; (2) LIHWAP grant remittance lists; (3) its Ability to Pay (ATP) process; and (4) information related to informal complaints and PUC-issued payment arrangement request. As Mr. Geller explains, the confirmed low income customer count is not an appropriately inclusive figure to estimate overall need, as it only includes households previously identified as low income. Without regular income screening, it will necessarily fall short of adequately assessing the low income customer population. See CAUSE-PA St. 1 at 23: 1-12; see also 52 Pa. Code § 54.72. Section 54.72 of the Commission's regulations define the "confirmed low income customer". While Chapter 54 of the Commission's regulations are applicable to Electric Distribution Companies, the defined term is nevertheless relevant to consider.

<sup>30</sup> Regarding its count of estimated low income customers, PAWC points to analysis of its expert witness, Charles B. Rea, estimating the number of customers served by household income in PAWC's service territory, as provided in Exhibits CBR-1 and CBR-2. Mr. Geller explained in direct testimony that it is unclear whether PAWC's estimates were derived from U.S. census data, or from other sources. CAUSE-PA St. 1 at 23: 1- – 24.

<sup>31</sup> CAUSE-PA St. 1 at 23: 13 – 24.

<sup>32</sup> CAUSE-PA St. 1 at 24: 12-16.

PAWC's low income customers struggle profoundly to afford services, even at existing rates. To meet the Commission's low income threshold, households must have gross household income at or below 150% of the federal poverty level (FPL).<sup>33</sup> Based on the 2024 FPL guidelines, a family of four with household income at or below 150% FPL has a maximum gross annual income of \$46,800 (\$3,900 per month).<sup>34</sup> A family of four with income at or below 50% FPL has a maximum gross annual income of just \$15,600 (\$1,300 per month).<sup>35</sup> In comparison, the Self Sufficiency Standard for a family of four in Pennsylvania (consisting of 2 adults, 1 school age child, and 1 preschooler) ranges from a low of \$52,666 in McKean County to a high of \$84,976 in Chester County across PAWC's service territory.<sup>36</sup>

PAWC's identified low income customers and H2O participants do not have household incomes anywhere close to the amount needed to be economically self sufficient.<sup>37</sup> For example, the average annual household income for the Company's currently identified H2O participants is just \$19,585.47, while the average annual income of confirmed low income customers is only \$9,247.20.<sup>38</sup>

As discussed below, PAWC's current rates are already unaffordable for its low income customers – particularly those at the bottom of the poverty scale and those with larger families and

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<sup>33</sup> CAUSE-PA St. 1 at 23: 1-4.

<sup>34</sup> CAUSE-PA St. 1 at 25, Table 3.

<sup>35</sup> CAUSE-PA St. 1 at 24: 17 – 25: 12 (citing US Dept. of Health & Human Services, HHS Poverty Guidelines for 2024, <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.) The FPL is a measure of poverty based exclusively on the size of the household, but not the household composition (i.e., whether the household consists of adults or children) or geographic location.

<sup>36</sup> CAUSE-PA St. 1 at 25: 13 – 26: 12. The Self Sufficiency Standard is a benchmark often used to assess how much income a household needs to live without assistance in Pennsylvania. Unlike the federal poverty level, which does not change based on geographic location or family composition, this tool measures the income that a family must earn to meet their basic needs and consists of the combined cost of 6 basic needs – housing, child care, food, health care, transportation, and taxes – without the help of public subsidies.

<sup>37</sup> CAUSE-PA St. 1 at 26: 9-12.

<sup>38</sup> CAUSE-PA St. 1 at 26: 9-12.

higher corresponding usage levels.<sup>39</sup> PAWC’s low income customers carry higher arrearages and are terminated at substantially greater rates compared to residential customers as a whole.<sup>40</sup> With this preexisting unaffordability, increasing rates precipitously as PAWC is proposing will push customers monthly bills even further into unaffordability – and cause essential water/wastewater services to be even more out of reach of many financially-vulnerable customers.<sup>41</sup>

Participation in PAWC’s BDP will reduce but not eliminate the financial impacts of PAWC’s proposed rate increase, if approved. As discussed below, the current structure and discount levels of the BDP are not adequately designed to provide consistent and equitable levels of affordability for program participants.<sup>42</sup> Thus, when rates increase without a corresponding increase to percentage discounts through the BDP, program participants monthly charges under the BDP necessarily increase.<sup>43</sup>

Enrollment in the BDP also remains low – reaching only 25% of PAWC’s *estimated* low income customers.<sup>44</sup> In other words, an estimated 75% of income-eligible customers are not enrolled in PAWC’s programs. Access issues limit the effectiveness of the BDP to offset unaffordability at both existing and proposed rates.<sup>45</sup> Low income customers who are not able enroll in the BDP “will shoulder the full, unmitigated financial burden of the rate increase – compounding existing high levels of rate unaffordability.”<sup>46</sup>

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<sup>39</sup> CAUSE-PA St. 1 at 33: 5 – 34: 7.

<sup>40</sup> CAUSE-PA St. 1 at 30. In November 2023, confirmed low income customers carried an average arrearage level of \$262.18, and H2O program participants carried an average arrearage level of \$252.29. By comparison, residential customers as a whole (inclusive of low income customers) carried an average arrearage level of \$186.94.

<sup>41</sup> CAUSE-PA St. 1 at 34: 1-7.

<sup>42</sup> CAUSE-PA St. 1 at 33: 5 – 34: 7. See also *infra*, Section XI.C.

<sup>43</sup> CAUSE-PA St. 1 at 33: 5 – 34: 7.

<sup>44</sup> Id.

<sup>45</sup> Id.

<sup>46</sup> Id.



We note that testimony provided by participants at PAWC’s public input hearings support our position that the ALJs and the Commission reject PAWC’s proposed rate increase in its entirety. As Office of Consumer Advocate (OCA) expert witness Christine Maloni Hoover indicated through her Supplemental Direct testimony “[a]n overwhelming number of consumers and public officials requested that the Commission outright reject or deny PAWC’s proposed rate increase,” with many citing steep and rapidly increasing costs and expressing deep concerns about their ability to afford water and wastewater services if rates are approved.<sup>47</sup>

Throughout the course of the public input hearings, a number of testifiers spoke to the strength of PAWC’s operations and services. However, as revealed through cross examination and discovery, PAWC actively recruited organizational partners that receive financial support from PAWC to appear on its behalf. As revealed through discovery, PAWC made phone calls and sent emails between January 9, 2024 and February 7, 2024 to solicit supportive testimony from its community partners, many of which receive direct financial support from PAWC.<sup>48</sup> We do not know the precise nature of many of these communications because PAWC alleges it did not track details related to these communications.<sup>49</sup> However, PAWC did provide a “sample” solicitation email, which appears to show that PAWC provided extensive talking points to potential testifiers.<sup>50</sup> Many of these talking points were parroted by PAWC’s funded partners through the course of the public input hearings. Notably, an email to one testifier disclosed through discovery reveals

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<sup>47</sup> OCA St. 1 Supp. at 1 (citing Tr. at 182, 183-184, 408, 513, 520-521, 530, 536, 542, 610, 616, 869, 872, 20 915, 964, 1008, 1046, 1066, 1100, 1013, 1657, 1789, 1823, 1848, 1860, 1875).

<sup>48</sup> Joint Stipulation of CAUSE-PA and PAWC, March 7, 2024, CAUSE-PA V-1.

<sup>49</sup> Id.

<sup>50</sup> Id. For example, PAWC explained that testimony about the “company's infrastructure upgrades, community support, customer service, operational excellence and/or customer assistance programs all go a long way in helping reinforce our message to the Commission that we are committed to investing in our systems, operating efficiently, and being a good corporate citizen in the communities we serve.”

extensive coaching, even explaining in detail how a testifier should respond to potential cross examination.<sup>51</sup> PAWC’s public input hearing solicitations are worrisome – both in the context of the present case and in relation to the overarching integrity of public input hearings. CAUSE-PA is deeply concerned that PAWC devoted resources to soliciting supportive testimony, without putting similarly robust efforts into ensuring all of its customers were informed about the hearings and understood potential impacts of the rate increase on their community. It is unjust, unreasonable, and contrary to the public interest to impinge on the public input hearing process in this manner. We therefore urge the Commission to disregard the testimony of coached witnesses, and to take action to prevent PAWC or other utilities from engaging in this type of behavior in the future.

The overwhelming weight of evidence in this proceeding demonstrates that PAWC customers, especially its low income customers, struggle to afford service at current rates and cannot afford to pay more. PAWC has failed to carry its burden to demonstrate that yet another rate increase in residential rates would be just and reasonable. Therefore, the Commission should not allow PAWC to further increase its rates and should order the Company to take affirmative steps to remediate the current levels of unaffordability for its low income customers.

#### **IV. RATE BASE**

CAUSE-PA did not take a specific position on this issue.

#### **V. REVENUES**

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<sup>51</sup> Joint Stipulation of CAUSE-PA and PAWC, March 7, 2024, CAUSE-PA V-2. These talking points included how PAWC “stepped up to the plate and has the resources and expertise to take this troubled system over”; how PAWC is ready to work with authority employees “to provide its customers with safe, reliable drinking water and service”; how PAWC works with seniors and low income customers – as well as coaching how to avoid providing a direct position related to the proposed rate increase.

CAUSE-PA did not take a specific position as to the revenue requirement in this proceeding. However, as discussed below, CAUSE-PA is highly concerned about how PAWC's proposal to dramatically increase rates of basic water/wastewater services will negatively affect the accessibility of service for residential customers, especially low income customers who already struggle to maintain service to their home. We request that PAWC's revenue proposal is rejected in its entirety, as PAWC has failed to show that its tariff proposals are – as a whole – just, reasonable, and in the public interest.

**VI. EXPENSES**

CAUSE-PA did not take a specific position on this issue.

**VII. TAXES**

CAUSE-PA did not take a specific position on this issue.

**VIII. RATE OF RETURN**

CAUSE-PA did not take a specific position on this issue.

**IX. RATE STRUCTURE AND RATE DESIGN**

**A. Cost of Service Studies**

*1. Water Operations*

CAUSE-PA did not take a specific position on this issue.

2. *Wastewater Operations*

CAUSE-PA did not take a specific position on this issue.

3. *Cost of Service Studies for Future General Rate Increases*

CAUSE-PA did not take a specific position on this issue.

4. *Allocation of Arrearage Management Program (AMP) Costs and Administrative Costs for H2O Programs*

Currently, PAWC recovers costs for bill discounts offered under its BDP solely from its residential customers.<sup>52</sup> However, PAWC allocates a portion of its universal service costs, amounting to approximately \$3,180,090, among both residential and nonresidential customer classes.<sup>53</sup> The costs allocated across rate classes included costs for PAWC's Arrearage Management Program (AMP), as well as a portion of administrative costs to operate its Bill Discount Program (BDP) and Hardship Fund Program.

OSBA expert witness Kevin Higgins argues through direct testimony that all universal service costs should be assigned solely to residential customers.<sup>54</sup> In support, Mr. Higgins argues that residential customers are the only customers that can enroll in universal service programs and, as such, he asserts that the programs only benefit residential customers.<sup>55</sup> Mr. Higgins notes that PAWC accepted OSBA's recommendation in its last base rate case that AMP costs should be directly assigned to residential customers. However, he acknowledges that the approved Settlement did not adopt OSBA's recommendation that AMP costs be allocated solely to the residential customer class.<sup>56</sup> Similarly, Pennsylvania-American Water Large Users Group

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<sup>52</sup> OSBA St. 1 at 31: 1-5.

<sup>53</sup> OSBA St. 1 at 31: 1-18.

<sup>54</sup> OSBA St. 1 at 32: 3-6.

<sup>55</sup> Id.

<sup>56</sup> OSBA St. 1 at 32: 15-20.

(PAWLUG) expert witness Billie S. LaConte argued that Mr. Geller’s recommendations related to allocation of low income assistance program costs were contrary to cost causation principles, which direct that costs should be allocated to the class that causes the utility to incur the costs.<sup>57</sup>

CAUSE-PA supports PAWC’s practice of equitably allocating certain universal service program costs across all ratepayers. The Commission has provided directives related to the recovery of universal service costs in the context of electric and gas jurisdictional utilities.<sup>58</sup> Specifically, the Commission has indicated that it is appropriate to consider cost recovery related to customer assistance programs from all ratepayers, explaining: “poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just ‘residential class’ problems.”<sup>59</sup> The Commission further explained that providing universal services to assist low income families afford and maintain services in their homes provides “a benefit to the economic climate of a community.”<sup>60</sup> While directing utilities and stakeholders to address universal service cost recovery in utility-specific rate cases, the Commission also indicated that it would “no longer routinely exempt non-residential classes from universal service obligations.”<sup>61</sup>

CAUSE-PA recognizes that the CAP Policy Statement is not currently applicable to jurisdictional water/wastewater utilities in the Commonwealth. However, directives and discussions contained in the CAP Policy Statement provide important guidance and precedents

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<sup>57</sup> PAWLUG St. 1S at 15-16.

<sup>58</sup> CAUSE-PA St. 1-R.

<sup>59</sup> CAUSE-PA St. 1-R at 4.

<sup>60</sup> Id.; 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-69.267, Final Policy Statement and Order, Docket No. M-2019-3012599, at 7, 94-96, 107 (Order Entered Sept. 19, 2019).

<sup>61</sup> CAUSE-PA St. 1-R at 4; 66 Pa. C.S. § 69.266(b).

related to the Commission's view of low income assistance programs, and cost recovery for these programs.

It is both unjust and unreasonable, and contrary to the public interest, to require the residential class to solely shoulder the burden of low income assistance programs meant to remediate the impacts of utility insecurity, which affect all ratepayers. Utility insecurity is a broad societal problem which affects all customers and requires holistic solutions to address the resulting negative consequences (including health complications, evictions, and food insecurity).<sup>62</sup>

Low income assistance programs provide important societal benefits that are enjoyed by nonresidential ratepayers.<sup>63</sup> Mr. Geller explained the societal impacts of utility insecurity:<sup>64</sup>

[L]ow income customers faced with utility 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 reconnections<sup>65</sup> – all of which significantly undermine worker productivity, impacting businesses, non-profits, government entities, schools, and other non-residential customer groups. Universal service programs also help utility companies to control uncollectible expenses, helping to bridge the gap in these circumstances, which benefits all customers.

It is unreasonable to review universal services as strictly as a benefit for residential customers. Universal service programs are true public purpose programs. All ratepayers (including industry, business, commerce, educational institutions, hospitals, local and state governments, and other residential customers) and their communities benefit from low income assistance programs.<sup>66</sup> It is squarely in the public interest and sound policy that costs associated with low income assistance programs are shared by all utility ratepayers.<sup>67</sup>

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<sup>62</sup> CAUSE-PA St. 1-R at 5.

<sup>63</sup> CAUSE-PA St. 1-R at 6.

<sup>64</sup> CAUSE-PA St. 1-R at 6-7.

<sup>65</sup> Id.

<sup>66</sup> CAUSE-PA St. 1-R at 7.

<sup>67</sup> Id.

Cross-class recovery of universal service costs is considered the “norm” across much of the country.<sup>68</sup> Mr. Geller described in his testimony how various state utility commissions and legislatures, including Colorado, New Jersey, Maine, New Hampshire, New York, Washington, Oregon, Illinois, and California, have expressly recognized that universally available utility services benefit the community as a whole.<sup>69</sup>

For the foregoing reasons, and based on the analyses of Mr. Geller, CAUSE-PA recommends that the ALJs and the Commission to approve PAWC to continue its current practice of recovering costs associated with PAWC’s AMP, and administrative costs associated with the H2O program and DEF, amongst both residential and nonresidential customers, as outlined above.

#### **B. Revenue Allocation and Act 11**

The Company currently offers water service in five different rate zones.<sup>70</sup> The largest of these rate zones is Rate Zone 1, which accounts for over 99% of the Company’s total water revenue.<sup>71</sup> Rate Zone 1 offers service to residential and non-residential customer classes through a monthly fixed charge that varies by meter size and a volumetric charge that varies by customer class and rate zone.<sup>72</sup> While a great majority of the Company’s customers are now being billed under the same set of rates for metered service, the following water rate zones continue to have separate rate schedules: Water Rate Zone 2 (Valley), Rate Zone 3 (SLIBSCO), Rate Zone 4 (Turbotville), and Rate Zone 5 (Steelton).<sup>73</sup>

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<sup>68</sup> Id.

<sup>69</sup> Id.

<sup>70</sup> CAUSE-PA St. 1 at 10: 11-18.

<sup>71</sup> Id.

<sup>72</sup> Id.

<sup>73</sup> PAWC St. 10 at 31, 38.

For its wastewater rates, PAWC provides service under different rate schedules and for different rate zones – including 9 different Sanitary Sewer System rate zones and 3 different combined sewer system rate zones.<sup>74</sup> While PAWC operates Rate Zone 1 as a statewide rate zone for wastewater, the following wastewater rate zones continue to have separate rate schedules: Wastewater Rate Zone 2 (New Cumberland), Rate Zone 3 (Scranton), Rate Zone 4 (Kane), Rate Zone 5 (Valley) Rate Zone 6 (McKeesport), Rate Zone 7 (York), Rate Zone 8 (Foster), and Rate Zone 9 (Royersford).<sup>75</sup> Since PAWC’s last approved rate proceeding, no new PAWC rate zones have been created.<sup>76</sup> However, upon completion of several planned acquisitions, PAWC intends to add two water rate zones and four additional wastewater rate zones.<sup>77</sup>

PAWC proposes through this proceeding to reallocate a portion of its wastewater revenue requirements to its water service customers, citing Act 11 of 2012 to support this cross-service subsidization proposal.<sup>78</sup> PAWC proposes a revenue requirement for wastewater of \$263,574,897, and proposes to recover \$192,487,503 (or 73% of the total amount) of that revenue requirement from wastewater customers.<sup>79</sup>

While CAUSE-PA did not take a specific position related to the Act 11 issues in this proceeding, CAUSE-PA’s expert witness noted that there are inherent equity issues related to Act 11 proposals and modifications.<sup>80</sup> For example, we note that at the same time as PAWC proposes to shift wastewater costs onto water customers, it is also proposing to shift wastewater costs from

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<sup>74</sup> PAWC St. 10 at 36- 37.

<sup>75</sup> PAWC St. 10 at 37-38.

<sup>76</sup> PAWC St. 4 at 39.

<sup>77</sup> Id.

<sup>78</sup> PAWC St. 10 at 36.

<sup>79</sup> PAWC St. 10 at 46: 16-22.

<sup>80</sup> CAUSE-PA St. 1 at 11-12.



higher income customers to lower income customers through its winter averaging methodology, discussed below.

CAUSE-PA urges the Commission to view the Act 11 equity issues raised by other parties in this proceeding in the context of the overall equity considerations raised by CAUSE-PA in this Main Brief, and through the testimony of CAUSE-PA's expert witness. We submit that PAWC has failed to meet its burden to prove that its rate proposals will result in just and equitable rates. As such, its proposals – including its proposal to shift costs from wastewater to water customers – must fail.

### **C. Tariff Structure**

#### *1. Residential Customer Charge*

CAUSE-PA did not take a specific position on this issue.

#### *2. Water Rate Design*

CAUSE-PA did not take a specific position on this issue.

#### *3. Wastewater Rate Design*

CAUSE-PA did not take a specific position on this issue.

#### 4. *Winter Averaging Wastewater Proposal*

PAWC is proposing to change its current methodology of determining volumetric components of wastewater customer bills – whereby volumetric charges are based on total metered usage – to apply a “winter averaging” methodology.<sup>81</sup> This method is alleged to be an attempt to separate indoor water usage from outdoor water usage – like landscaping and swimming pools – that is not necessarily passed through wastewater systems.<sup>82</sup> Under PAWC’s proposed winter averaging method, a customer’s wastewater bill in the winter averaging months (January-March) would be determined by actual metered water usage for the month.<sup>83</sup> In non-winter months, a customer’s wastewater bill would be based on the lesser of their actual monthly metered water usage or the average water usage for that customer in the winter months.<sup>84</sup> PAWC’s expert acknowledged that the winter averaging method, if approved, would increase volumetric wastewater rates for all customers.<sup>85</sup>

PAWC’s proposed winter averaging methodology is inequitable and contrary to the public interest, as it improperly favors customers that reside in larger properties and have greater levels of discretionary water usage in the non-winter months – to the detriment of customers that reside in smaller homes and apartments that do not have the same discretionary water use.<sup>86</sup> The methodology would also favor customers with summer vacation homes, which may have very low average usage in the winter months. In short, PAWC’s proposed winter methodology would shift costs from higher income customers with greater discretionary usage onto lower income customers

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<sup>81</sup> PAWC St. 10 at 42: 19-23.

