



May 17, 2024

Via E-Mail Only

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

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

Exceptions of CAUSE-PA

Dear Secretary Chiavetta,

Please find the attached **Exceptions 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 M. Pereira".

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

CC: Office of Special Assistants, ra-OSA@pa.gov

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

Certificate of Service

I hereby certify that I have this day served copies of the **Exceptions of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA Email Only

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May 17, 2024

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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

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Date: May 17, 2024

I. INTRODUCTION

By Secretarial Letter dated May 7, 2024, the Office of Administrative Law Judge (OALJ) issued a Recommended Decision (RD) of Deputy Chief Administrative Law Judge (ALJ) Christopher P. Pell and ALJ John M. Coogan in the consolidated Pennsylvania American Water Company (PAWC) Water and Wastewater base rate proceeding. The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, hereby files the following Exceptions to the Recommended Decision (RD).

CAUSE-PA was an active participant in this proceeding, and filed Direct, Rebuttal, and Surrebuttal Testimony of Harry S. Geller, Esq. in support of its positions and recommendations.¹ CAUSE-PA also filed lengthy Main and Reply Briefs.² While we reference arguments raised in testimony and briefing in the context of these Exceptions, we will not reiterate the lengthy arguments contained therein. We nevertheless stand by those arguments and recommendations.

In filing these Exceptions, CAUSE-PA asserts that Deputy Chief ALJ Pell and ALJ Coogan (collectively, ALJs) erred as a matter of law and sound public policy when they rejected implementing several critically important improvements to ensure that PAWC's low income customers can enroll in assistance programs designed to address unaffordability of rates, both at present and as recommended in the RD. Specifically, the RD committed an error of law when it failed to order that PAWC implement: (1) a comprehensive conservation assistance program for low income customers; (2) a comprehensive Universal Service Plan which would provide important clarity related to PAWC's low income assistance programs; and (3) improved outreach, screening, and intake procedures related to PAWC's low income assistance programs.

¹ See CAUSE-PA St. 1, CAUSE-PA St. 1-R, CAUSE-PA St. 1-SR.

² See CAUSE-PA MB & CAUSE-PA RB.

As discussed in detail below, the Commission’s investigation in this rate proceeding must examine the justness, reasonableness, and lawfulness of rates, rules, and regulations for PAWC customers.³ PAWC has indicated that there are a substantial number of confirmed low income customers in its service territory (64,803 as of December 2023).⁴ Any consideration of the justness and reasonableness of rates must necessarily consider whether PAWC provides just and reasonable rates that are in the public interest for its low income customers. Thus, an evaluation of the justness and reasonableness of any proposed rate increase must necessarily analyze the effect of the rate increase on the ability of residential consumers to reasonably afford service and, consequentially, provide for adequate rate assistance programs that determine whether many low income customers have access to just, reasonable, and consistent services.

Instead of engaging in a full review of access to service and affordability of rates for low income customers, the RD recommends that the Commission approve a steep increase in basic water and wastewater rates – approximately \$104,082,202 across water/wastewater divisions. While recommending this considerable increase in the costs of basic water/wastewater services, the RD fails to provide for important changes and improvements to ensure that economically vulnerable low income customers will be able to reasonably afford to stay connected to life essential water and wastewater services.

The record in this case clearly demonstrates that PAWC’s low income customers struggle profoundly to afford services, even at existing rates. PAWC’s low income customers carry substantially higher arrearages and are terminated at substantially greater rates compared to

³ CAUSE-PA MB at 7-9.

⁴ CAUSE-PA MB at 13.

residential customers as a whole.⁵ With this preexisting and disparate level of unaffordability, increasing rates as the RD recommends 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. Furthermore, access issues limit the effectiveness of PAWC's universal service programs to offset unaffordability at both existing and proposed rates.⁶ 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.”⁷ While CAUSE-PA recommended improvements to the accessibility and affordability of PAWC's universal service programs, the RD fails to recommend implementation of these important reforms.

While we are opposed to the RD's recommendation to permit PAWC to significantly increase the costs of basic water/wastewater services, regardless of whether PAWC is approved to increase rates through the context of this proceeding, we urge the Commission to require PAWC to take the necessary steps, to ensure that economically-vulnerable low income customers are able to afford service under just and reasonable terms. Thus, our recommendations to the Commission as outlined below are designed to address rate unaffordability of existing rates and to mitigate financial harm if the Commission ultimately permits PAWC to increase its rates.