<sup>82</sup> PAWC St. 10 at 43.

<sup>83</sup> PAWC St. 10 at 43, 44: 3-6.

<sup>84</sup> PAWC St. 10 at 43.

<sup>85</sup> PAWC St. 10 at 45: 3-10.

<sup>86</sup> CAUSE-PA St. 1 at 13: 5-15.

that are already struggling to afford basic services to their home. It would also deter conservation, making it more affordable for some households to maintain swimming pools – at the expense of other families’ ability to maintain drinking water.

Notably, the assumptions built into PAWC’s winter averaging methodology are flawed. First, PAWC’s methodology assumes outdoor water usage does not impact wastewater system costs, without consideration of whether a given system is combined stormwater and wastewater. Moreover, PAWC’s methodology assumes that increased summer water usage is all attributable to outdoor water usage, without any individualized determination of whether a customer’s average winter usage is reflective of their average summer usage.<sup>87</sup> This means that customers with a vacation home used primarily in the summer months, families with children returning from college for summer vacation, and other households with higher summer usage would be charged the lower winter rates all year long.

In his rebuttal testimony, PAWC expert witness Mr. Charles Rea conceded that the beneficiaries of the proposed winter averaging methodology are likely higher income customers, but nevertheless argues that cost causation principle indicate that water used by customer not entering a wastewater system in the summer should not be charged for wastewater services. Mr. Rea attempts to justify the methodology by arguing higher income customers currently subsidize lower income customers.<sup>88</sup> In other words, Mr. Rea concedes that the proposed winter averaging methodology will benefit higher income households to the detriment of lower income households, but argues this cost-shifting is justified. In response to Mr. Rea’s rebuttal testimony, Mr. Colton points out that Mr. Rea has not presented a legitimate basis to overcome concerns related to adverse

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<sup>87</sup> CAUSE-PA St. 1 at 13.

<sup>88</sup> PAWC St. 10-R at 54-55.

impacts on low income customers, particularly in light of existing rate unaffordability already felt by low income customers.<sup>89</sup>

CAUSE-PA notes that Act 11 equity issues, addressed above, are relevant to this discussion and should be viewed in tandem. Indeed, PAWC is proposing to shift wastewater costs from higher income customers to lower income customers through its winter averaging methodology – while at the same time shifting costs from wastewater customers onto water customers. As explained, low income customers are already struggling to keep up with rising water and wastewater costs. Rate design structures, such as PAWC’s winter averaging, should not be approved if they will shift a higher burden onto those who can least afford service.

PAWC’s proposed winter averaging methodology is unreasonable and contrary to the public interest because it is premised on faulty assumptions about summer usage and it improperly shifts the revenue burden from customers who reside in single-family homes with greater discretionary water usage and/or who own summer vacation homes (most often higher income customers) onto customers that live in smaller properties or apartments with little discretionary water usage (most often lower income customers).<sup>90</sup> For these reasons, we recommend that the ALJs and the Commission reject PAWC’s proposed winter averaging methodology.

#### **D. Scale Back of Rates/Summary**

CAUSE-PA did not take a specific position on the issue of scale back of rates.

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<sup>89</sup> OCA St. SSR at 11: 8-14. (PUBLIC)

<sup>90</sup> CAUSE-PA St. 1 at 13: 16 – 14: 7.

## **X. ALTERNATIVE RATEMAKING REQUESTS**

### **A. Revenue Decoupling Mechanism (“RDM”)**

PAWC is proposing to implement a Revenue Decoupling Mechanism (RDM) as an alternative rate mechanism pursuant to 66 Pa. C.S. § 1330.<sup>91</sup> PAWC cites concerns related to recovery of fixed costs, and argues that the RDM will stabilize revenues.<sup>92</sup> PAWC indicates that the two primary factors of revenue volatility are seasonal weather conditions and the ongoing trend of declining usage across certain customer segments.<sup>93</sup> The Company’s projections show that water service revenues, at proposed rates, are expected to decline by approximately \$5.8 million/year.<sup>94</sup> Based on these projections, PAWC asserts that gaps in revenues will amount to an estimated \$6.5 million/year for residential water service.<sup>95</sup>

The proposed RDM compares actual revenues collected under Commission-approved rates to revenue that would have been recovered pursuant to certain set rate designs on a forward-looking basis.<sup>96</sup> Differences in these amounts would either be credited to customers or collected from customers at a later time.<sup>97</sup> The proposed RDM would apply to the volumetric rates of both water and wastewater services across each customer class (with the exception of services provided under contract rates).<sup>98</sup>

PAWC argues that customers who practice conservation or install water-efficiency measures will still see corresponding bill reductions, though the Company appears to acknowledge

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<sup>91</sup> Volume I, Notice of Proposed Water and Wastewater Rate Changes.

<sup>92</sup> PAWC St. 10 at 87.

<sup>93</sup> Id.

<sup>94</sup> PAWC St. 10 at 98.

<sup>95</sup> PAWC St. 10 at 99.

<sup>96</sup> PAWC St. 10 at 90.

<sup>97</sup> Id.

<sup>98</sup> PAWC St. 10 at 93-94.

through provided examples that the amount of achievable bill savings will be reduced by the RDM.<sup>99</sup> PAWC also argues several other customer benefits, including that the RDM would reduce the Company's throughput incentive – whereby the Company has a financial incentive to sell more water through volumetric customer use.<sup>100</sup>

On June 28, 2018, Act 58 of 2018 was signed into law, which amended Chapter 13 of the Public Utility Code to add Section 1330. This Section authorized the Commission to review and approve utility proposals for alternative ratemaking mechanisms.<sup>101</sup> In 2019, the Commission adopted a Distribution Rates Policy Statement implementing Section 1330.<sup>102</sup> The Commission's Policy Statement enumerates factors for evaluation of alternative ratemaking mechanisms.<sup>103</sup> The Policy Statement is intended to “promote the efficient use of electricity, natural gas and water through technologies and information.”<sup>104</sup> It states that, “an alternative rate design methodology should reflect the sound application of cost of service principles, establish a rate structure that is just and reasonable, and consider customer impacts.”<sup>105</sup> It sets forth fourteen factors to evaluate whether an alternative ratemaking mechanism is just and reasonable, including the effect on low income customers and customer assistance programs, the impact on efficiency and conservation programming, alignment with cost causation principals, and the prevention of improper cost shifting.<sup>106</sup>

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<sup>99</sup> See PAWC St. 10 at 99-100.

<sup>100</sup> PAWC St. 10 at 102, 105-106.

<sup>101</sup> 66 Pa. C.S. § 1330.

<sup>102</sup> See 66 Pa. C.S. § 1330(d) (“No later than six months after the effective date of this subsection, the commission, by regulation or order, shall prescribe the specific procedures for the approval of an application to establish alternative rates.”).

<sup>103</sup> 52 Pa. Code §§ 69.3301-.3302.

<sup>104</sup> Id.

<sup>105</sup> Id.

<sup>106</sup> 52 Pa. Code § 69.3302(a).

CAUSE-PA is opposed to the proposed RDM, as it unreasonably prejudices and disadvantages residential customers who practice conservation to lower their monthly bills and will disproportionately impact low income customers.

PAWC's argument that customers will retain some ability to reduce costs through conservation does not negate the fact that the RDM will detract from savings that may be achieved through customers' conservation efforts.<sup>107</sup> As proposed, the RDM improperly affects customer consumption and demand level so that customers are disincentivized from practicing conservation.<sup>108</sup> Of note, PAWC's proposed winter averaging methodology, discussed above, also disincentivizes conservation in the summer months, when water usage is highest, compounding conservation impacts of the RDM.

Examining the factors set forth in Section 69.3302(a)(5) and (a)(6) related to how a proposed alternative ratemaking mechanism may disincentivize efficiency and conservation, the proposed RMD would significantly and negatively disincentive customers conservation efforts and incentives to practice conservation and access efficiency programs. In addition, pursuant to Section 69.3302(a)(7) and (8), the proposed RDM is particularly problematic for low income customers who already face significant water and wastewater burdens. As discussed below, low income customers often lack funds to invest in conservation devices and upgrades.<sup>109</sup> These customers should not be hampered in their ability to practice conservation and achieve resulting bill savings by imposing the proposed RDM.<sup>110</sup>

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<sup>107</sup> CAUSE-PA St. 1 at 16: 1-14.

<sup>108</sup> Id.

<sup>109</sup> Id.

<sup>110</sup> Id.

Moreover, PAWC’s proposed RDM does not contain adequate consumer protections, a factor for consideration pursuant to Section 69.3302(a)(12). The proposed RDM is designed to apply to both water and wastewater services<sup>111</sup> – and to all customers in the residential, commercial, industrial, municipal, and sales for resale classes (except for those customers with service under contract rates) classes.<sup>112</sup> PAWC’s low income customers would have to bear additional costs stemming from the RDM, if approved, without any specific mitigation.<sup>113</sup> These additional costs would exacerbate any increases in unaffordability if PAWC is permitted to increase its base rates, apply its proposed winter averaging methodology, or implement its proposed ECIC (discussed below). As proposed, the RDM does not insulate low income customers from additional and inequitable rate burdens.<sup>114</sup> In addition, pursuant to Section 69.3302(a)(8) (related to how the proposal would impact customer rate stability principles), low income customers will be placed in greater risk of arrears and termination as a result of this increased unaffordability, jeopardizing their ability to access consistent and reliable services.<sup>115</sup>

Along with these negative customer impacts, we are concerned that the RDM will not be understandable to consumers, a factor for consideration pursuant to Section 69.3302(a)(13). As Mr. Geller explains through testimony, the proposed RDM “is a highly complex design and formula underpinned by rate design principles.”<sup>116</sup> There is no indication of what, if any, consumer education efforts PAWC intends to make around the RDM if the mechanism is approved, or

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<sup>111</sup> CAUSE-PA St. 1 at 16-17; PAWC St. 10 at 93-94.

<sup>112</sup> CAUSE-PA St. 1 at 16-17; PAWC St. 10 at 94.

<sup>113</sup> CAUSE-PA St. 1 at 16-17.

<sup>114</sup> Id.

<sup>115</sup> Id.

<sup>116</sup> Id.; Supplement No. 45 to Tariff Water-PA P.U.C. No. 5 Seventh Revised Page 40.



whether consumers will have any recourse if they have questions or concerns about RDM-related charges.<sup>117</sup>

Finally, Section 69.3302(a)(10) sets forth a factor for consideration related to how a ratemaking mechanism would impact the frequency of rate case filings and effect of regulatory lag. There is no evidence to suggest that implementation of the RDM will lessen the severity or frequency of future rate increases. As discussed by PAWC's expert witnesses, PAWC's justification for its instant rate increase proposal stems from various factors unrelated to customer conservation.<sup>118</sup>

Mr. Colton similarly raised concerns that the proposed RDM would disproportionately and adversely affect low income customers.<sup>119</sup> In response, PAWC expert witness Charles Rea argued that customers who reduce usage would "still enjoy the benefits of a lower bill even with the implementation of the RDM."<sup>120</sup> He argued that the RDM will not affect the overall affordability of services, and that the BDP will help soften the financial blow of an RDM.<sup>121</sup>

While Mr. Rea continues to argue that PAWC customers may continue to practice conservation, he does not contest that the RDM would erode the bill savings achievable through conservation. These inequitable impacts on low income customers, and the erosion of conservation efforts, underscore that the RDM is unreasonable, inequitable, and contrary to the public interest. PAWC has not met its burden of showing that the proposed RDM should be approved, and thus the proposed RDM should be rejected.

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<sup>117</sup> CAUSE-PA St. 1 at 16-17.

<sup>118</sup> PAWC St. 1 at 7-8. CAUSE-PA St. 1 at 16-17.

<sup>119</sup> OCA St. 5 at 90. (PUBLIC)

<sup>120</sup> PAWC St. 10-R at 72, 74-75.

<sup>121</sup> Id.

Ultimately, the proposed RDM fails to meet the factors set forth in Section 69.3302(a). Indeed, PAWC has failed to meet its burden to show that the alternative rate mechanism is just and reasonable. To the contrary, the RDM disincentivizes conservation, falling hardest on PAWC's low income customers. In line with Mr. Geller's recommendations, we urge the Commission to reject the proposed RDM in its entirety. If, however, the Commission ultimately permits PAWC to implement an RDM, we recommend that BDP customers are exempt from RDM charges to protect these financially-vulnerable customers from the negative effects of the RDM, outlined above.<sup>122</sup>

#### **B. Environmental Compliance Investment Charge ("ECIC")**

PAWC is also proposing to implement an Environmental Compliance Investment Charge (ECIC) as an alternative rate mechanism pursuant to 66 Pa. C.S. § 1330.<sup>123</sup> PAWC alleges its proposed ECIC is designed to reflect and recover capital costs and expenses related to compliance with federal and state environmental mandates between rate proceedings.<sup>124</sup> Specifically, PAWC cites to several new and adjusted requirements related to acceptable limits of polyfluoroalkyl substances (PFAS).<sup>125</sup> PAWC expert witness Ashley Everette argues that the proposed ECIC would provide a mechanism for adjusting PAWC's rates to comply with new environmental mandates while mitigating exposure to less frequent but more significant general base rate increases by producing smaller increases to customer bills.<sup>126</sup>

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<sup>122</sup> CAUSE-PA St. 1 at 16-17.

<sup>123</sup> Volume I, Notice of Proposed Water and Wastewater Rate Changes.

<sup>124</sup> PAWC St. 1 at 26.

<sup>125</sup> PAWC St. 8 at 24.

<sup>126</sup> PAWC St. 1 at 27.

PAWC proposes a process for plan submission that would include the filing of answers and comments, but no ability to conduct discovery or otherwise assess the prudence of PAWC's compliance plan, the reasonableness and justness of the expenditures necessitated by the plan, or the reasonableness and justness of the resulting charge on consumers.<sup>127</sup> PAWC proposes to apply the ECIC "equally" to all customer classes.<sup>128</sup> For low income residential customers enrolled in PAWC's Bill Discount Program (BDP), PAWC intends to apply the ECIC *after* the BDP rate discount has been applied to the bill.<sup>129</sup> In other words, the BDP rate discount would be applied to base charges (i.e. service charges and consumption charges) before the ECIC is calculated.<sup>130</sup>

As discussed above, 52 Pa. Code § 69.3302 sets forth factors to evaluate whether an alternative ratemaking mechanism is just and reasonable, including the effect on low income customers and customer assistance programs, the impact on energy efficiency programming, alignment with cost causation principals, and the prevention of improper cost shifting.<sup>131</sup> The Commission policy indicates that "an alternative rate design methodology should reflect the sound application of cost of service principles, establish a rate structure that is just and reasonable, and consider customer impacts."<sup>132</sup>

CAUSE-PA asserts that the proposed ECIC is unreasonable and contrary to the public interest. Section 69.3302(a)(7) and (a)(8) set forth factors related to the impact on low income customers, customer assistance programs, and on rate stability principles. As a threshold matter, the impacts of the proposed ECIC on PAWC's customers and its assistance programs is largely

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<sup>127</sup> PAWC St. 8 at 25-26.

<sup>128</sup> PAWC St. 8 at 29.

<sup>129</sup> CAUSE-PA St. 1 at 19: 1-8.

<sup>130</sup> *Id.*

<sup>131</sup> 52 Pa. Code § 69.3302(a).

<sup>132</sup> 52 Pa. Code §§ 69.3301-.3302.

unclear because of the scant details included in PAWC's proposal.<sup>133</sup> It is impossible to determine the reasonableness of the ECIC and, in turn, whether the ECIC will operate equitably and in the public interest based on the information provided to date.<sup>134</sup>

Despite the ambiguity of PAWC's ECIC proposal, it appears that the proposed ECIC will result in negative customer impacts that renders the proposed ECIC contrary to the public interest, and the factors set forth in Section 69.3302(a). First, the proposed ECIC would negatively affect vulnerable low income customers – contrary to the explicit language in Section 69.3302(a)(7) and Section 69.3302(a)(8). We are highly concerned that the proposed ECIC will improperly and unjustly shift the burden of mitigating PFAS and meeting environmental standards to low income customers, their households, and their communities. While the PAWC's proposal would apply to BDP participants after application of BDP discounts, which may modestly reduce the cost impact to BDP participants, the proposed ECIC does otherwise address the negative financial impacts of the proposed ECIC on PAWC's low income customers not enrolled in the BDP.<sup>135</sup> The uncertainties associated with cost, discussed above, make it difficult to anticipate the extent to which the proposed ECIC may cause acute and unanticipated fluctuations in monthly bills that are difficult for families with low and fixed incomes to absorb.

The proposed ECIC wholly fails to include appropriate consumer protections for financially-vulnerable low income customers pursuant to Section 69.3302(a)(12). CAUSE-PA and its expert witness assert that the design of rate recovery for environmental mitigation should account for the broad disparities that low income consumers, their families, and their communities

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<sup>133</sup> CAUSE-PA St. 1 at 19: 1-8.

<sup>134</sup> CAUSE-PA St. 1 at 19: 1-19.

<sup>135</sup> Id.

have experienced from exposure to PFAS and other environmental contaminants.<sup>136</sup> As Mr. Geller explains, “[l]ow income communities and communities of color disproportionately live near PFAS contamination sites due to historical racial discrimination in housing and occupational sectors, and inequitable enforcement of environmental regulations that concentrates sources of PFAS pollution within close proximity of these communities.”<sup>137</sup>

Mr. Geller describes through testimony how low income communities and communities of color disproportionately find themselves subject to higher levels of PFAS levels compared to other communities and suffer the costliest health consequences as result of these contaminants.<sup>138</sup> In 2019, the Center for Science Democracy observed that low income households and people of color had high prevalence of living within a five (5) mile radius of contaminated sites.<sup>139</sup> In turn, households will face higher PFAS concentrations the closer they are located to the primary source.<sup>140</sup> These economically vulnerable households should not also be required to bear the unaffordable financial burden for remediating these conditions through their monthly PAWC bills.<sup>141</sup> Mr. Geller argues the ECIC would result in “adding insult to injury”, explaining that “PAWC’s low income customers should not have to make the untenable choice between accessing safe drinking water and being able to afford basic water/wastewater services.”<sup>142</sup> If approved, the proposed ECIC would add an additional charge on top of already unaffordable water/wastewater bills.<sup>143</sup>

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<sup>136</sup> CAUSE-PA St. 1 at 19-20.

<sup>137</sup> CAUSE-PA St. 1 at 20: 1-9.

<sup>138</sup> Id.

<sup>139</sup> CAUSE-PA St. 1 at 20: 10-16.

<sup>140</sup> Id.

<sup>141</sup> Id.

<sup>142</sup> Id.

<sup>143</sup> Id.

The proposed ECIC would improperly increase customer rates outside of base rates approved through PAWC's rate proceedings.<sup>144</sup> As Mr. Geller points out “[e]nvironmental remediation costs are part of PAWC's cost of doing business and should be included for consideration and analysis within base rate proceedings.”<sup>145</sup> In sum, Mr. Geller concluded that it is inequitable, unjust, and unreasonable to shift the financial burden of PFA mitigation and compliance to residential customers.

In his rebuttal testimony, PAWC expert witness J. Cas Swiz continues to argue for the imposition of the proposed ECIC. Mr. Swiz submits that the costs that the proposed ECIC would recover are not the normal costs of doing business, contrary to Mr. Geller's assertion.<sup>146</sup> Instead, Mr. Swiz argues that emerging compliance obligations and regulations must be met and may detract from PAWC's other planned projects.<sup>147</sup> Mr. Swiz also again notes that BDP discounts will be applied in a manner to reduce the overall impact of the ECIC.<sup>148</sup>

We disagree. Even assuming, *arguendo*, that Mr. Swiz's assertion is correct and the proposed ECIC would recover new compliance obligations outside of PAWC's “normal” responsibilities that would necessitate imposition of the ECIC, the extent of customer impacts from imposition of an ECIC remains wholly unclear.<sup>149</sup> While Mr. Swiz argues that these details may be proactively evaluated in the context of ECIC plan filings,<sup>150</sup> PAWC's proposed approval process would include filing of answers and comments, but no ability to conduct discovery or otherwise assess the prudence of PAWC's compliance plan or the reasonableness and justness of

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<sup>144</sup> CAUSE-PA St. 1 at 19: 1-19.

<sup>145</sup> Id.

<sup>146</sup> PAWC St. 8-R at 10: 7-23.

<sup>147</sup> Id.

<sup>148</sup> PAWC St. 8-R at 13.

<sup>149</sup> PAWC St. 8-R at 10; 13.

<sup>150</sup> PAWC St. 8-R at 11: 1-12.

the expenditures necessitated by the plan.<sup>151</sup> Further, as discussed, above, while the proposed ECIC may be dampened slightly for BDP participants – BDP participants will still inequitably face heightened bills as a result of the ECIC, if implemented, and non-BDP low income customers will face the full impacts of ECIC charges.

For the forgoing reasons, we recommend that the Commission reject the proposed ECIC in its entirety. If PAWC is ultimately permitted to implement and ECIC, we recommend that BDP participants should be exempt from ECIC charges.<sup>152</sup>

## **XI. LOW-INCOME CUSTOMER ASSISTANCE**

### **A. Summary**

PAWC offers customer assistance through its Help to Others (H2O) programs, which are administered by the Dollar Energy Fund (DEF).<sup>153</sup> Through its H2O programs, PAWC currently offers three forms of assistance to low income customers: (1) grant assistance of up to \$500 per year for customers with temporary hardship, which is conditioned on the availability of funds; (2) monthly bill discounts through PAWC’s Bill Discount Program – or BDP – for water and wastewater services; and (3) usage reduction assistance through the availability of water-saving devices and education available to BDP customers.<sup>154</sup> As Mr. Geller explains in his direct testimony, to qualify for a hardship grant, a customer must have a total household income at or below 200% FPL.<sup>155</sup> To qualify for the BDP, a customer must have a household income at or below 150% FPL.<sup>156</sup>

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<sup>151</sup> CAUSE-PA St. 1 at 18: 16-18.

<sup>152</sup> CAUSE-PA St. 1 at 21-22.

<sup>153</sup> CAUSE-PA St. 1 at 40: 12-19.

<sup>154</sup> Id.

<sup>155</sup> Id.

<sup>156</sup> Id.

In addition to these existing programs, PAWC anticipates launching its an Arrearage Management Program (AMP), as approved by the Commission on December 7, 2023, within 12 months of the date of the Commission’s Order.<sup>157</sup>

As discussed in the sections that follow, PAWC’s low income assistance programs are inadequate to address widespread utility unaffordability at both existing and proposed rates. PAWC’s affordability analysis is premised on flawed assumptions and inappropriately narrow and circular data which masks the depth and breadth of need amongst its low income customers. In turn, PAWC’s program enrollment is woefully inadequate to address overwhelming need, and program benefits do not produce consistent and equitable levels of affordability. Moreover, there are substantial issues with PAWC’s universal service program administration and outreach that make it difficult for households to access assistance. Compounding to these issues related to its low income assistance programs, PAWC has no centralized universal service program plan to promote program transparency and facilitate effective Commission oversight. CAUSE-PA submits that substantial reforms are necessary – regardless of whether any rate increase is ultimately approved in this case.

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<sup>157</sup> CAUSE-PA St. 1 at 40-41; Petition of Pennsylvania-American Water Company for Approval of an Arrearage Management Plan, Order, Docket No. P-2021-3028195 (Further Amended AMP Settlement at ¶ 45; Order Entered Dec. 7, 2023).



## **B. Affordability Analysis**

### *1. CAUSE-PA's Affordability Analysis*

Mr. Geller's analyses of the affordability of PAWC's rates found that low income customers face excessive and unaffordable water and wastewater burdens – often exceeding 20% of household income, depending on household size and usage.<sup>158</sup> Pursuant to the calculations in CAUSE-PA Exhibit 1, attached to Mr. Geller's direct testimony, low income customers devote large portions of their incomes each month to afford basic water/wastewater services.<sup>159</sup>

CAUSE-PA Exhibit 1 provides a snapshot of water/wastewater burdens for low income customers, at present and proposed rates, for Water Rate Zone 1 and Wastewater Rate Zone 1 customers.<sup>160</sup> A utility bill burden – in this case a water/wastewater burden – is an accepted metric used to determine the affordability of utility service and comprises the percentage of household income required to cover the cost of the bill.<sup>161</sup> While Pennsylvania has not adopted statewide water and wastewater burden standards, it is generally accepted that – to be considered affordable – the combined cost for water and wastewater service should not exceed 4% of household income.<sup>162</sup>

As CAUSE-PA Exhibit 1 demonstrates, PAWC's water/wastewater burden levels for low income customers greatly exceed acceptable burden levels. For example, at current rates in Rate Zone 1, a four-person household at 50% FPL using 4,000 gallons of water each month has a combined water and wastewater burden of 16%.<sup>163</sup> If PAWC's rate increase proposal is approved,

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<sup>158</sup> CAUSE-PA St. 1 at 27-28. CAUSE-PA St. 1, Exhibit 1. A combined water/wastewater burden for a family of 4 at 50% FPL using 5,000 gallons is approximately 20% at present rates.

<sup>159</sup> CAUSE-PA St. 1 at 27-28.

<sup>160</sup> Id.

<sup>161</sup> CAUSE-PA St. 1 at 27: 2-12.

<sup>162</sup> Id.

<sup>163</sup> CAUSE-PA St. 1 at 27: 15 – 28: 12.

this same household will face a combined water and wastewater burden of 17%.<sup>164</sup> These are significant burdens that pose oftentimes insurmountable barriers to low income customers affording their monthly bills and staying connected to services.<sup>165</sup> Indeed, these high burdens leave insufficient funds to pay for housing, energy, food, medicine, childcare, and other basic needs – and lead to cascading consequences to “health, safety, and stability of Pennsylvania’s economically vulnerable families.”<sup>166</sup>

While CAUSE-PA Exhibit 1 provides important insight into the water/wastewater burdens faced by low income families at both present and proposed rates, there is ample other evidence that low income households struggle to afford water/wastewater services—even before any rate increase is approved.

First, PAWC’s low income customers have disproportionate levels of arrears compared to residential customers as a whole. As demonstrated in Table 5 of Mr. Geller’s direct testimony, as of December 2022, the average arrearage level of PAWC’s confirmed low income customers was \$316.89, and the average arrearage level of PAWC BDP customers was \$310.49 – compared to \$185.02 for all residential customers (inclusive of low income customers).<sup>167</sup> Similarly, as of November 2023, the average arrearage level of PAWC’s confirmed low income customers was \$262.18, and the average arrearage level of PAWC’s H2O program participants (inclusive of BDP and Hardship Fund) was \$252.29 – compared to \$186.94 for all residential customers (inclusive

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<sup>164</sup> Id.

<sup>165</sup> Id.

<sup>166</sup> Id.

<sup>167</sup> CAUSE-PA St. 1 at 29, Table 5.

of low income customers).<sup>168</sup> These disparities underscore the hardship that PAWC’s low income customers face – even at present rates – to afford basic water/wastewater services.<sup>169</sup>

We note that on December 7, 2023, the Commission approved a Settlement related to PAWC’s Petition for approval for an Arrearage Management Program (AMP).<sup>170</sup> While implementation of an AMP will provide crucial arrearage management assistance to low income participants, the underlying unaffordability of PAWC’s rates must be addressed in a comprehensive manner to prevent the unreasonable accrual of arrears, and to help low income customers to reasonably afford their monthly payments.<sup>171</sup> If PAWC’s rates are increased even further, debt levels may correspondingly increase and weaken the effectiveness of PAWC’s recently-approved AMP before the program is even launched.<sup>172</sup>

Second, low income customers are far more likely to have their service involuntarily terminated for nonpayment compared to residential customers as a whole. For example, Table 4 to Mr. Geller’s direct testimony shows that in 2022, the residential termination rate was 3.55%, compared to 20.95% for confirmed low income customers.<sup>173</sup> Similarly, in 2023, the termination rate for residential customers was 2.31%, compared to 13.54% for low income customers.<sup>174</sup> In other words, in 2023, the involuntary termination rate amongst confirmed low income customers was more than *six times higher* than the termination rate for residential customers as a whole. These disparate rates of termination between low income customers and residential customers as

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<sup>168</sup> CAUSE-PA St. 1 at 29, Table 5; 30.

<sup>169</sup> Id.

<sup>170</sup> CAUSE-PA St. 1 at 30: 7-19. Petition of Pennsylvania-American Water Company for Approval of an Arrearage Management Plan, Order, Docket No. P-2021-3028195 (Order, Dec. 7, 2023).

<sup>171</sup> CAUSE-PA St. 1 at 30: 7-19.

<sup>172</sup> Id.

<sup>173</sup> CAUSE-PA St. 1 at 29, Table 4.

<sup>174</sup> Id.

a whole underscore the unaffordability that PAWC's low income customers already bear and require additional action to address rate unaffordability so that all PAWC customers can afford and maintain basic water/wastewater services.<sup>175</sup>

In total, these indicators demonstrate that PAWC's low income customers are already struggling – even at present rates – to afford and stay connected to water/wastewater services. PAWC's proposed rate increases would exacerbate existing levels of unaffordability for PAWC's low income customers. For example, CAUSE-PA Exhibit 1 demonstrates the impacts of PAWC's proposed rate increase on Rate Zone 1 Water and Rate Zone 1 Wastewater – broken down by income tier and at various usage levels, ranging from 2,000 to 5,000 gallons.<sup>176</sup> If PAWC's rate increase were approved, low income customers will be subject to excessive combined water/wastewater burdens.<sup>177</sup> *For example, at proposed rates, a family of three at 50% FPL using 4,000 gallons/month would have a combined water/wastewater burden of 21%, and a family of four at 50% FPL using 4,000 gallons/per month would have a combined water/wastewater burden of 17%.* We note that the range of usage levels provided in CAUSE-PA Exhibit 1 are particularly important for low income families, who are more likely to live in aging housing stock with leaky pipes and fixtures, and are less able to afford repairs and efficiency upgrades to control usage levels.<sup>178</sup>

The excessive water and wastewater burdens that PAWC proposes to impose will have profound and negative impacts on its low income customers. These proposed increases will likely cause increased terminations of economically vulnerable consumers or, alternatively, “will cause

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<sup>175</sup> CAUSE-PA St. 1 at 29: 8-13.

<sup>176</sup> CAUSE-PA St. 1 at 31: 1-17. CAUSE-PA Exhibit 1.

<sup>177</sup> CAUSE-PA St. 1 at 31-32.

<sup>178</sup> CAUSE-PA St. 1 at 31: 12-17.

economically vulnerable households to go without other critical life necessities such as housing, energy, food, medicine, childcare, and other essential services to afford water and wastewater services to their home.”<sup>179</sup>

Mr. Geller explains the serious impacts of loss of water service through his testimony:<sup>180</sup>

Water terminations pose a serious threat to public health and human dignity. Without access to running water, families are unable to cook, bathe, clean, or flush the toilet.<sup>181</sup> Access to water service is tied directly to the health and well-being of the household, and the habitability of the home. Water terminations are akin to eviction from a home, as the home may be deemed uninhabitable or even condemned following termination of water service, forcing families to vacate with little to no notice. Termination of service to the home can also jeopardize a parent’s custody of their children, can result in the loss of housing assistance, and is often cited as a catalyst for homelessness.

Prior to the COVID-19 pandemic and more recent elevated high levels of inflation, approximately one-third of households experienced income volatility.<sup>182</sup> Recent analyses of material hardship borne by low and moderate income consumers experiencing income volatility found increased rates of inability to afford bills, medical care, housing payments and food,<sup>183</sup> and a higher likelihood to resort to expensive payday loans to pay for basic living expenses.<sup>184</sup> Again, PAWC’s rate of basic water/wastewater service are already unaffordable for many families – even before any rate increase is approved. Finally, the unaffordability at both present and proposed rates affects all customers. As Mr. Geller explains, this unaffordability ultimately increases “the risk of consequences to the health and safety of low income customers and the corresponding level of uncollectible expenses recovered from other ratepayers.”<sup>185</sup>

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<sup>179</sup> CAUSE-PA St. 1 at 31: 19 – 32: 2.

<sup>180</sup> CAUSE-PA St. 1 at 32: 3-13.

<sup>181</sup> CAUSE-PA St. 1 at 32-33.

<sup>182</sup> Id.

<sup>183</sup> Id.

<sup>184</sup> Id.

<sup>185</sup> CAUSE-PA St. 1 at 28: 20 – 29: 2.

## 2. *Issues Related to PAWC's Affordability Analyses*

Mr. Geller expressed significant concerns about PAWC's Affordability Analyses provided in its initial filings.<sup>186</sup> As Mr. Geller described, PAWC's analysis is substantially flawed, and obscures the substantial needs of PAWC's low income customer base – especially for larger families and those with the lowest income levels.<sup>187</sup>

In his direct testimony, PAWC expert witness, Charles Rea, presented two affordability analyses conducted by PAWC.<sup>188</sup> First, an “Enterprise-Level” analysis considered affordability of service at high level over a multi-year period, and represented a historical comparison of average monthly bills for residential customers based on household income.<sup>189</sup> PAWC's analyses utilized a “Bill-to-Income (BTI) Ratio” – defined as annual water bills divided by estimated annual income.<sup>190</sup> The Enterprise-Level analysis looked at average monthly bills for residential customers over time, as compared to median household income (MHI).<sup>191</sup> According to Mr. Rea, the BTI ratios for water service for PAWC have allegedly held steady from 2012 through 2023 between 0.8%-1.0% of MHI.<sup>192</sup> Mr. Rea similarly alleged that the monthly bills for PAWC wastewater services between 2012 and 2022 have held steady between 0.9% and 1.2% for MHI and rose to 1.55% in 2023.<sup>193</sup>

PAWC also conducted a Community-Level analysis that purported to consider affordability on an individual customer basis under current and proposed rates, with consideration

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<sup>186</sup> CAUSE-PA St. 1 at 34-36.

<sup>187</sup> CAUSE-PA St. 1 at 34: 9-18.

<sup>188</sup> PAWC St. 10 at 5.

<sup>189</sup> PAWC St. 10 at 6: 1-9.

<sup>190</sup> Id.

<sup>191</sup> Id.

<sup>192</sup> PAWC St. 10 at 7: 8-17.

<sup>193</sup> PAWC St. 10 at 9.

for current economic conditions.<sup>194</sup> Mr. Rea defined basic water service, pursuant to this Community-Level analysis, as “a water usage level that reflects the level of water consumption for basic human services” – which PAWC sets at 40 gallons per household member per day.<sup>195</sup> However, after suggesting a 40 gallon per day threshold to meet basic needs, Mr. Rea’s analysis applies a *static* usage threshold of 3,000 gallons/month or less.<sup>196</sup> As Mr. Geller notes, if PAWC’s analysis were utilizing a 40 gallon/household member threshold for basic service, as claimed, usage would be closer to 5,000 (4,960) gallons/month for a family of 4.<sup>197</sup>

Mr. Rea described how, pursuant to PAWC’s analyses, 71% of PAWC residential water customers and 65% of PAWC residential wastewater customers can expect bills for basic water and wastewater service to be less than 4% of their household income, combined.<sup>198</sup> Mr. Rea suggests these results are acceptable. However, pursuant to PAWC’s own analysis, approximately 176,900 (29%) of water customers and 38,400 (35%) of wastewater customers will face combined water and wastewater burdens exceeding 4%.<sup>199</sup> As Mr. Geller points out “***based on PAWC’s own analysis, roughly one-third of its residential customers will receive rates that exceed widely accepted water and wastewater affordability standards.***”<sup>200</sup> Notably, larger families and those with the lowest income levels will experience the greatest levels of unaffordability.<sup>201</sup>

As discussed, CAUSE-PA Exhibit 1 reveals that the depth and breadth of unaffordability for PAWC’s low income customers are excessive and both existing and proposed rates –

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<sup>194</sup> PAWC St. 10 at 5, 11: 7-17, CBR-1; CBR-2.

<sup>195</sup> PAWC St. 10 at 13: 12-14: 5.

<sup>196</sup> PAWC St. 10 at 14: 15-21.

<sup>197</sup> CAUSE-PA St. 1 at 35: 8-18.

<sup>198</sup> PAWC St. 10 at 16-17.

<sup>199</sup> PAWC St. 10 at 17: 1-6.

<sup>200</sup> CAUSE-PA St. 1 at 36: 6-17 (emphasis added).

<sup>201</sup> CAUSE-PA St. 1 at 36: 1-17.

particularly when varied usage levels are taken into account.<sup>202</sup> Contrary to PAWC’s flawed affordability analyses which seek to minimize and obscure rate impacts, the data and evidence in this case plainly reveal that a substantial number of PAWC’s low income customers do not have access to affordable water/wastewater services.<sup>203</sup> Indeed, Mr. Geller expressed concerns that PAWC’s analyses masked critical affordability challenges experienced by PAWC’s low income customers.<sup>204</sup> Mr. Geller concluded that “[i]t is neither just, reasonable, nor in the public interest to obscure the underlying affordability for PAWC’s low income customers – as PAWC’s affordability analyses appear to do.”<sup>205</sup>

**C. H2O Bill Discount Program Design**

Currently, PAWC’s BDP provides for the following discount levels:<sup>206</sup>

<b>Current BDP Discount Levels</b>			
<b>Eligible Customers</b>	<b>Water Service Charge Discount</b>	<b>Water Volumetric Discount</b>	<b>Wastewater Total Bill Discount</b>
<b>0-50% FPL</b>	80%	80%	80%
<b>51-100% FPL</b>	65%	50%	55%
<b>101-150% FPL</b>	40%	25%	30%

In the context of the present proceeding, PAWC is proposing to expand BDP eligibility to customers whose household incomes are between 151-200% FPL.<sup>207</sup> For water customers in this additional income tier, PAWC proposes a 30% discount on the fixed charge and a 15% discount on the volumetric rate.<sup>208</sup> For wastewater customers in this expanded income tier, PAWC proposes

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<sup>202</sup> CAUSE-PA St. 1 at 38: 6-14.

<sup>203</sup> Id.

<sup>204</sup> Id.

<sup>205</sup> Id.

<sup>206</sup> CAUSE-PA St. 1 at 41, Table 10

<sup>207</sup> CAUSE-PA St. 1 at 43: 6-15, citing PAWC St. 10 at 24.

<sup>208</sup> Id.



to offer a 20% discount on the total wastewater bill.<sup>209</sup> Despite proposing to substantially increase rates for service, eroding the effectiveness of current discount levels to achieve an affordable rate, PAWC does not propose any other changes to the discount levels for existing income tiers.<sup>210</sup>

As detailed in CAUSE-PA Exhibit 1, PAWC's BDP – as currently structured – does not produce consistent levels of affordability for BDP customers with the lowest incomes and highest usage levels.<sup>211</sup> For example, *at present rates*, a family of four with 5,000 gallons of usage at 50% FPL will see a combined burden of 20%. A family of four at 150% FPL with 5,000 gallons of usage will see a combined burden, at present rates, of 7%.<sup>212</sup> These are excessive and unreasonable water/wastewater burdens which far exceed the generally accepted combined water/wastewater burden of 4%, jeopardizing the ability for BDP participants to stay connected to vital water/wastewater services and, in turn, undermining the effectiveness of the program to ensure the delivery of universally accessible services.

Again, this unaffordability for low income customers exists *before* the imposition of any additional rate increase, and is even worse for low income customers with higher usage rates – most severely impacting larger families and those who live in older, less efficient housing.<sup>213</sup>

While Mr. Geller recognized that there is a need for assistance amongst customers with between 150-200% FPL, he explained that PAWC's BDP is not adequately meeting the affordability needs of low income customers currently eligible for the program.<sup>214</sup> Thus, while Mr.

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<sup>209</sup> CAUSE-PA St. 1 at 43: 6-15, citing PAWC St. 10 at 24.

<sup>210</sup> Id.

<sup>211</sup> CAUSE-PA St. 1 at 41-42.

<sup>212</sup> CAUSE-PA St. 1, Exhibit 1.

<sup>213</sup> As discussed, low income households often have higher usage as a result of plumbing and fixture leaks from living in older homes – yet most often lack the discretionary income to invest in repairs themselves and/or are unable to force their landlord to make such repairs. CAUSE-PA St. 1 at 42: 11-16, citing Water/Color Report at 28.

<sup>214</sup> CAUSE-PA St. 1 at 43-44.

Geller did not oppose expanded eligibility for PAWC’s BDP, he urged the Commission to improve affordability for existing participants before expanding the program to households with higher income.

*1. Increase Discount Tiers to Improve Affordability for Current Participants*

To ensure that the BDP is correctly structured to provide consistent affordability for all income tiers, CAUSE-PA recommends the following improvements to the structure and discount levels of the BDP, in line with Mr. Geller’s recommendations:<sup>215</sup>

**Recommended BDP Discount Levels**

	Water		Wastewater	
	Fixed Charge	Volumetric Charge	Fixed Charge	Volumetric Charge
<b>Tier 1 (0-50% FPL)</b>	90%	80%	85%	85%
<b>Tier 2 (51-100% FPL)</b>	75%	65%	73%	73%
<b>Tier 3 (101-150% FPL)</b>	60%	40%	55%	55%

Pursuant to this proposal, BDP participants would see marked improvements to affordability and reductions in water/wastewater burdens, ensuring a greater number of participants will receive a consistently affordable rate. CAUSE-PA Exhibit 1 provides additional information related burden levels that would result under this proposal.<sup>216</sup> We recommend that the Commission require PAWC to implement these recommended improvements to its BDP structure and discounts upon entry of a final order in this proceeding – regardless of whether any rate increase is approved.

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<sup>215</sup> CAUSE-PA St. 1 at 45, Table 12.

<sup>216</sup> CAUSE-PA St. 1 at 45-46.

Notably, OCA expert witness Mr. Colton recommended the same discount levels for BDP participants between 0-150% FPL, but additionally recommended enhanced discounts for PAWC's proposed income tier between 151-200% FPL.<sup>217</sup> And, in response to the recommended discount level set forth by both Mr. Geller and Mr. Colton, Mr. Rea indicated that, while ultimate approval rests with the Commission, *PAWC does not oppose Mr. Geller and Mr. Colton's BDP discount level proposals.*<sup>218</sup>

2. *Require PAWC to Transition its BDP to a Percentage of Income Program*

In addition to reducing the applicable income tiers, CAUSE-PA urges the Commission to require that PAWC to transition its BDP to a Percentage of Income Payment (PIP) structure. Specifically, we recommend that PAWC be required to file a Petition within six months of a final order in this proceeding to pursue implementation of a PIP structure for its BDP, designed to achieve a combined water/wastewater burden that does not exceed 4% of a participants' household income.<sup>219</sup> A PIP structure is the optimal way to achieve consistent, equitable, and targeted levels of affordability for low income customers, as it calculates a participants' rates based on their precise income level.<sup>220</sup>

Based on testimony of PAWC witness Tawana Dean, it appears that implementation of income verification procedures related to PAWC's AMP and BDP will remove existing system impediments to implement a PIP structure.<sup>221</sup> To effectuate this proposed program transition, Mr.

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<sup>217</sup> CAUSE-PA St. 1 at 45-46

<sup>218</sup> PAWC St. 10- R at 30: 1-5.

<sup>219</sup> CAUSE-PA St. 1 at 27: 2-12.

<sup>220</sup> CAUSE-PA St. 1 at 44-45.

<sup>221</sup> CAUSE-PA St. 1-SR at 7-8.

Geller recommended that PAWC be required file a Petition to transition to this PIP structure no later than 6 months from the final order in this proceeding.<sup>222</sup>

Mr. Geller explained that transitioning the BDP to a PIP structure would ensure that customers with the lowest incomes and/or with larger family sizes do not pay disproportionate levels of their incomes for critical water/wastewater services. This is particularly important as rates of basic water/wastewater services are likely to continue to rise precipitously in coming years.<sup>223</sup> A properly structured PIP-design would deliver accessible, consistent, and equitable levels of affordability for low income participants.<sup>224</sup>

Through her rejoinder testimony in this matter, Ms. Dean argued that, despite implementation of updated income verification procedures for the BDP and AMP, PAWC nevertheless faced other unspecified system constraints to implementing a PIP structure.<sup>225</sup> CAUSE-PA submits that its recommendation for a lengthy six-month procedural timeframe to develop a PIP proposal would provide ample time to ameliorate system limitation to PIP implementation.

#### **D. Hardship Fund**

As currently structured, PAWC customers at or below 200% FPL may receive a Hardship Fund grant of up to \$500 annually toward their water bill and \$500 annually toward their wastewater bill.<sup>226</sup> PAWC's Hardship Fund is administered by Dollar Energy Fund (DEF).<sup>227</sup> Currently, PAWC contributes \$750,000/annually to its Hardship Fund.<sup>228</sup> PAWC's Hardship Fund

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<sup>222</sup> Id.

<sup>223</sup> Id.

<sup>224</sup> Id.

<sup>225</sup> PAWC Rejoinder, Dean.

<sup>226</sup> PAWC St. 1 at 12: 18-23.

<sup>227</sup> Id.

<sup>228</sup> PAWC St. 1 at 12: 18-23.

is funded through annual corporate donations (currently \$625,000 for water and \$125,000 for wastewater) as well as customer and employee donations.<sup>229</sup>

Pursuant to a Settlement related to its acquisition of its Butler Area Sewer Authority (BASA) wastewater system, PAWC and other settling parties submitted a Joint Petition for Unanimous Settlement of All Issues on August 14, 2023 (hereinafter, BASA Settlement).<sup>230</sup> The BASA Settlement sets forth that the Company will increase shareholder donations to its Hardship Fund by \$700,000 per year for five years, for a total of \$3.5 million.<sup>231</sup> The BASA Settlement also provides that Hardship Fund eligibility will be increased from 200% to 250% FPL.<sup>232</sup> Subsequent to the filing of PAWC's current rate increase proposal, the BASA Settlement was approved by Commission Order.<sup>233</sup> However, the Commission's final order was subsequently appealed to the Commonwealth Court on due process grounds.<sup>234</sup> Thus, there is no guarantee whether and to what extent settlement terms will ultimately be implemented.<sup>235</sup> Further, there is no commitment in the context of the present case for PAWC to improve or even maintain its level of contributions related to its Hardship Fund.<sup>236</sup>

PAWC's Hardship Fund is extremely undersubscribed compared to need amongst low income customers. Compared to relative need, very few customers have been awarded Hardship Fund grants in recent years.<sup>237</sup> The following number of customers received a Hardship Fund

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<sup>229</sup> PAWC St. 9 at 13.

<sup>230</sup> PAWC St. 1 at 23: 6-13.

<sup>231</sup> Id. at 23: 6-13.

<sup>232</sup> Id.

<sup>233</sup> Id. See Application of Pennsylvania-American Water Company-Wastewater Section 1329 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1329, for the Acquisition of Butler Area Sewer Authority's Wastewater System Assets, Opinion and Order, Docket No. A-2022-3037047 (Order Entered November 9, 2023).

<sup>234</sup> OCA 2SR at 8: 16-20.

<sup>235</sup> Id.

<sup>236</sup> OCA 5SR at 32. (PUBLIC)

<sup>237</sup> CAUSE-PA St. 1 at 49: 15 – 50: 5.

grant: 1,065 in 2020; 2,016 in 2021; 1,441 in 2022; and 3,443 between January and November 2023 (the last period reported).<sup>238</sup> By comparison, from January through November 2023, 9,658 confirmed low income customers were terminated for nonpayment – yet just 3,443 customers received a Hardship Fund grant.<sup>239</sup> The significant numbers of confirmed low income customers terminated for nonpayment compared to the number of Hardship Fund grants issued evidences a need for increased access to Hardship Fund grants for struggling low income customers.<sup>240</sup>

CAUSE-PA is also concerned that the average arrearage level of recipients of Hardship Funding regularly exceeds the maximum Hardship Fund grant limit of \$500.<sup>241</sup> For example, between January 2020 and November 2023, the average arrearage level of grant recipients reached a high of approximately \$1,216 in September 2021. While average arrearage levels of grant recipients decreased in recent years, it is still well over \$500.<sup>242</sup> This underspending of PAWC's Hardship Fund in light of the clear need amongst low income customers underscores the need for reforms to improve the accessibility and benefits of PAWC's Hardship Fund.<sup>243</sup>

We are also concerned that PAWC's Hardship Fund continues to require an upfront payment of \$50.<sup>244</sup> Upfront payment requirements often post insurmountable barriers to receiving Hardship Fund assistance for customers with the most acute financial distress.<sup>245</sup> Customers who are unable to make payments for several months due to financial hardships will be disqualified

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<sup>238</sup> Id.

<sup>239</sup> CAUSE-PA St. 1 at 50, Table 14.

<sup>240</sup> CAUSE-PA St. 1 at 50: 8-11.

<sup>241</sup> CAUSE-PA St. 1 at 50: 12 – 51: 6.

<sup>242</sup> CAUSE-PA St. 1 at 53: 6-17.

<sup>243</sup> CAUSE-PA St. 1 at 52: 11-15.

<sup>244</sup> CAUSE-PA St. 1 at 51: 17 – 52: 10.

<sup>245</sup> Id.

from receiving grant assistance, when such assistance is most needed.<sup>246</sup> Mr. Geller further explained that, in his experience working with low income families over the last 50 years:

[M]ost have already exhausted their resources, including obtaining support from family and friends, before applying for grant assistance programs. I have personally assisted clients facing similar up-front payment requirements, who have resorted to borrowing from predatory payday lenders to make them eligible to receive grant assistance to prevent termination – compounding financial strain.<sup>247</sup>

Ultimately, upfront payment requirements do not test a customer's good faith, but instead pose unreasonable and significant obstacles to obtaining needed grant funding.

We acknowledge that the proposed BASA Settlement, described above, contains certain expansions to PAWC's Hardship Fund. However, these commitments predate the current proceeding and therefore do not contemplate the additional need arising from any increase in rates. Again, PAWC has not committed to increasing its hardship funding in the context of the present case, separate and apart from the BASA Settlement to address this increased unaffordability if PAWC is permitted to increase its rates.<sup>248</sup> We also note that the BASA Settlement provisions do not contemplate the larger need for grant funding amongst PAWC's low income customers, separate and apart from the context of the BASA case. To address the need for additional Hardship Funding at both present and proposed rates, we recommend the following improvements to PAWC's Hardship Fund:

First, we recommend that PAWC increase its annual hardship funding by an additional \$1 million over existing funding levels.<sup>249</sup> Any unspent funds should be rolled over and added to the budget for the following year.<sup>250</sup> This increase will help to offset the increased unaffordability

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<sup>246</sup> CAUSE-PA St. 1 at 51: 17 – 52: 10.

<sup>247</sup> Id.

<sup>248</sup> CAUSE-PA St. 1 at 52-53.

<sup>249</sup> CAUSE-PA St. 1 at 52: 16-23.

<sup>250</sup> Id.

driven by its proposed rate increase irrespective of the BASA Settlement, and address the unaffordability of rates for PAWC’s low income customers outside of the more-narrow context of the BASA settlement.<sup>251</sup>

Second, PAWC should eliminate its upfront or “good faith” payment requirements for its Hardship Fund.<sup>252</sup> PAWC should be required to work with DEF as its program administrator to update policies, procedures, and customer-facing materials to reflect these changes.<sup>253</sup> Thus, if a customer meets all required eligibility requirements of PAWC’s Hardship Fund, they should qualify for Hardship Funding, even if they cannot provide an upfront payment.

Finally, we recommend that PAWC increase the maximum amount of its Hardship Fund grant from \$500 to \$600 for water and wastewater, respectively.<sup>254</sup> This increase will help to address increasing average debt levels and, in turn, reduce already high levels of involuntary termination. We recommend that water and wastewater customers have the opportunity to receive multiple grants during a program year, up to the maximum grant amount for each service type.<sup>255</sup>

PAWC expert witness Ashley Everette argues that the Commission cannot compel PAWC to increase shareholder donations to its Hardship Fund, though does not indicate the specific source of authority for this allegation.<sup>256</sup> On the other hand, expert witness for the Bureau of Investigation and Enforcement (I&E) Vanessa Okum argues that any increase in funding for PAWC’s Hardship Fund should be supported entirely through shareholder donations, rather than recovered through rates.<sup>257</sup>

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<sup>251</sup> Id.

<sup>252</sup> CAUSE-PA St. 1 at 53: 1-5.

<sup>253</sup> Id.

<sup>254</sup> Id.

<sup>255</sup> CAUSE-PA St. 1 at 53: 6-17.

<sup>256</sup> PAWC St. 1-R at 25: 1-3.

<sup>257</sup> I&E St. 1-R at 3: 7-14.



Mr. Geller was supportive of Ms. Okum’s suggestion that Hardship Fund donations should be supported by shareholder donations. However, he did not ultimately take a position on the necessary origin of these funds. If rates are increased, the Commission must ensure that a greater level of funds are available to customers experiencing a financial hardship to prevent involuntary termination of water and wastewater services and the far-ranging consequences that result – whether through shareholder donations, rates, fundraising, or other means.

We note that PAWC’s expert witness Dean argues that it is “premature” to increase the maximum grant amount of PAWC’s Hardship Fund from \$500 to \$600.<sup>258</sup> Ms. Dean argues that DEF is already developing enhancements expected to start in the 2024-2025 program year allowing customers to apply for more than one grant, up to the maximum \$500 limit.<sup>259</sup>

We disagree that it is premature to raise the maximum Hardship Fund grant amount from \$500 to \$600. As discussed, there is a current unmet need amongst PAWC’s low income customers for grant funding. PAWC’s low income customers already consistently carry average arrearage levels higher than PAWC’s current maximum for its Hardship Fund grants of \$500.<sup>260</sup> Additional grants will not help address this unmet need. Moreover, any increased uptake of PAWC’s Hardship Fund should be addressed through the increased hardship funding we recommend above.

Ms. Dean similarly disagrees with recommendations to eliminate PAWC’s upfront payment requirements for its Hardship Fund.<sup>261</sup> Ms. Dean argues that PAWC’s Hardship Fund includes this upfront payment requirement to ensure that eligible customers are making a “sincere” effort to pay their utility bills.<sup>262</sup> As discussed, upfront payments requirements are not a test of

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<sup>258</sup> PAWC St. 14-R at 16: 1-18; CAUSE-PA 1-SR at 23: 1-12.

<sup>259</sup> Id.

<sup>260</sup> CAUSE-PA St. 1-SR at 24: 1-10.

<sup>261</sup> PAWC St. 14-R at 15-16; CAUSE-PA St. 1-SR at 23.

<sup>262</sup> PAWC St. 14-R at 15-16; CAUSE-PA St. 1 at 23.

how sincere a customer is in paying their bills, but rather significant barriers that prevent low income customers from accessing needed assistance. As Mr. Geller further explained, these requirements push families closer to bankruptcy, and further increase uncollectible expenses resulting from terminations. In sum, families should not be required to make upfront or “sincere effort” payment to qualify for Hardship Fund assistance.

For the foregoing reasons, we strongly urge the Commission to make critical amendments to improve the reach of PAWC’s Hardship Fund grants to assist households facing acute financial hardship to maintain water and wastewater services to their home.

## E. Conservation Assistance

PAWC's H2O program offers limited water conservation assistance to H2O participants.<sup>263</sup> Currently, the water conservation component of the H2O program includes water conservation kits containing basic, self-installed water-saving devices (low-flow showerhead, sink aerator, and toilet fill cycle diverter), leak detection kit, conservation tips and materials, and a water use calculator for qualifying customers.<sup>264</sup> It appears that participation in this program is limited. Between 2020 and 2023, just 5,942 customers received a water conservation kit through this.<sup>265</sup> Apart from its separate lead service line replacement program,<sup>266</sup> the Company does not provide service line or leak repair assistance to any customers.<sup>267</sup> The limitations of PAWC's conversation assistance hampers low income customers' ability to reduce unnecessarily high usage and address leaks and other needed repairs, in turn driving unnecessarily high universal service program costs.

Low income customers have disproportionately higher average usage levels compared to residential customers as a whole.<sup>268</sup> For example, in November of 2023, the mean usage level for confirmed low income water and wastewater customers was 3,764 gallons – while the mean usage level for H2O participants was 4,162 gallons – compared to the mean usage level for residential customers as a whole was 3,179 gallons during this same period.<sup>269</sup> Mr. Geller explains that these higher average usage levels are likely due to a number of factors, including that higher usage level customers may enroll in the BDP in greater proportions and seek assistance of payment

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<sup>263</sup> CAUSE-PA St. 1 at 60: 1-8, citing PAWC St. 1 at 12.

<sup>264</sup> PAWC St. 1 at 13. FR IX.6 “Quality of Service”, initial filing, p. 135.

<sup>265</sup> CAUSE-PA St. 1 at 60: 1-14.

<sup>266</sup> Id. The Company indicates that it is currently in the process of developing an inventory of lead service lines, with a goal of having all lead service lines replaced by the next 10 years. Id.

<sup>267</sup> CAUSE-PA St. 1 at 60: 1-14.

<sup>268</sup> CAUSE-PA St. 1 at 60-61, Tables 7-9 (Mean Usage by Customer Segment).

<sup>269</sup> CAUSE-PA St. 1 at 60-61; CAUSE-PA, Table 7-9.

arrangements.<sup>270</sup> Low income families are more likely to live in older homes with inadequate, damaged, or leaky plumbing/ fixtures – thus resulting in higher usage levels.<sup>271</sup>

With limited financial resources, economically vulnerable households are often unable to afford to fix leaks, plumbing issues, or customer side-service lines – or purchase water efficiency devices.<sup>272</sup> As Mr. Geller explains:

Low income customers most often lack any discretionary income, and cannot reasonably afford the high costs of necessary repairs – including to customer-side service lines. When faced with a high-cost repair, many low income households, unable to make repairs, see their bills increase and soon face involuntary termination.<sup>273</sup>

These disparities are particularly problematic, as PAWC’s policy is to terminate service to customers who do not repair leaks following notice from the Company.<sup>274</sup> Between January 2020 and December 2023, 1,037 customers were terminated due to damaged customer-side service line leaks.<sup>275</sup>

Pursuant to PAWC’s current policies, customers with a damaged customer-side service line can access no cost repairs if the customer-side line is determined to be a lead service line.<sup>276</sup> However, if the customer-side service line does not contain lead, no such cost assistance is available – even though the leak (and correspondingly high bills) remain.<sup>277</sup> A customer experiencing these emergencies must rely on their own funding sources or rely on third-party protection plans that come at an additional monthly cost.<sup>278</sup>

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<sup>270</sup> CAUSE-PA St. 1 at 60-61.

<sup>271</sup> Id.

<sup>272</sup> CAUSE-PA St. 1 at 60-61.

<sup>273</sup> CAUSE-PA St. 1 at 62: 1-6.

<sup>274</sup> CAUSE-PA St. 1 at 62: 6-15.

<sup>275</sup> CAUSE-PA St. 1 at 62.

<sup>276</sup> Id.

<sup>277</sup> CAUSE-PA St. 1 at 62: 1-15.

<sup>278</sup> Id.

The limited provision of conservation kits that PAWC is currently providing is not matched with adequate tracking to determine whether customers are deriving benefits from PAWC's efforts.<sup>279</sup> For example, PAWC's outreach materials indicate that replacing a showerhead with a water-saving model can save 2,900 gallons/year, and a fill cycle diverter can save 0.5-1.5 gallons/flush.<sup>280</sup> However, PAWC does not track whether provision of conservation kits results in these savings, or even if customers have installed these measures.<sup>281</sup>

To address these concerns, we recommend that the Commission require PAWC to develop and implement a comprehensive low income water conservation and leak repair program. Specifically, PAWC should be required to work with its CAAG to develop this comprehensive assistance program no later than 6 months after the final order in this proceeding.<sup>282</sup> The program should include comprehensive conservation measures that go beyond basic measures included in PAWC's current conservation kits to more comprehensive conservation measures - including basic plumbing and service line repair and replacement.<sup>283</sup> As low income households often lack the discretionary income to participate in rebate-style programs, the program should deliver services with no out-of-pocket or up-front costs for the measures or installation.<sup>284</sup> We further recommend the proposed programs should also include annual reporting parameters of water savings and reductions to costs of low income assistance programs resulting from this program.<sup>285</sup> We recommend that this program set a maximum eligibility at 200% FPL, but target high usage low

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<sup>279</sup> CAUSE-PA St. 1 at 62-63.

<sup>280</sup> Id.

<sup>281</sup> Id.

<sup>282</sup> CAUSE-PA St. 1 at 63: 3-11.

<sup>283</sup> Id.

<sup>284</sup> CAUSE-PA St. 1 at 63: 12-22.

<sup>285</sup> CAUSE-PA St. 1 at 63-64.

income customers enrolled in the BDP.<sup>286</sup> This will help to coordinate across PAWC's low income assistance programs, and reduce costs of PAWC's BDP.<sup>287</sup>

Finally, we recommend that that PAWC coordinate the delivery of services with energy reduction programs provided by electric and gas utilities in PAWC's service territory – including Low Income Usage Reduction Programs (LIURP), Act 129 programs, and other utility efficiency programs.<sup>288</sup> Many utility conservation programs already provide a number of measures that increase water efficiency in customer's households, such as low flow faucets and shower heads.<sup>289</sup> Partnering with other efficiency programs will help to coordinate conservation and repair efforts, and better ensure that participant customers can receive comprehensive measure to reduce their over utility burdens.<sup>290</sup>

We note that I&E expert witness Vanessa Okum recommends that, if a comprehensive conservation and line repair/replacement program is approved, the program should be funded through shareholder funds rather than recovered from ratepayers.<sup>291</sup> Ms. Okum argues that, as the program focuses on water conservation efforts and repair assistance for low income customers, it would be inappropriate to add this expense to customer rates who do not participate in this program.<sup>292</sup> Similarly, PAWC argues that it should not be required to implement the full scope of universal service plans without changes in statutory requirements, and argues that increased costs from this program would need to be recovered.<sup>293</sup>

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<sup>286</sup> Id.

<sup>287</sup> Id.

<sup>288</sup> CAUSE-PA St. 1 at 64: 4-11.

<sup>289</sup> See 52 Pa. Code § 58.14.

<sup>290</sup> CAUSE-PA St. 1 at 64: 4-11.

<sup>291</sup> I&E St. 1-R at 4: 1-17.

<sup>292</sup> Id.

<sup>293</sup> PAWC St. 14-R at 13: 3-14.

We disagree with Ms. Okum's implicit premise that it is inappropriate to fund water conservation and line repair/replacement assistance through rates because these programs primarily benefit individual consumers. Low income assistance programs have tangible benefits for all ratepayers and the communities in which they live and work.<sup>294</sup> Water conservation and line repair/replacement programs help to control usage levels and corresponding high monthly bills resulting from homes in need of repairs and enhancements.<sup>295</sup> Additionally, assisting low income customers to better control high usage helps to lower inflated bills, reduce universal service program costs, and reduces uncollectible expenses and termination costs that affect all ratepayers.<sup>296</sup>

The lack of an explicit statutory *requirement* to operate a conservation program does not preclude the Commission from ordering PAWC to implement this important program. As discussed, a comprehensive usage reduction and line repair/replacement program would provide critical assistance to low income customers with usage beyond their control, would help to control universal service program costs, and would reduce uncollectible costs as a result of terminations which affect all ratepayers. Indeed, as the Commission has long recognized, targeted conservation is an essential component of an effective universal service program portfolio. In order for universal service programs to achieve program goals, including improved bill payment behavior and reduced uncollectible expenses, these programs must deliver holistic services designed to address past, current, and future unaffordability through a combination of bill assistance, debt management, and

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<sup>294</sup> CAUSE-PA St. 1-R: 6-7.

<sup>295</sup> CAUSE-PA St. 1-SR at 5-6.

<sup>296</sup> Id.

conservation.<sup>297</sup> These three components are critical to provide rate stability for low income customers over the long term.

While CAUSE-PA is not opposed to I&E's proposal to recover costs from shareholders, we submit that costs for a public purpose program such as this are also appropriately recovered through rates. We note that pursuant to our proposal, it is not necessary for the Commission to determine the appropriate method of cost-recovery in the context of this proceeding. Rather, PAWC would develop a plan for cost recovery in its Petition. Regardless of the method of recovery, it is imperative that the Commission require PAWC to develop this critical program to help curtail unnecessarily high usage and associated universal service costs through the delivery of comprehensive and targeted conversation and line assistance.

#### **F. Low-Income Customer Outreach, Screening, and Intake**

Pursuant to the requirements of 66 Pa. C.S. § 1410.1 (Public Utility Duties), when a customer or applicant contacts a public utility to make a payment agreement, the utility must “refer the customer or applicant to the universal service program administrator... to determine eligibility for a program and to apply for enrollment in a program.”<sup>298</sup> In addition, 66 Pa. C.S. § 1303 requires that a public utility with has more than one rate for service, after notice of service conditions, must compute bills under the rate most advantageous to the customer.<sup>299</sup>

As currently structured, PAWC's universal service programs – including reduced rates available through PAWC's BDP – are not reasonably accessible to PAWC's low income customers. Indeed, PAWC's programs reach just a fraction of PAWC's low income customers.<sup>300</sup>

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<sup>297</sup> CAUSE-PA St. 1 at 43: 1-6.

<sup>298</sup> 66 Pa. C.S. § 1410.1(2).

<sup>299</sup> 66 Pa. C.S. § 1303.

<sup>300</sup> CAUSE-PA St. 1 at 54: 1-12.



As of November 2023, only 25% of PAWC's *estimated* low income customers and just 40% of PAWC's *confirmed* low income customers (those *known* to be income eligible for the BDP) were actually enrolled in the BDP.<sup>301</sup> Further, while 9,658 confirmed low income customers were terminated for nonpayment in 2023, only 3,443 Hardship Fund grants were issued during that period.<sup>302</sup> As Mr. Geller explained in testimony, these figures undercount true need.<sup>303</sup>

Mr. Geller raised concerns in his direct testimony that PAWC's low income customers are not being referred to the BDP and Hardship Fund in a timely manner to prevent the buildup of unmanageable arrears that lead to termination of services, and prior to being placed in unaffordable payment arrangements.<sup>304</sup> OCA expert witness, Roger Colton, similarly raised concerns that PAWC continues to enroll confirmed low income customers into payment arrangements without enrolling these customers into the BDP.<sup>305</sup>

In addition, PAWC does not have adequate systems in place to reasonably ensure that customers are being timely referred to BDP and Hardship Fund assistance.<sup>306</sup> For example, Mr. Geller's analyses found that the Company did not have policies, procedures, and training materials for its frontline customer service staff do not ensure that payment troubled customers are given the opportunity to first enroll in the BDP and Hardship Fund assistance prior to being placed in payment arrangements, which can compound the accrual of unaffordable debts.<sup>307</sup>

The undersubscription in PAWC's low income assistance programs limits the ability of PAWC's low income customers to access affordable services. As discussed, Section 1303

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<sup>301</sup> Id.

<sup>302</sup> Id.

<sup>303</sup> Id.

<sup>304</sup> CAUSE-PA St. 1 at 54: 13-21.

<sup>305</sup> OCA St. 5 at 59. (PUBLIC)

<sup>306</sup> Id.

<sup>307</sup> CAUSE-PA St. 1 at 54-55.

explicitly requires that PAWC ensure customers are enrolled in the most advantageous rate. This necessarily includes rates available to low income customers through PAWC's BDP. In turn, Section 1410.1 requires PAWC to refer customers to available universal service programs, including BDP and Hardship Fund, before entering a payment arrangement which may further compound a customers' debts. PAWC does not have clear policies and procedures to ensure that its customers are appropriately referred and assisted to enroll in universal service programs, including the BDP and Hardship Fund, consistent with Sections 1303 and 1410.1. The overall undersubscription of PAWC's low income assistance programs contravenes statutory requirements in Section 1303 and 1401.1 and limits the ability of low income customers to access rates that are just, reasonable, and in the public interest. Indeed, to be just and reasonable, rates must also be affordable and accessible to those served.

In line with Mr. Geller's recommendations, and consistent with these legal requirements, we recommend that the Commission require PAWC to implement the following systematic solutions so that low income customers can more easily enroll in available universal service programs *before* unmanageable debts are accrued.<sup>308</sup>

First, we recommend that PAWC begin screening all new and moving customers for income level and eligibility for assistance at the time their service is established and on a periodic basis thereafter during non-emergency calls.<sup>309</sup> Currently, PAWC obtains low income status information from customers through its Ability to Pay (ATP) process, which is not triggered until a customer is already behind on their bills.<sup>310</sup> Routinized income screening will help ensure that low income customers are enrolled in available assistance programming *before* accruing

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<sup>308</sup> CAUSE-PA St. 1 at 56: 1-15.

<sup>309</sup> CAUSE-PA St. 1 at 57: 10-21, 58: 1-13.

<sup>310</sup> CAUSE-PA St. 1 at 57: 10-21.

unmanageable levels of debt. We similarly recommend that PAWC develop call scripting and checklists for its Customer Service Representatives (CSRs) to assist in screening customers for eligibility in its low income assistance programs. Call scripting and checklists which require CSRs to routinely screen for eligibility for low income assistance programming will help to systematize PAWC's enrollment in its low income programs.<sup>311</sup> Customers identified as low income through this process should be provided a warm referral to PAWC's low income assistance programs, and should not be required to provide duplicative information in order to enroll in these programs.<sup>312</sup>

PAWC should be required, in turn, to refer low income customers to available assistance programs – including PAWC's BDP and Hardship Fund programs – prior to being placed on a payment arrangement. This is not only sound public policy to prevent the accrual of unmanageably high debts, it is also mandated in Chapter 14.<sup>313</sup> Mr. Geller explained through his testimony that it did not appear that PAWC's low income customers were referred to PAWC's Hardship Fund or BDP to help reduce debts and/or future monthly rates prior to being placed in a payment arrangement.<sup>314</sup> While payment arrangements can be an important tool to manage accrued arrears, they can also serve to exacerbate unaffordability – adding additional payment obligations to already unaffordable rates.<sup>315</sup> It is essential that low income customers are directed first to low income assistance programs, which are specifically designed as an alternative path to collections for low income households in recognition of the limitations of payment arrangements.<sup>316</sup>

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<sup>311</sup> CAUSE-PA St. 1 at 58: 14-21.

<sup>312</sup> Id.

<sup>313</sup> 66 Pa. C.S. § 1410.1 (Duties of Public Utilities).

<sup>314</sup> CAUSE-PA St. 1 at 58-59. CAUSE-PA St. 1-SR at 12: 8-10.

<sup>315</sup> CAUSE-PA St. 1 at 58: 22 – 59: 7.

<sup>316</sup> CAUSE-PA St. 1-SR at 5-6.

For the foregoing reasons, the Commission should require PAWC to revise its policies, procedures, and training materials to reflect that customers who are payment troubled or otherwise indicate that they cannot afford service should be screened for, referred to, and enrolled in PAWC's universal service programs – including both the Hardship Fund and BDP – prior to being placed in a payment arrangement.<sup>317</sup> Similarly, PAWC should be prohibited from requiring customers to enter a payment arrangement as a condition to applying for or enrolling in assistance programs.<sup>318</sup> PAWC should review DEF's policies and procedures to ensure that its administration of PAWC's assistance programs reflect these policies and procedures.<sup>319</sup>

We note that PAWC expert witness Degillio disagrees with CAUSE-PA's recommendation to regularly screen and refer customers to universal service programs.<sup>320</sup> She argues that customers may consider their income information confidential, and may not want to share it with their utility.<sup>321</sup> Ms. Degillio also disagrees that eligible payment troubled customers should be assessed for enrollment in PAWC's BDP prior to being placed in a Company payment arrangement.<sup>322</sup> While she concedes that eligible payment-troubled customers should be enrolled in PAWC's H2O as early as possible, she nevertheless argues that PAWC should not decide on behalf of customers whether to apply for the H2O program or enter into a payment arrangement.<sup>323</sup>

We contest Ms. Degillio's implication that regular screening for low income assistance programs will be viewed negatively by PAWC's customers. As Mr. Geller explains, PAWC should make it clear that (1) the purpose of the income inquiry is to see if they are eligible for lower rates,

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<sup>317</sup> CAUSE-PA St. 1 at 59: 8-19.

<sup>318</sup> Id.

<sup>319</sup> Id.

<sup>320</sup> PAWC St. 9-R at 10-11.

<sup>321</sup> Id. at 11: 14-22.

<sup>322</sup> PAWC St. 9-R at 10-11.

<sup>323</sup> Id.

debt forgiveness, or free conservation programs, and (2) the customer may choose not to disclose information.<sup>324</sup> We note, further, that Ms. Degillio's testimony confirmed Mr. Geller's concerns that PAWC's low income customers are not routinely offered or referred to apply for hardship funding prior to being placed in potentially unaffordable payment arrangements that may exacerbate arrearage levels and lead to involuntary termination.<sup>325</sup> As Mr. Geller explained, payment troubled customers should be afforded the opportunity to make a fully informed choice of whether to seek assistance through a universal service program or accept a payment arrangement. This position is not inconsistent with Ms. Degillio's testimony – though it appears to contradict PAWC's current practice of offering payment arrangements without fully explaining the benefits and eligibility requirements of its universal service programs.

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<sup>324</sup> CAUSE-PA St. 1-SR at 11: 13 – 12: 5.

<sup>325</sup> CAUSE-PA St. 1-SR at 12: 6-10.

### **G. Data Collection, Reporting, Monitoring of Low-Income Programs**

As discussed, PAWC’s low income assistance programs are undersubscribed. Roughly 75% of PAWC’s estimated low income customers, and roughly 60% of households *known* to be eligible for PAWC’s BDP are not enrolled.<sup>326</sup> Tens of thousands of PAWC’s low income customers remain unenrolled in available assistance programs based on these figures. CAUSE-PA urges the Commission to order improvements to PAWC’s data collection and reporting requirements to better ensure that low income customers can enroll in the BDP and other available universal service programs.

First, PAWC should be required to update its estimated low income customer count on an annual basis, and to work with the Commission’s Bureau of Consumer Services to identify an appropriate method for estimating its low income customer count based on current US Census Bureau data.<sup>327</sup> As discussed at length in testimony, it is unclear whether PAWC has updated its estimated low income customer count since its 2022 rate proceeding utilizing appropriate data from the U.S. Census Bureau.<sup>328</sup> As Mr. Geller explains “[a]n accurate count of estimated low income customers is essential to determining existing need in PAWC’s service territory.”<sup>329</sup>

Second, the Commission should require PAWC to set target enrollment benchmarks for its BDP.<sup>330</sup> We recommend enrollment targets set at 20% per year of PAWC’s estimated low income customer counts, until the Company reaches at least 75% enrollment of this estimated group.<sup>331</sup>

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<sup>326</sup> CAUSE-PA St. 1 at 47: 1-8.

<sup>327</sup> CAUSE-PA St. 1 at 47-48.

<sup>328</sup> Id.

<sup>329</sup> CAUSE-PA St. 1 at 47: 11-18.

<sup>330</sup> CAUSE-PA St. 1 at 48.

<sup>331</sup> CAUSE-PA St. 1 at 48: 1-3.

Third, we recommend that the Commission require PAWC to establish quantitative and qualitative goals related to affirmative customer outreach for the purpose of enrolling low income customers in the BDP and AMP, which is scheduled to launch later this year.<sup>332</sup> This affirmative outreach should include telephone contacts, mailings, and electronic communications such as text or email (with customer consent).<sup>333</sup> In addition, PAWC should be required to track and report on its progress in reaching these goals to its Customer Assistance Advisory Group – known as the CAAG – to help refine outreach efforts based on CAAG feedback.<sup>334</sup> In line with Mr. Geller’s recommendations, PAWC should expand its CAAG membership to include “a broader array of community voices from all corners of PAWC’s expansive service territory.”<sup>335</sup>

We note that PAWC, through its expert witness Dean, disagrees with these recommendations to establish benchmarked goals and improve assessment, data collection, and tracking of PAWC’s low income assistance programs. Ms. Dean alleges that the Company is making significant progress in reaching out to customers without formalizing benchmarks or quantitative goals.<sup>336</sup> Ms. Dean also argues that PAWC has already increased its BDP enrollment. She indicates that, between December 2020 and November 2023, PAWC increased its BDP participation by over 30%.<sup>337</sup> Ms. Dean also explains that the Company will be adding three new full-time employees dedicated to low income customer outreach and assisting customers accessing low income assistance programs, and notes plans highlight low income programs on its myWater portal.<sup>338</sup> Ms. Dean argues that establishing quantitative goals, as recommended, is inappropriate

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<sup>332</sup> CAUSE-PA St. 1 at 48: 4-11.

<sup>333</sup> Id.

<sup>334</sup> Id.

<sup>335</sup> Id.

<sup>336</sup> PAWC 14-R at 8-9.

<sup>337</sup> Id. at 8: 1-11.

<sup>338</sup> Id. at 8: 1-11.

because PAWC's confirmed low income customer count is likely to fluctuate when income verification procedures are implemented for the AMP and BDP.<sup>339</sup>

While we acknowledge PAWC outreach efforts in recent years, these efforts do not detract from the fact that PAWC's low income customer assistance programs are undersubscribed. The goals and benchmarks we recommend herein are supportive of PAWC's recent efforts to expand its outreach related to its low income programs. These recommendations will provide important metrics to gauge the success of PAWC's efforts related to outreach and enrollment for its low income assistance programs.<sup>340</sup> Further, as Mr. Geller explains, PAWC's upcoming implementation of income verification procedures does not preclude these quantitative goals and benchmarks from being implemented.<sup>341</sup> Many of these benchmarks are based on PAWC's estimated low income customers count – which will not fluctuate with changes to PAWC's income verification procedures.<sup>342</sup> Moreover, our recommendation that PAWC improve tracking in coordination with implementation of its AMP later this year will allow PAWC to better account for changes in income verification procedures occurring in conjunction with AMP implementation.

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<sup>339</sup> Id. at 9: 14-23.

<sup>340</sup> CAUSE-PA St. 1-SR at 17: 1-21.

<sup>341</sup> Id.

<sup>342</sup> Id.



## **H. Comprehensive Written Universal Service Plan**

There is currently no single, unified document for the Commission, customers, or other stakeholders to review the benefits and requirements of PAWC's universal service programming.

CAUSE-PA strongly recommends that the Commission order PAWC to develop and submit a comprehensive Universal Service Plan for periodic Commission review and approval. Currently, as a jurisdictional water/wastewater utility, PAWC is not required to submit periodic plans related to their low income assistance programming for Commission review and approval.<sup>343</sup>

Failure to maintain a cohesive plan leaves a substantial gap for consumers and utility advocates, and makes it difficult for the Commission to properly oversee PAWC's administration of Commission-approved universal service programming. The Commission, consumers, and stakeholders must rely on PAWC's tariffs, prior Settlement agreements, former Commission Orders, and other piecemeal information from websites and other outreach materials to determine important program rules, policies, and procedures for the Company's programs.<sup>344</sup> This is a substantial customer service issue – hampering consumers' ability to learn about an enroll in assistance programs.<sup>345</sup> We recommend that the Commission require the Company to file a Universal Service Plan and an accompanying Petition for Commission review and approval within one year of the final Order in this case, and every five years thereafter, in line with the requirements of regulated EDCs and NGDCs in the Commonwealth.<sup>346</sup>

We further recommend that the Commission require PAWC to include a detailed consumer education and outreach plan (CEOP) within its universal service plan filing. As Mr. Geller

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<sup>343</sup> CAUSE-PA St. 1 at 56: 1-15.

<sup>344</sup> Id.

<sup>345</sup> Id.

<sup>346</sup> Id.

explained, the continued undersubscription of PAWC's low income assistance programs, as described above, evidences a need for coordinated, systematic approaches to consumer outreach and education related to PAWC's low income assistance programs.<sup>347</sup> In line with Mr. Geller's recommendations, this CEOP should be developed with input from parties and stakeholders through PAWC's CAAG, and should include how PAWC's plans to specifically promote and coordinate around each of its low income assistance program components.<sup>348</sup> Importantly, the CEOP should be tailored to the varying demographics of the Company's broad service territory, should include how PAWC will perform targeted outreach to specific vulnerable consumer groups and communities, and should identify efforts to educate and enroll customers at or below 50% FPL in assistance programming.<sup>349</sup> So that PAWC, stakeholders, and the Commission can gauge the success and progress of efforts under the CEOP, we recommend that the CEOP also include measurable goals and associated metrics to assess those goals.<sup>350</sup>

We note that PAWC expert witness Dean argues that, absent a statutory mandate, PAWC should not be required to adopt a comprehensive universal service plan.<sup>351</sup> Ms. Dean argues that maintaining a universal service plan requires significant time, resources, and costs, and may even require establishing a new department focused on these plans.<sup>352</sup> Ms. Dean notes that EDC and NGDC staff 10 or more full-time employees, compared to PAWC who has 1.5 full-time employees to support its low income assistance programs.<sup>353</sup>

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<sup>347</sup> CAUSE-PA St. 1 at 56-57.

<sup>348</sup> Id.

<sup>349</sup> Id.

<sup>350</sup> Id.

<sup>351</sup> PAWC St. 14-R at 12: 4-19.

<sup>352</sup> Id.

<sup>353</sup> PAWC St. 14-R at 12-13.

In response to Ms. Dean’s concerns, Mr. Geller explained that, while submitting an Universal Service Plan may require additional time and resources, it is essential that consumers, the Commission, and stakeholders can learn about the detailed of PAWC’s low income assistance programs.<sup>354</sup> It becomes difficult – if not impossible – to assess whether PAWC’s low income assistance programs are being administered in accordance with PAWC’s and the Commission’s requirements without a base understanding of the rules, policies, and procedures for these programs.<sup>355</sup> Mr. Geller further explained that the smaller number of PAWC employees dedicated to its low income assistance programs limits PAWC’s ability to provide robust outreach and services related to these programs. With these limitations, it is all the more essential that the Commission, consumers, and advocates are not required to track down and reconstruct dozens of orders and documents to piece together the benefits, rules, and requirements of PAWC’s universal service programs.<sup>356</sup> Finally, Mr. Geller questioned Mr. Dean’s argument that EDCs and NGDCs often have more than 10 universal service program staff. Many regulated utilities in Pennsylvania operate with fewer dedicated universal staff.<sup>357</sup> For example, Duquesne indicates that it has 3 dedicated staff for its universal service programs.<sup>358</sup> PAWC is the second largest public water utility in Pennsylvania, serving hundreds of thousands of customers – including well over 100,000 low income customers. It is essential that there be a unified document that includes all of the benefits and program rules for PAWC’s universal service program offerings.

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<sup>354</sup> CAUSE-PA St. 1-SR at 19: 1-16.

<sup>355</sup> Id.

<sup>356</sup> CAUSE-PA St. 1-SR at 19-20.

<sup>357</sup> CAUSE-PA St. 1-SR at 20: 4-10.

<sup>358</sup> Id. (citing DLC Universal Services and Energy Conservation Plan, 2020-2025 at 23 (June 28, 2022)).

Taken together, the concerns and criticisms lodged by PAWC merely serve to underscore the vital need for the Commission to require that PAWC develop and submit a comprehensive universal service plan for periodic Commission review and approval.

### **I. Administration of PAWC's Low-Income Assistance Programs**

PAWC's low income assistance programs are currently administered by Dollar Energy Fund (DEF). Mr. Geller raised concerns through testimony that PAWC is not exercising appropriate oversight over DEF as its program administrator.<sup>359</sup> PAWC appears to have the following processes for oversight of DEF's administration of its low income assistance programs: access to DEF's grant management system to review information regarding fund balances, application processing, application status, and standard reports;<sup>360</sup> access to standard reports containing information related to applications and grant activities; and the authority to request additional reports,<sup>361</sup> certain data related to DEF's call centers, including data related to hold times and hours/days of call center operations.<sup>362</sup>

However, PAWC does not appear to have systems in place to regularly monitor DEF's administration of its programs to ensure that standards are being met so that eligible customers can easily enroll in available assistance programs.<sup>363</sup> Similarly, PAWC does not have formal policies, assessments, or audits of DEF's administration of its low income assistance programs.<sup>364</sup>

Mr. Geller expressed concerns about the lack of regular screening and auditing related to DEF's administration of PAWC's programs. Mr. Geller explained that, without systematic and

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<sup>359</sup> CAUSE-PA St. 1 at 64: 12-20.

<sup>360</sup> Id.

<sup>361</sup> Id.

<sup>362</sup> Id.

<sup>363</sup> CAUSE-PA St. 1 at 65: 1-12.

<sup>364</sup> Id.

regular assessments related to DEF's administration of its programs, it is impossible to accurately assess whether PAWC's programs are being administered in a manner that is accessible to consumers and compliant with the program rules and parameters developed by PAWC and required by Commission Orders.<sup>365</sup> For example, without regular assessment, PAWC cannot detect whether low income customers are experiencing call-in related barriers.<sup>366</sup>

These call-in issues may well be exacerbated by DEF's staffing for PAWC's low income assistance programs. It appears that DEF only assigns a small number of employees to PAWC's programs - 2.5 full-time equivalents for PAWC's BDP, and 5 full-time equivalents for PAWC's Hardship Fund.<sup>367</sup> As noted previously, PAWC issued just 4,884 Hardship Fund grants from January 2022 to November 2023.<sup>368</sup> It is unclear why DEF has 5 full time equivalent positions to run PAWC's Hardship Fund program – yet just 2.5 to process enrollments in its BDP, which provides ongoing rate assistance. As of December 2023, PAWC indicates that it has 64,803 confirmed low income customers – the vast majority of which are not enrolled in its universal service programs.<sup>369</sup> Taken together, the lack of consistent monitoring and audits of DEF's universal service program administration raises concerns about the effectiveness and accessibility of PAWC's programs and, in turn, whether low income customers are able to enroll in assistance without facing unnecessarily restrictive barriers and/or substantial administrative delays.

It also appears that PAWC does not have adequate processes for tracking related to its cross-program referrals and enrollment.<sup>370</sup> PAWC indicates that DEF conducts cross-program

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<sup>365</sup> CAUSE-PA St. 1 at 65: 6-12.

<sup>366</sup> CAUSE-PA St. 1 at 65: 13-21.

<sup>367</sup> CAUSE-PA St. 1 at 65: 13-21.

<sup>368</sup> Id.

<sup>369</sup> Id.

<sup>370</sup> CAUSE-PA St. 1 at 66: 1-12.

referrals whereby at the end of calls with DEF, customers are asked about their other utilities. If the customer indicates a utility DEF manages, they are transferred to a different person at DEF and permitted to use the same income verification documents for enrollment across programs – though they must complete a separate application for the other utility, and provide all of the same information a second or third time.<sup>371</sup> PAWC also indicates that its MyApp portal was launched in October 2022 for Hardship Fund grant applications, which allows customers to apply online for programs offered by partnering utility rather than by calling DEF or a Community Based Organization.<sup>372</sup> Despite these efforts, PAWC does not track cross-program referrals and enrollment.<sup>373</sup> Without regular tracking related to cross-program enrollments, it is impossible to gauge the success of these efforts.<sup>374</sup>

CAUSE-PA recommends that the Commission require PAWC to take the following steps to address the concerns raised herein related to its consumer education and outreach:

As a threshold matter, PAWC should be required to implement systematic and regular processes for monitoring, screening, and oversight related to its low income assistance programs. PAWC should establish and implement clear metrics for auditing DEF’s administration of its programs. These performance metrics should be implemented within 6 months of the final order in this proceeding and should be developed in consultation with PAWC’s CAAG. PAWC should review metric data and reports from DEF on a monthly basis to ensure that DEF is meeting

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<sup>371</sup> Id.

<sup>372</sup> Id.

<sup>373</sup> Id.

<sup>374</sup> Id.

established standards and benchmarks.<sup>375</sup> Targeted trainings or other remedial action should be taken if issues are discovered through these processes.<sup>376</sup>

We further recommend that the Commission require PAWC to conduct and submit periodic third-party evaluations to the Commission on its low income assistance programs, in line with the 6-year program evaluation period required of Electric Distribution Companies (EDCs) and Natural Gas Distribution Companies (NGDCs), with the first evaluation due a year from the date of the final order in this proceeding.<sup>377</sup> PAWC should work with the Commission's Bureau of Consumer Service (BCS) to identify an appropriate and qualified third-party universal service program evaluator to conduct this evaluation.<sup>378</sup> This evaluation should include, at minimum, analysis of data from the specific metrics implemented by PAWC for monitoring of DEF's program administration, relevant enrollment, collections and bill payment data, and all other relevant program metrics maintained by PAWC and DEF - together with participant surveys and other proven evaluative tools.<sup>379</sup> These periodic evaluations should be discussed with PAWC's CAAG and provided to parties to this proceeding.<sup>380</sup>

We note that PAWC has expressed opposition to these recommendations related to improving oversight of DEF through the rebuttal testimony of its expert witness Tawana Dean. Specifically, Ms. Dean argues that these recommendations are costly and unnecessary, as PAWC has an excellent working relationship with DEF as its program administrator.<sup>381</sup> Ms. Dean argues

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<sup>375</sup> CAUSE-PA St. 1 at 66-67.

<sup>376</sup> Id.

<sup>377</sup> 52 Pa. Code § 54.76 (Electric); 52 Pa. Code § 62.6 (Natural Gas).

<sup>378</sup> CAUSE-PA St. 1 at 67: 6-17.

<sup>379</sup> Id.

<sup>380</sup> Id.

<sup>381</sup> CAUSE-PA St. 1-SR at 21:3 – 22: 15.

that PAWC regularly meets with DEF, and addresses issues as they arise.<sup>382</sup> Ms. Dean also describes how PAWC has access to certain information related to DEF's administration of its low income assistance programs, including standard reports.<sup>383</sup> Ms. Dean further argues that implementing these recommendations would require PAWC to adopt a rider recovery mechanism to collected increased costs related to overseeing performance of its program administrator.<sup>384</sup>

As Mr. Geller explains in his surrebuttal testimony submitted in this matter, the availability of reports and ad hoc meetings, as issues arise, are not substitutes for routinized auditing and oversight that we recommend herein.<sup>385</sup> Again, without this systematized auditing and monitoring, it is impossible to determine whether PAWC's low income assistance programs are being administered in a manner consistent with Commission policy and approved program parameters. As Mr. Geller points out, if DEF is already performing at a level claimed by Ms. Dean, this systematic oversight should be easily incorporated into existing workflow without posing significant additional costs. In addition, PAWC indicates that it intends to add three new employees to its universal service staff.<sup>386</sup> Reviewing monthly reports to identify and resolve issues should be part of the duties of these expanded staff.<sup>387</sup>

Finally, we disagree that any increase costs which may result from this enhanced oversight would require a rider recovery mechanism.<sup>388</sup> DEF's administration of PAWC's universal service programs are already recovered through rates.<sup>389</sup> Any costs associated with appropriate oversight

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<sup>382</sup> Id.

<sup>383</sup> Id.

<sup>384</sup> CAUSE-PA St. 1-SR at 21:3 – 22: 15.

<sup>385</sup> CAUSE-PA St. 1-SR at 21: 12 – 22: 15.

<sup>386</sup> Id.

<sup>387</sup> Id.

<sup>388</sup> Id.

<sup>389</sup> Id.



of DEF's administration should be recovered in the same manner as other program costs and does not require a separate rider recovery mechanism.

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

### **A. Summary**

CAUSE-PA set forth several recommendations in this Main Brief and through testimony of its expert witness related to ensuring that tenants can learn about and access available protections under Pennsylvania law and the Commission's regulations. While these recommendations, discussed below, are vital to protect all tenants with PAWC service – or those tenants having third-party wastewater services being terminated by PAWC – these improvements are especially important for low income tenants, who lack the available financial resources to combat utility payment issues or relocate if their service is terminated.

### **B. Customer Service Performance**

Apart from the issues related to DEF's administration of PAWC's low income assistance programs and, in turn, the services provided to low income customers, discussed above, CAUSE-PA did not take a position related to other customer service performance issues in the context of this proceeding.

### **C. Tenant Issues and Protections**

The Discontinuance of Services to Leased Premises Act (“DSLPA”) sets forth the rights of tenants who receive services by a regulated utility for which service is listed in a landlord's name.<sup>390</sup> DSLPA protects a tenant's right to continued utility service where: (1) the utility

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<sup>390</sup> 66 Pa. C.S. Ch. 15 Subch. B.

terminates service to a leased premises due to nonpayment by the landlord ratepayer;<sup>391</sup> or, (2) the landlord ratepayer seeks to voluntarily disconnect service to a leased premises and tenants are still residing at the property.<sup>392</sup> Tenants have the right to enforce DSLPA rights through the Commission's informal and formal complaint process.<sup>393</sup> DSLPA ensures that tenants are notified of a pending termination and allows them to maintain service without assuming the debts of their landlord. As such, DSLPA is designed to protect tenants from the loss of service as a result of the actions or inaction of their landlord.<sup>394</sup>

First, the DSLPA requires utilities to provide written notice to landlord ratepayers and their tenants prior to service termination. Utilities are required to first serve landlord ratepayers with written notice no less than 37 days prior to termination of utility service to a leased premise as a result of the landlord's nonpayment.<sup>395</sup> The notice must also inform landlords of their right to formally dispute the bill and that, if a dispute is filed, the utility will delay notifying tenants until the dispute is resolved.<sup>396</sup> Thereafter, written notice to tenants under DSLPA is required not to be sent no less than 7 days after the 37-day landlord notice, and at least 30 days before service to a premises is terminated.<sup>397</sup> Utilities are required to provide notice to any dwelling units that are

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<sup>391</sup> 66 Pa. C.S. § 1527.

<sup>392</sup> 66 Pa. C.S. § 1523(b).

<sup>393</sup> 66 Pa. C.S. § 1523(a)(3).

<sup>394</sup> CAUSE-PA St. 1 at 68: 1-6.

<sup>395</sup> See 66 Pa. C.S. § 1523(a)(1); see also 66 Pa. C.S. § 1525 (both prescribing the means and content of the required landlord notice.). This 37-day notice is designed to notify a property owner/landlord of a pending termination, obtain contact information to be used to notify affected tenants, and inform the landlord/property owner that they are subject to fines and/or penalties for failure to provide contact information related to their tenants. 66 Pa. C.S. § 1525.

<sup>396</sup> CAUSE-PA St. 1 at 68: 10-18.

<sup>397</sup> 66 Pa. C.S. § 1523(a)(3).

“reasonably likely” to be tenant occupied.<sup>398</sup> The notice to tenants must be mailed or hand-delivered to tenants and conspicuously posted at the premises in common areas.<sup>399</sup>

Additionally, the 30-day notice provided to affected tenants must inform tenants of their right to continued service by paying an amount equal to the bill for the 30-day period preceding the notice or the billing month preceding the notice.<sup>400</sup> A tenant may then continue to keep service on at residence if they pay for each 30-day period of service thereafter, without assuming the debt of the landlord or opening an account in their name.<sup>401</sup> A tenant may subsequently deduct the amount of their payments from their rental payment,<sup>402</sup> and are protected from retribution by the landlord.<sup>403</sup> The utility must return any partial payments if service is subsequently terminated due to the tenant’s inability to pay the full 30-day bill.<sup>404</sup> The notice must inform tenants that they may, but cannot be required to, apply for service in their own name without being held responsible for the landlord’s debt.<sup>405</sup>

DSLPA also provides protections to tenants if a landlord ratepayer seeks to *voluntarily* discontinue service.<sup>406</sup> Before a utility may discontinue service pursuant to a landlord ratepayer request: (1) the landlord must submit a form bearing a notarized signature and swearing under penalty of law that the unit is unoccupied;<sup>407</sup> (2) the utility must obtain consent from all of the affected tenants;<sup>408</sup> or (3) the utility must obtain the names and addresses of the affected tenants

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<sup>398</sup> Id.

<sup>399</sup> 66 Pa. C.S. § 1526.

<sup>400</sup> 66 Pa. C.S. § 1523(b).

<sup>401</sup> 66 Pa. C.S. § 1527(b).

<sup>402</sup> 66 Pa. C.S. § 1529.

<sup>403</sup> 66 Pa. C.S. § 1531.

<sup>404</sup> 66 Pa. C.S. § 1527(c).

<sup>405</sup> 66 Pa. C.S. § 1527(a).

<sup>406</sup> 66 Pa. C.S. § 1523(b).

<sup>407</sup> 66 Pa. C.S. § 1523(b)(1).

<sup>408</sup> 66 Pa. C.S. § 1523(b)(2).

and provide notice to each dwelling unit.<sup>409</sup> Under this last scenario, the utility must provide any affected tenants with the same rights they would have if their service were being terminated due to nonpayment by a landlord ratepayer as detailed above.<sup>410</sup>

Finally, the DSLPA permits affected tenants to pay ongoing charges, and deduct those amounts from rent or other money owed to a landlord ratepayer.<sup>411</sup> Anti-retaliatory provisions are included in the DSLPA to prevent a landlord ratepayers from acting against affected tenants.<sup>412</sup> DSLPA provides that any waivers of a tenant's rights granted by the statute are void and unenforceable.<sup>413</sup>

Turning to PAWC's compliance related to the DSLPA, we are concerned that PAWC does not have adequate policies and processes in place to monitor its compliance with DSLPA.<sup>414</sup>

First, it is unclear whether PAWC is complying with notice requirements pursuant to the DSLPA.<sup>415</sup> PAWC indicates that it does not track and cannot report on the number of tenant-occupied accounts that received notice of an involuntary termination or voluntary disconnection pursuant to DSLPA.<sup>416</sup> Mr. Geller noted that this failure is particularly concerning, given that a large number of accounts in recent years have been coded as tenant-occupied.<sup>417</sup> Between 2020 and 2023, 1,011 tenant-occupied accounts were terminated for nonpayment and 13,222 tenant-occupied accounts had services disconnected at the request of a landlord/property owner.<sup>418</sup> Without an accurate tracking of DSLPA notices, Mr. Geller correctly concluded that it is

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<sup>409</sup> 66 Pa. C.S. § 1523(b)(3).

<sup>410</sup> 66 Pa. C.S. § 1523(c).

<sup>411</sup> 66 Pa. C.S. § 1529.

<sup>412</sup> 66 Pa. C.S. § 1531.

<sup>413</sup> 66 Pa. C.S. § 1530.

<sup>414</sup> CAUSE-PA St. 1 at 70: 9-18.

<sup>415</sup> Id.

<sup>416</sup> CAUSE-PA St. 1 at 70-71.

<sup>417</sup> Id.

<sup>418</sup> Id.

impossible to determine whether required notices and attendant procedures pursuant to the DSLPA are being observed, and to what extent.<sup>419</sup>

It is similarly unclear whether PAWC is properly coding tenant-occupied accounts, as the Company does not track issues related to identification and coding of tenant accounts.<sup>420</sup> PAWC indicates that it has a process to update account status to a tenant account.<sup>421</sup> However, PAWC does not track details related to the coding of tenant accounts, including accounts that were miscoded as non-tenant despite PAWC having received information that the account and/or property was tenant occupied.<sup>422</sup> As discussed, PAWC has a significant number of tenant-occupant accounts who had their service involuntarily terminated or disconnected as a result of a landlord/property owner request over the last several years. With these significant numbers, it is concerning that PAWC does not have a process in place to determine to extent to which tenant accounts are accurately coded and to remediate issues related to the same.<sup>423</sup> Again, it is impossible to determine whether PAWC is consistently and accurately coding tenant accounts, and in turn providing appropriate notice to landlord ratepayers and tenants, without more accurate tracking.<sup>424</sup>

It is also unclear whether PAWC is properly managing partial payments, as required by DSLPA. PAWC indicates that they are unaware of partial payments by tenants seeking to exert their rights pursuant to the DSLPA.<sup>425</sup> It is unclear whether no partial payments were in fact made amongst the approximately 14,000 tenants terminated or voluntarily disconnected at the request of a landlord/property owner between 2020 and 2023, or whether PAWC does not regularly track

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<sup>419</sup> Id.

<sup>420</sup> CAUSE-PA St. 1 at 71: 6-19.

<sup>421</sup> Id.

<sup>422</sup> Id.

<sup>423</sup> Id.

<sup>424</sup> Id.

<sup>425</sup> Id.

these partial payments.<sup>426</sup> Without this data, it is impossible to determine whether the partial payment are being returned to customers, pursuant to DSLPA requirements.

Based on these outlined concerns, we recommend that PAWC make several critical reforms to its policies and procedures related to the DSLPA.

First, PAWC should be required to implement regular tracking, and be able to report on, the following. This data should be reported to PAWC's CAAG on a quarterly basis and included in the PAWC's next rate filing:<sup>427</sup>

- What notices are provided to each tenant-occupied account prior to termination for nonpayment by a landlord/property owner, or voluntary disconnection at the request of a landlord/property owner.
- When these notices are provided, and how the notices are provided.
- Whether – and how many – tenants exerted their rights to continued services pursuant to DSLPA.
- The number of accounts improperly coded as non-tenant accounts, despite PAWC receiving information that the property is reasonably likely to be tenant occupied.
- Notices of termination/disconnection provided to any accounts improperly coded as non-tenant, and if the account was terminated for nonpayment or voluntarily disconnected while coded as a non-tenant account. PAWC should also be required to track what remediation is taken on affected accounts.
- Partial payments made by tenants seeking to continue services pursuant to the DSLPA. Specifically, PAWC should be required to track (1) the number of partial payments made by tenants seeking to continue services pursuant to the DSLPA; (2) the amounts of these partial payments; (3) whether these partial payments were sufficient so that tenants could maintain services pursuant to the DSLPA; and (4) if insufficient to maintain services, whether and to what extent these payments were returned to tenants.

PAWC expert witness Dean disagrees with these recommended improvements and argues that PAWC fully complies with the DSLPA and the Utility Service Tenants Rights Act (USTRA),

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<sup>426</sup> CAUSE-PA St. 1 at 72: 1-10.

<sup>427</sup> CAUSE-PA St. 1 at 72-73.

where a municipal wastewater utility requests water service termination.<sup>428</sup> Ms. Dean argues that these recommendations are not required by the DSLPA or USTRA – including that the DSLPA does not require a utility investigate each property in its service territory to determine if a landlord ratepayer property is tenant occupied.<sup>429</sup> Ms. Dean describes how PAWC relies on information from tenants, landlords, and tenant/field representatives to determine if a property is reasonably likely to be tenant occupied – and provides required notices pursuant to the DSLPA.<sup>430</sup> Ms. Dean argues that there is no indication that PAWC’s steps to determine whether service addresses are coded as landlord-ratepayer/tenant occupied are deficient.<sup>431</sup>

Importantly, PAWC stipulated in its 2020 rate case that, “*PAWC will ask all applicants for service whether the property is or will be occupied by a tenant.*”<sup>432</sup> So, at a minimum, PAWC is under an obligation to abide by the terms of its previously agreed to stipulation. Despite Ms. Dean’s resistance to improved DSLPA compliance, she does not contest that PAWC is not tracking compliance with several crucial aspects of the DSLPA/USTRA.<sup>433</sup> As discussed, this lack of tracking includes (1) the number of DSLPA notices provided to tenant-occupied accounts; (2) issues related to coding of tenant-occupied accounts; and (3) management of partial payment by tenants seeking to exercise rights pursuant to the DSLPA.<sup>434</sup> While Ms. Dean argues that there is no evidence that PAWC is not properly following DSLPA/USTRA requirements, it is impossible to determine whether or to what extent compliance issues are occurring without sufficient data

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<sup>428</sup> PAWC St. 14-R at 18.

<sup>429</sup> Id.

<sup>430</sup> Id. at 18.

<sup>431</sup> Id.

<sup>432</sup> Pa. PUC v. PAWC, Joint Stipulation of PAWC and CAUSE-PA, Docket Nos. R-2020-3019369, R-2020-3019371, ¶ 4 (filed Nov. 13, 2020).

<sup>433</sup> CAUSE-PA St. 1 at 71-73.

<sup>434</sup> Id.

tracking and reporting. This lack of data tracking likely masks compliance issues requiring remediation.

#### **D. Water Services Act and Section 12.1(H) of Water Tariff**

Under Pennsylvania's Water Services Act,<sup>435</sup> a water utility is required to terminate service to a water customer at the request of the wastewater utility due to an overdue balance on the wastewater bill.<sup>436</sup> However, prior to terminating water service at the request of a sewer utility, certain steps are required to protect customers and tenant occupants. Specifically, a water utility may not shut off service to the property until at least 10 days after written notice has been mailed to the billing address and posted at the main entrance of the service address.<sup>437</sup> Further, the Water Services Act requires that before disconnecting service to a residential building, it must comply with the provisions of the Utility Service Tenants' Rights Act (USTRA).<sup>438</sup>

PAWC provides water service to certain households that receive wastewater from separate wastewater utilities, such as a local municipal authority.<sup>439</sup> For these customers, Mr. Geller expressed concern that PAWC's current processes for terminating water service at the request of a sewer utility does not adequately protect tenants.<sup>440</sup>

PAWC describes its processes under the Water Services Act, and indicates that whether it serves notices to properties prior to terminating water services at the request of a sewer utility depends of whether the account is coded as landlord ratepayer.<sup>441</sup> Pursuant to PAWC's stated

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<sup>435</sup> 53 P.S. § 3102.101 *et seq.*

<sup>436</sup> 53 P.S. § 3102.502(a)(1).

<sup>437</sup> 53 P.S. § 3102.502(b)(1).

<sup>438</sup> 53 P.S. § 3102.502(c) (Note, USTRA is a sister statute to the DSLPA, which contains similar requirements as to tenants' rights to continued service and protections against voluntary discontinuance by a landlord ratepayer. See 66 Pa. C.S. Ch. 15 Subch.B.).

<sup>439</sup> CAUSE-PA St. 1 at 73: 19-24.

<sup>440</sup> Id.

<sup>441</sup> CAUSE-PA St. 1 at 74: 5-14.



policies, if a sewer utility requests to disconnect water services, the sewer utility is responsible for providing termination notices to non-landlord/ratepayer customers for termination for nonpayment of wastewater services pursuant to a Shut Off Agreement.<sup>442</sup> The sewer utility must confirm that they have complied with notices requirements of the Water Services Act.<sup>443</sup>

Based on these stated processes, it appears as though PAWC does not confirm that notices were properly provided before services are terminated pursuant to the Water Services Act.<sup>444</sup> Section 501 of the Water Services Act (53 P.S. § 3102.501 et seq.) prohibits termination of water supply to premises prior to 10 days after written notice is posted at a main entrance and maintained to a person liable for payment of the rentals and charges, and the owner of the property or property manager.<sup>445</sup> As the entity performing service termination, PAWC has an affirmative duty to confirm that the Act has been followed prior to terminating services based on a request of a sewer utility, and should not rely on sewer authorities to monitor their own compliance pursuant to Water Services Act requirements.<sup>446</sup>

It is also unclear whether a tenant can assert their rights to continued service pursuant to the Water Services Act and the Utility Service Tenants Rights Act (USTRA) when faced with a PAWC water termination resulting from a request by a sewer authority. According to the Water Services Act, prior to discontinuing service in any residential building, PAWC must comply with USTRA.<sup>447</sup> USTRA contains many similar provisions to the DSLPA, discussed above, but applies to municipal corporations and authorities.<sup>448</sup>

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<sup>442</sup> Id.

<sup>443</sup> Id.

<sup>444</sup> CAUSE-PA St. 1 at 74: 15-19.

<sup>445</sup> 53 P.S. § 3102.501 *et seq.*

<sup>446</sup> CAUSE-PA St. 1 at 74-75.

<sup>447</sup> See 53 P.S. § 3102.502(c).

<sup>448</sup> 68 Pa. C.S. § 399.1, *et seq.*

When asked for its process for terminating tenant-occupied accounts the request of a sewer utility, PAWC indicates that if the municipality/municipal authority informs PAWC of improper coding as a non-tenant account, termination will be cancelled.<sup>449</sup> It is unclear whether tenants who face PAWC water termination as a result of a landlord's nonpayment to a sewage utility can inform PAWC that they are tenants and exercise their rights under USTRA to prevent shut-off by PAWC. Instead, under current PAWC policies, it appears that tenants must rely on the municipal authority to contact PAWC on behalf of the tenant. This is inappropriate as the Water Services Act explicitly states that, before terminating service at the request of a sewer utility, the "water utility" must comply with USTRA.<sup>450</sup> As Mr. Geller concluded, these processes create unnecessary barriers to tenants asserting their rights to continued service and does not constitute acceptable compliance with these statutory mandates.<sup>451</sup>

We recommend that PAWC be required to reform its policies and procedures to better monitor compliance with the Water Services Act prior to termination of services at the request of a sewer utility.

First, PAWC should be required to obtain actual proof of notice before terminating service at the request of a third-party sewer utility, including proof of mailing and proof of posting.<sup>452</sup>

Second, PAWC should revise its policies and procedures to ensure compliance with the Water Services Act, and consult with its CAAG related to recommended revisions so to

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<sup>449</sup> CAUSE-PA St. 1 at 75: 14-20.

<sup>450</sup> 53 P.S. § 3102.502(c)

Exception.--Prior to discontinuing service in a residential building as defined under the act of November 26, 1978 (P.L.1255, No.299), known as the Utility Service Tenants Rights Act, a **water utility** shall comply with the provisions of that act. (emphasis added).

<sup>451</sup> CAUSE-PA St. 1 at 75: 14 – 76: 2.

<sup>452</sup> CAUSE-PA St. 1 at 75: 1-5.

incorporate members' feedback in good faith. PAWC should also update its training materials and agreements to reflect these revisions.

Third, PAWC should undertake review of its policies and procedures for termination of service at the request of a sewer utility, to ensure that tenants are not required to rely on the sewer utility to act on their behalf to maintain service.<sup>453</sup> If a tenant informs PAWC that their residence is tenant occupied and termination of PAWC water service is pending at the request of a sewer utility, PAWC should be required to immediately suspend termination and ensure that the requirements of the Water Service Act are being met. If the tenant's service is already off, PAWC should be required to immediately reconnect service until the provisions of USTRA have been followed pursuant to the Water Services Act. PAWC should also be required to amend its policies, procedures, training materials, and agreements to reflect these changes, and to consult with its CAAG related to these revisions so that member's feedback can be considered.<sup>454</sup>

We note that PAWC expert witness Dean disagrees with these recommended improvements to its compliance with the Water Service Act.<sup>455</sup> Ms. Dean argues that the Water Service Act does not require actual proof of mailing and posting of termination notices, as we have recommended.<sup>456</sup> She argues that PAWC's processes, which requires a responsible municipal official to certify that they met the notice requirements, is an effective process that complies with the Water Services Act.<sup>457</sup>

We disagree with Ms. Dean's assessment that these improvements to PAWC's policies and procedures related to the Water Services Act are unnecessary. As discussed, PAWC has an

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<sup>453</sup> CAUSE-PA St. 1 at 76: 12-23.

<sup>454</sup> Id.

<sup>455</sup> CAUSE-PA St. 1-SR at 6-18.

<sup>456</sup> Id. PAWC St 14-R at 19-20.

<sup>457</sup> PAWC St 14-R at 19-20.

affirmative duty to confirm that the Act has been followed prior to terminating services based on a request of a sewer utility – rather than rely on sewer authorities to monitor their own compliance pursuant to Water Services Act requirements.<sup>458</sup> The improvements to PAWC’s policies and procedures related to the Water Services will help to ensure compliance with the Water Services Act, so that tenants can access these important protections prior to service termination at the request of a sewer utility.

**E. American Water Resources**

CAUSE-PA did not take a specific position on this issue.

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<sup>458</sup> CAUSE-PA St. 1 at 74-75.

**F. Main Extensions**

CAUSE-PA did not take a specific position on this issue.

**G. Pressure Surveys and Pressure Reducing Valves**

CAUSE-PA did not take a specific position on this issue.

**XIII. MISCELLANEOUS**

**A. Customer Notices Related to Rate Changes**

CAUSE-PA did not take a specific position on this issue.

**B. Tariff Changes (not addressed above)**

CAUSE-PA did not take a specific position on this issue.

#### **XIV. CONCLUSION**

For the reasons set forth above, and in the direct, rebuttal, surrebuttal testimony of CAUSE-PA's expert witnesses Harry S. Geller, Esq., CAUSE-PA urges the Honorable Administrative Law Judges in this matter and the Pennsylvania Public Utility 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 the ALJs and the Commission to take necessary steps detailed herein to ensure that low income consumers are protected from the increased unaffordability that results from imposition of any rate increase.

Respectfully submitted,  
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Date: March 26, 2024

## **Appendix A: Proposed Findings of Fact**

1. At proposed rates, a family of three at 50% FPL using 4,000 gallons/month would have a combined water/wastewater burden of 21%, and a family of four at 50% FPL using 4,000 gallons/per month would have a combined water/wastewater burden of 17%.<sup>459</sup>
2. Pennsylvania consumers have faced profound economic pressures in recent years, including the economic impacts of the COVID-19 pandemic and more recent steep inflation in the costs of basic goods.<sup>460</sup>
3. PAWC customers have faced a series of rate increases in recent years – further exacerbating the inability of low income customers to afford and stay connected to services.<sup>461</sup>
4. Without access to running water, basic functions of living (including cooking and cleaning) become impossible.<sup>462</sup> Lack of access to consistent water/wastewater services threatens the health and stability of customers, their families, and their communities.<sup>463</sup>
5. The Rate impact of PAWC’s proposal depends on customer usage level and varies between rate zones, with a typical water customer using 4,000 gallons/month and located in Zone 2 (water) experiencing a monthly rate increase of more than 217% for their water service.<sup>464</sup> A customer in Rate Zone 7 (York) will see an increase of more than 134% - while customers in Zones 1 and 5 will see a decrease of 5.2%.<sup>465</sup>
6. PAWC reports approximately 114,343 estimated low income customers, though this figure likely undercounts PAWC’s estimated low income customer group.<sup>466</sup>
7. As of December 2023, PAWC indicates that it has 64,803 confirmed low income customers.<sup>467</sup>
8. Based on the 2024 FPL guidelines, a family of four at with household income at or below 150% FPL has a maximum gross annual income of \$46,800 (\$3,900 per month).<sup>468</sup> A family of four with income at or below 50% FPL has a maximum gross annual income of just \$15,600 (\$1,300 per month).<sup>469</sup>

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<sup>459</sup> CAUSE-PA St. 1 at 30.

<sup>460</sup> CAUSE-PA St. 1 at 6-7.

<sup>461</sup> Id.

<sup>462</sup> Id.

<sup>463</sup> Id.

<sup>464</sup> CAUSE-PA St. 1 at 8, Table 1.

<sup>465</sup> CAUSE-PA St. 1 at 10: 1-9.

<sup>466</sup> CAUSE-PA 23: 13 – 24: 11.

<sup>467</sup> CAUSE-PA St. 1 at 23: 1-12.

<sup>468</sup> CAUSE-PA St. 1 at 24: 17 – 25: 12.

<sup>469</sup> Id. (citing US Dept. of Health & Human Services, HHS Poverty Guidelines for 2024, available at: <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>).

9. The Self Sufficiency Standard for a family of four in Pennsylvania (consisting of 2 adults, 1 school age child, and 1 preschooler) ranges across PAWC's service territory from a low of \$52,666 in McKean County to a high of \$84,976 in Chester County.<sup>470</sup>
10. The annual income of PAWC's currently identified H2O participants is just \$19,585.47, while the average annual income of PAWC's confirmed low income customers is only \$9,247.20.<sup>471</sup>
11. When rates increase without a corresponding increase to percentage discounts through the BDP, program participants' monthly charges necessarily increase.<sup>472</sup>
12. A utility bill burden – in this case a water/wastewater burden – is an accepted metric used to determine the affordability of utility service and comprises the percentage of household income required to cover the cost of the bill.<sup>473</sup>
13. While Pennsylvania has not adopted statewide water and wastewater burden standards, it is generally accepted that the combined cost for water and wastewater service should not exceed 4% of household income.<sup>474</sup>
14. PAWC recovers costs for bill discounts offered under its BDP from its residential customers.<sup>475</sup> However, PAWC allocates approximately \$3,180,090 in AMP costs, as well as administrative costs associated with its H2O Hardship Fund grants, the BDP, and Dollar Energy Fund (DEF), among both residential and nonresidential customer classes in its cost-of-service studies.<sup>476</sup>
15. All ratepayers (including industry, business, commerce, educational institutions, hospitals, local and state governments, and other residential customers) and their communities benefit from low income assistance programs.<sup>477</sup>
16. Higher income families who have sufficient funds to engage in discretionary outdoor water usage during nonwinter months will utilize more water compared to lower income families, those who live in apartments or smaller properties, or who do not have sufficient funds to engage in these forms of discretionary water usage.<sup>478</sup>
17. PAWC's low income customers would have to bear additional costs stemming from the RDM, if approved, without any specific mitigation.<sup>479</sup>

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<sup>470</sup> CAUSE-PA St. 1 at 25: 13 – 26: 12.

<sup>471</sup> CAUSE-PA St. 1 at 26: 9-12.

<sup>472</sup> CAUSE-PA St. 1 at 33: 5 – 34: 7.

<sup>473</sup> CAUSE-PA St. 1 at 27: 2-12.

<sup>474</sup> Id.

<sup>475</sup> CAUSE-PA St. 1-SR at 3.

<sup>476</sup> Id.

<sup>477</sup> CAUSE-PA St. 1-R at 7.

<sup>478</sup> CAUSE-PA St. 1 at 13: 5-15.

<sup>479</sup> CAUSE-PA St. 1 at 16-17.



18. Low income communities and communities of color are disproportionately subjected to higher levels of PFAS levels compared to other communities and suffer the costliest health consequences as result of these contaminants.<sup>480</sup>
19. If approved, the proposed ECIC would add an additional charge on top of monthly bills for basic water/wastewater services.<sup>481</sup>
20. PAWC offers customer assistance through its Help to Others (H2O) programs, which are administered by the Dollar Energy Fund (DEF).<sup>482</sup>
21. Through its H2O programs, PAWC currently offers three forms of assistance to low income customers: (1) grant assistance of up to \$500 per year for customers with temporary hardship, which is conditioned on the availability of funds; (2) monthly bill discounts through PAWC's Bill Discount Program – or BDP – for water and wastewater services; and (3) usage reduction assistance through the availability of water-saving devices and education available to BDP customers.<sup>483</sup>
22. The high water/wastewater burdens at proposed and existing rates leave insufficient funds to pay for housing, energy, food, medicine, childcare, and other basic needs – and lead to cascading consequences to health, safety, and stability of Pennsylvania's economically vulnerable families.<sup>484</sup>
23. As of December 2022, the average arrearage level of PAWC confirmed low income customers was \$316.89, and the average arrearage level of PAWC H2O customers was \$310.49 – compared to the lower average arrearage level carried by all residential customers during that timeframe of \$185.02.<sup>485</sup>
24. On December 7, 2023, the Commission approved a Settlement related to PAWC's Petition for approval for an Arrearage Management Program (AMP).
25. If PAWC's rates are increased even further, debt levels may correspondingly increase and weaken the effectiveness of PAWC's recently-approved AMP before the program is even launched.<sup>486</sup>
26. In 2022, the residential termination rate was 3.55%, compared to the termination rate for confirmed low income customers of 20.95%.<sup>487</sup> Similarly, in 2023, the termination rate for residential customers was 2.31% compared to the termination rate for low income customers of 13.54%.<sup>488</sup> Thus, in 2023, the termination rate amongst confirmed low

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<sup>480</sup> CAUSE-PA St. 1 at 20: 1-9.

<sup>481</sup> CAUSE-PA St. 1 at 20: 10-16.

<sup>482</sup> CAUSE-PA St. 1 at 40: 12-19.

<sup>483</sup> CAUSE-PA St. 1 at 40: 12-19.

<sup>484</sup> CAUSE-PA St. 1 at 27: 15 – 28: 12.

<sup>485</sup> CAUSE-PA St. 1 at 29, Table 5.

<sup>486</sup> CAUSE-PA St. 1 at 30: 7-19.

<sup>487</sup> CAUSE-PA St. 1 at 29, Table 4.

<sup>488</sup> Id.

income customers was more than *six times higher* than the termination rate for residential customers as a whole.

27. Low income customers are already struggling – even at present rates – to afford and stay connected to water/wastewater services.
28. If approved, the proposed increases will likely cause increased terminations of economically vulnerable consumers or will cause economically vulnerable households to go without other critical life necessities such as housing, energy, food, medicine, childcare, and other essential services to afford water and wastewater services to their home.<sup>489</sup>
29. The Company is proposing to amend its BDP to include a fourth tier of eligibility to the current BDP and expand the program to customers whose household incomes are between 150-200% FPL.<sup>490</sup>
30. The Company fails to provide any additional enhancements to BDP participants between 0-150% FPL.<sup>491</sup>
31. BDP – as currently structured – does not produce consistent levels of affordability – particularly for BDP customers with the lowest incomes and highest usage levels.<sup>492</sup>
32. Average bills of BDP participants span a considerable range – and reached an averaged high of \$91.86 between October 2022 and November 2023.<sup>493</sup>
33. BDP participants would see marked improvements to affordability and reductions in water/wastewater burdens under CAUSE-PA’s proposed BDP design.<sup>494</sup>
34. A PIP structure is the optimal way to structure the BDP to achieve consistent, equitable, and targeted levels of affordability for low income customers.<sup>495</sup> A properly structured PIP-design would deliver accessible, consistent, and equitable levels of affordability for low income participants.<sup>496</sup>
35. Low income households often have higher usage as a result of plumbing and fixture leaks from living in older homes – yet most often lack the discretionary income to invest in repairs themselves and/or are unable to force their landlord to make such repairs.<sup>497</sup>
36. PAWC’s Hardship Fund does not provide adequate relief and is not adequately accessible to low income customers in need of grant funding.<sup>498</sup>

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<sup>489</sup> CAUSE-PA St. 1 at 31: 19 – 32: 2.

<sup>490</sup> CAUSE-PA St. 1 at 43: 6-15, citing PAWC St. 10 at 24.

<sup>491</sup> CAUSE-PA St. 1 at 44.

<sup>492</sup> CAUSE-PA St. 1 at 41-42.

<sup>493</sup> CAUSE-PA St. 1 at 42: 3-10.

<sup>494</sup> CAUSE-PA St. 1 at 45-46.

<sup>495</sup> CAUSE-PA St. 1 at 44-45.

<sup>496</sup> CAUSE-PA St. 1-SR at 7-8.

<sup>497</sup> CAUSE-PA St. 1 at 42: 11-16.

<sup>498</sup> CAUSE-PA St. 1 at 48-49.

37. With the matter under appeal, there is no guarantee whether – and to what extent – BASA settlement terms related to PAWC’s Hardship Fund will ultimately be implemented.<sup>499</sup>
38. Only a few customers have been awarded Hardship Funding over recent years.<sup>500</sup> In 2022, 1,441 customers received a Hardship Fund grant, and between January and November 2023, only 3,443 received a Hardship Fund grant.<sup>501</sup> By comparison, from January through November 2023, 9,658 confirmed low income customers were terminated for nonpayment.<sup>502</sup>
39. The average arrearage level of recipients of Hardship Funding regularly exceeds the maximum Hardship Fund grant limit of \$500.<sup>503</sup>
40. PAWC’s Hardship Fund continues to require an upfront payment of \$50.<sup>504</sup> Upfront payment requirements often post insurmountable barriers to receiving Hardship Fund assistance for customers with the most acute financial distress.<sup>505</sup>
41. PAWC’s H2O program offers limited water conservation assistance to H2O participants.<sup>506</sup> Participation in this program is limited – with PAWC reporting, between 2020 and 2023, that 5,942 customers received water conservation assistance through this program component.<sup>507</sup>
42. Apart from its lead service line replacement program,<sup>508</sup> the Company currently does not provide service line and/or leak repair assistance to any customers.<sup>509</sup>
43. PAWC’s low income customers carry higher average usage levels compared to residential customers as a whole.<sup>510</sup> In November of 2023, PAWC reports that, for its combined service customers, the mean usage level for confirmed low income customers was 3,764 gallons and the mean usage level for H2O participants was 4,162 gallons – compared to the mean usage level for residential customers generally of 3,179 gallons during this same period.<sup>511</sup>
44. The higher average usage levels amongst low income customers is likely due to factors including that low income families are more likely to live in older homes with inadequate, damaged, or leaky plumbing/ fixtures – thus resulting in higher usage levels.<sup>512</sup>

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<sup>499</sup> OCA 2SR at 8: 16-20.

<sup>500</sup> CAUSE-PA St. 1 at 49: 15 – 50: 5.

<sup>501</sup> Id.

<sup>502</sup> CAUSE-PA St. 1 at 50, Table 14.

<sup>503</sup> CAUSE-PA St. 1 at 50: 12 – 51: 6.

<sup>504</sup> CAUSE-PA St. 1 at 51: 17 – 52: 10.

<sup>505</sup> Id.

<sup>506</sup> CAUSE-PA St. 1 at 60: 1-8, citing PAWC St. 1 at 12.

<sup>507</sup> CAUSE-PA St. 1 at 60: 1-14.

<sup>508</sup> Id.

<sup>509</sup> Id.

<sup>510</sup> CAUSE-PA St. 1 at 60-61.

<sup>511</sup> Id.; CAUSE-PA, Table 7-9.

<sup>512</sup> CAUSE-PA St. 1 at 60-61.

45. With their limited financial resources, low income households are often unable to afford to fix leaks, plumbing issues, or customer side-service lines – or purchase water efficiency devices.<sup>513</sup>
46. Between 2020 and December 2023, 1,037 customers experienced disconnection of services because of damaged customer-side service line leaks.<sup>514</sup>
47. PAWC does not track whether provision of conservation kits results in these savings, or even if customers have installed these measures.<sup>515</sup>
48. Water conservation and line repair/replacement programs help to control usage levels and corresponding high monthly bills resulting from homes in need of repairs and enhancements.<sup>516</sup> Assisting low income customers to better control high usage helps to lower inflated bills, reduce universal service program costs, and reduces uncollectible expenses and termination costs that affect all ratepayers.<sup>517</sup>
49. PAWC’s low income assistance programs are undersubscribed.<sup>518</sup> As of November 2023, only approximately 25% of estimated low income customers and 40% of customers known to be income eligible for the BDP were actually enrolled in the BDP.<sup>519</sup>
50. Between November 2021 and October 2023, approximately 87% (11,912 out of 13,699) of BDP enrollees had unpaid arrears at the time of enrollment.<sup>520</sup>
51. The Company does not have policies, procedures, and training materials for its frontline customer service staff do not ensure that payment troubled customers are given the opportunity to first enroll in the BDP and Hardship Fund assistance prior to being placed in payment arrangements.<sup>521</sup>
52. Failure to maintain a Universal Service Plan leaves a substantial gap for consumers and utility advocates, who must rely on PAWC’s tariffs and the information that can be pieced together from websites and outreach materials, to determine important program rules, polices, and procedures for the Company’s low income assistance programs.<sup>522</sup>
53. PAWC does not have systems in place to regularly monitor DEF’s administration of its programs to ensure that standards are being met so that eligible customers can easily enroll in available assistance programs. PAWC does not have formal policies, assessments, or audits of DEF’s administration of its low income assistance programs.<sup>523</sup>

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<sup>513</sup> Id.

<sup>514</sup> CAUSE-PA St. 1 at 62.

<sup>515</sup> CAUSE-PA St. 1 at 62-63.

<sup>516</sup> CAUSE-PA St. 1-SR at 5-6.

<sup>517</sup> Id.

<sup>518</sup> CAUSE-PA St. 1 at 54: 1-12.

<sup>519</sup> Id.

<sup>520</sup> CAUSE-PA St. 1 at 54: 13-21.

<sup>521</sup> CAUSE-PA St. 1 at 54-55.

<sup>522</sup> CAUSE-PA St. 1 at 56: 1-15.

<sup>523</sup> CAUSE-PA St. 1 at 65: 1-12.

54. DEF only assigns a small number of employees to PAWC's programs -- 2.5 full-time equivalents for PAWC's BDP, and 5 full-time equivalents for PAWC's Hardship Fund.<sup>524</sup> By comparison, as of December 2023, PAWC indicates that it has 64,803 confirmed low income customers.<sup>525</sup>
55. PAWC's monitoring of DEF is inadequate to ensure that PAWC's programs are being administered in a manner that is compliant with the program rules and parameters developed by PAWC and required by Commission Orders.<sup>526</sup>
56. it is unclear whether PAWC is complying with notice requirements pursuant to the DSLPA because the Company does not track notices provided to tenants pursuant to the DSLPA.<sup>527</sup>
57. Between 2020 and 2023, 1,011 tenant-occupied accounts were terminated for nonpayment and 13,222 tenant-occupied accounts had services disconnected at the request of a landlord/property owner.<sup>528</sup>
58. It is unclear whether PAWC is properly coding tenant-occupied accounts, as the Company does not track issues related to identification and coding of tenant accounts.<sup>529</sup>
59. It is unclear whether any partial payments were made amongst the approximately 14,000 tenants terminated or voluntarily disconnected at the request of a landlord/property owner between 2020 and 2023 and, if so, whether those payments were promptly returned consistent with DSLPA.<sup>530</sup>
60. PAWC provides water service to certain households that receive wastewater from separate wastewater utilities, such as a local municipal authority.<sup>531</sup>
61. Pursuant to PAWC's stated policies, if a sewer utility requests to disconnect water services, the sewer utility is responsible for providing termination notices to non-landlord/ratepayer customers for termination for nonpayment of wastewater services pursuant to a Shut Off Agreement.<sup>532</sup> The sewer utility must confirm that they have complied with notices requirements of the Water Services Act.<sup>533</sup>
62. PAWC does not confirm that notices pursuant to the Water Services Act are properly provided before services are terminated.<sup>534</sup>

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<sup>524</sup> CAUSE-PA St. 1 at 65: 13-21.

<sup>525</sup> Id.

<sup>526</sup> CAUSE-PA St. 1 at 65: 6-12.

<sup>527</sup> CAUSE-PA St. 1 at 70: 9-18.

<sup>528</sup> CAUSE-PA St. 1 at 70-71.

<sup>529</sup> CAUSE-PA St. 1 at 71: 6-19.

<sup>530</sup> CAUSE-PA St. 1 at 72: 1-10.

<sup>531</sup> CAUSE-PA St. 1 at 73: 19-24.

<sup>532</sup> CAUSE-PA St. 1 at 74: 5-14.

<sup>533</sup> Id.

<sup>534</sup> CAUSE-PA St. 1 at 74: 15-19.

63. It is unclear whether a tenant can assert their rights to continued service pursuant to the Water Services Act and the Utility Service Tenants Rights Act (USTRA) when faced with a PAWC water termination as a result of a request by a sewer authority.

## Appendix B: Proposed Conclusions of Law

1. The Commission has a “duty to set ‘just and reasonable’ rates, reflecting a ‘balance of consumer and investor interests.”<sup>535</sup>
2. In determining just and reasonable rates, the Commission has discretion to determine the proper balance between interests of ratepayers and utilities.<sup>536</sup>
3. “[T]he PUC is obliged to consider broad public interests in the rate-making process.”<sup>537</sup>
4. 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.<sup>538</sup>
5. 52 Pa. Code §§ 69.3301-.3302 sets forth fourteen factors to evaluate whether an alternative ratemaking mechanism is just and reasonable, including the effect on low income customers and customer assistance programs, the impact on energy efficiency programming, alignment with cost causation principals, and the prevention of improper cost shifting.<sup>539</sup>
6. “[T]he 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.”<sup>540</sup>
7. In order to be just and reasonable, rates must also be affordable and accessible to those served. PAWC’s proposed rates for water and wastewater services are not reasonable, just, or affordable.<sup>541</sup>
8. PAWC’s H2O bill discount program rates are not just, reasonable, or affordable, as they are not adequately designed to ensure that low income consumers can maintain life-sustaining water and wastewater service to their home.<sup>542</sup>
9. The Commission policy related to alternative ratemaking mechanisms indicates that “an alternative rate design methodology should reflect the sound application of cost of service

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<sup>535</sup> Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301.

<sup>536</sup> 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)).

<sup>537</sup> Popowsky v. PUC, 542 Pa. 99, 107-108 (1995); Pa. Elec. Co. v. Pa. PUC, 509 Pa. 324, 331, 502 A.2d 130, 134 (1985).

<sup>538</sup> 66 Pa. C.S. § 315.

<sup>539</sup> 52 Pa. Code § 69.3302(a).

<sup>540</sup> Popowsky v. PUC, 542 Pa. 99, 107-108 (1995).

<sup>541</sup> CAUSE-PA MB at 7-9, 65. 66 Pa. C.S. § 1301(a).

<sup>542</sup> CAUSE-PA MB at 15. 66 Pa. C.S. § 1301(a).

principles, establish a rate structure that is just and reasonable, and consider customer impacts.”<sup>543</sup>

10. The proposed RDM is not just, reasonable, or in the public interest, as evidenced by the factors set forth in 52 Pa. Code §§ 69.3301-.3302.<sup>544</sup>
11. The proposed ECIC is not just, reasonable, or in the public interest, as evidenced by the factors set forth in 52 Pa. Code §§ 69.3301-.3302.<sup>545</sup>
12. Referring customers in need of assistance to universal service programs is specifically required under 66 Pa. C.S. 1410.1 (Public Utility Duties). This Section requires that, when a customer or applicant contacts a public utility to make a payment agreement, the utility must “refer the customer or applicant to the universal service program administrator... to determine eligibility for a program and to apply for enrollment in a program.”<sup>546</sup>
13. The Discontinuance of Services to Leased Premises Act (“DSLPA”) sets forth the rights of tenants who receive services by a regulated utility for which service is listed in a landlord’s name.<sup>547</sup>
14. DSLPA protects a tenant’s right to continued utility service where: (1) the utility terminates service to a leased premises due to nonpayment by the landlord ratepayer;<sup>548</sup> or, (2) the landlord ratepayer seeks to voluntarily disconnect service to a leased premises and tenants are still residing at the property.<sup>549</sup>
15. PAWC does not have adequate policies and processes in place to monitor its compliance with DSLPA.<sup>550</sup>
16. Under Pennsylvania’s Water Services Act,<sup>551</sup> a water utility is required to terminate service to a water customer at the request of the wastewater utility due to an overdue balance on the wastewater bill.<sup>552</sup> However, prior to terminating water service at the request of a sewer utility, certain steps are required to protect customers and tenant occupants.<sup>553</sup>

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<sup>543</sup> 52 Pa. Code §§ 69.3301-.3302.

<sup>544</sup> 52 Pa. Code §§ 69.3301-.3302.

<sup>545</sup> 52 Pa. Code §§ 69.3301-.3302.

<sup>546</sup> 66 Pa. C.S. § 1410.1(2).

<sup>547</sup> 66 Pa. C.S. Ch. 15 Subch. B.

<sup>548</sup> 66 Pa. C.S. § 1527.

<sup>549</sup> 66 Pa. C.S. § 1523(b).

<sup>550</sup> CAUSE-PA St. 1 at 70: 9-18. 66 Pa. C.S. Ch. 15 Subch. B.

<sup>551</sup> 53 P.S. § 3102.101 et seq.

<sup>552</sup> 53 P.S. § 3102.502(a)(1).

<sup>553</sup> 53 P.S. § 3102.502(b)(1).



17. PAWC does not appear to confirm that notices are properly provided before services are terminated pursuant to the Water Services Act.<sup>554</sup> As the entity performing service termination, PAWC has an affirmative duty to confirm that the Act has been followed prior to terminating services based on a request of a sewer utility – rather than rely on sewer authorities to monitor their own compliance pursuant to Water Services Act requirements.<sup>555</sup>

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<sup>554</sup> CAUSE-PA St. 1 at 74: 15-19.

<sup>555</sup> CAUSE-PA St. 1 at 74-75.

### **Appendix C: Proposed Ordering Paragraphs**

1. PAWC's proposed to increase to its rates is denied in its entirety.
2. PAWC's proposed winter averaging methodology is denied.
3. PAWC's proposed Revenue Decoupling Mechanism (RDM) is denied.
4. PAWC's proposed Environmental Compliance Investment Charge (ECIC) is denied.
5. PAWC shall make the following immediate improvements to address existing rate unaffordability and ensure that low income residential consumers can reasonably and equitably connect to and maintain water and wastewater services to their homes:
  - a. Implement changes to the BDP structure and discount levels.
  - b. Update PAWC's estimated low income customer count on an annual basis, and work with BCS to identify an appropriate method for updating this count based on available U.S. Census data.
  - c. Set target enrollment benchmarks for the BDP, so that enrollment targets are set at 20% per year of PAWC's estimated low income customer counts until the Company reaches at least 75% enrollment of this estimated group.
  - d. Establish quantitative goals related to affirmative customer outreach for the purpose of enrolling low income customers in the BDP, as outlined.
  - e. Increase annual hardship funding by an additional \$1 million over existing funding levels.
  - f. Eliminate upfront payment requirements for PAWC's Hardship Fund.
  - g. Increase of the maximum Hardship Fund grant to \$600 for water and \$600 for wastewater.
  - h. Allow income-qualified water and wastewater customers to receive multiple Hardship Fund grants per year, up to the maximum \$600 for water and wastewater, respectively.
  - i. Develop and submit a comprehensive Universal Service Plan for periodic Commission review and approval.
  - j. Develop and submit a detailed consumer education and outreach plan (CEOP) for inclusion in the Universal Service Plan.
  - k. Screen all new and moving customers for income level and eligibility for assistance at the time their service is established.
  - l. Develop call scripting and checklists for its Customer Service Representatives (CSRs) to assist in screening customers for eligibility in its low income assistance programs.
  - m. Revise PAWC policies, procedures, and training materials to reflect that customers who provide information related to payment troubles, inability to pay, or low income status should be assisted to apply for PAWC's Help to Others (H2O) program *before* they are provided with the option to enroll in payment arrangements.

- n. Develop and implement a comprehensive conservation and line repair/replacement program available to all customers at or below 200% of the Federal Poverty Level (FPL), no later than 6 months after the final order in this proceeding.
- o. Implement systematic and regular processes for monitoring and oversight of DEF's administration of its low income assistance programming.
- p. Establish and implement clear metrics for auditing DEF-handled accounts, within 6 months of the final order in this proceeding, to be developed through a special meeting of PAWC's Customer Assistance Advisory Group (CAAG).
- q. Conduct and submit periodic third-party program evaluations to the Commission on administration of its low income assistance programs in line with the 6-year evaluation period required of Electric Distribution Companies (EDCs) and Natural Gas Distribution Companies (NGDCs).
- r. Implement additional tracking and reporting related to tenants, including notices provided to tenants, and PAWC's policies and procedures related to compliance with the Discontinuance of Service to Leased Premises Act (DSLPA). Recommended data should be reported to the CAAG on a quarterly basis and included in PAWC's next rate filing.
- s. Review and revise PAWC policies and procedures for customers facing termination of service at the request of a sewer utility to ensure compliance under the Water Service Act, in consultation with PAWC's CAAG.