⁵ CAUSE-PA MB at 14-15. 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.

⁶ CAUSE-PA MB at 14-15; fn 40.

⁷ CAUSE-PA MB at 14-15, citing CAUSE-PA St. 1 at 33: 15-19.

For these reasons, and the reasons set forth below, we urge the Commission to modify the RD to direct PAWC to take the following additional actions, as outlined in detail below and in CAUSE-PA’s Main and Reply Briefs:

1. Develop and implement a comprehensive conservation assistance program;
2. File a comprehensive Universal Service Plan (including a Customer Education and Outreach Plan (CEOP)) with an accompanying Petition for Commission review and approval within one year of the final Order in this case – and every five years thereafter;
3. Implement the screening, outreach, and intake recommendations set forth below, and discussed in detail in CAUSE-PA’s Main and Reply Briefs.

II. EXCEPTIONS

1. **CAUSE-PA EXCEPTION 1: The RD errs as a matter of law and sound public policy by concluding that PAWC should not be required to develop and implement a comprehensive water conservation program for its low income customers.**

In a rate proceeding, the Commission has a “duty to set ‘just and reasonable’ rates, reflecting a ‘balance of consumer and investor interests.’”⁸ While the Commission has the discretion to determine the proper balance between ratepayer and utility interests,⁹ “the PUC is obligated to consider broad public interests in the rate-making process.”¹⁰

[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

⁸ CAUSE-PA MB at 7; Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301.

⁹ CAUSE-PA MB at 7-8; 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).

¹⁰ CAUSE-PA MB at 7-8; Popowsky v. Pa. PUC, 542 Pa. 99, 107-108 (1995), citing Pa. Elec. Co. v. Pa. PUC, 509 Pa. 324, 331, 502 A.2d 130, 134 (1985).

regulatory body the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital.¹¹

In order to be just and reasonable, it is critical that rates are also affordable for those served.

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 – face profound challenges (both at existing and proposed rates) to afford and remain connected to services at existing rates.¹²

PAWC has a significant number of low income customers. As of December 2023, PAWC indicates that it has 64,803 confirmed low income customers and approximately 114,343 estimated low income customers.¹³ As CAUSE-PA expert witness, Harry S. Geller, Esq. 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.¹⁴ In order to meaningfully conduct an investigation of proposed and existing rates, it is necessary to adequately account for the lawfulness, justness, and reasonableness of rates for all consumers – including low income consumers. This investigation necessarily includes an examination of the design and delivery of PAWC's universal service programs, which provide rate assistance to low income households.

The limitations of PAWC's current conservation assistance hamper 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. As discussed more fully in CAUSE-PA's Main Brief, PAWC's H2O program offers limited water conservation assistance to H2O participants, including water conservation kits containing basic, self-installed water-saving

¹¹ Id.

¹² CAUSE-PA MB at 9.

¹³ CAUSE-PA MB at 13.

¹⁴ Id.

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.¹⁵ Participation in this program is limited, with just 5,942 customers receiving a water conservation kit between 2020 and 2023.¹⁶ Apart from its separate lead service line replacement program,¹⁷ the Company does not provide service line or leak repair assistance to any customers.¹⁸ In addition, PAWC does not track its limited provision of conservation kits to determine whether customers are deriving benefits from these kits – limiting the ability of PAWC and the Commission to gauge the effectiveness of current measures.¹⁹

The lack of meaningful conservation measures inhibits PAWC’s low income customers from addressing underlying issues that lead to higher monthly bills, and further exacerbates unaffordability at both present and recommended rates. As discussed in detail in our Main Brief, low income customers have disproportionately higher average usage levels compared to residential customers as a whole.²⁰ 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.²¹ These higher average usage levels may be

¹⁵ PAWC St. 1 at 13. FR IX.6 “Quality of Service”, initial filing, p. 135. See also CAUSE-PA MB at 59. 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. 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. 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.

¹⁶ CAUSE-PA MB at 58.

¹⁷ CAUSE-PA MB at 58. 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.

¹⁸ CAUSE-PA MB at 58.

¹⁹ CAUSE-PA MB at 59.

²⁰ CAUSE-PA MB at 58.

²¹ Id.

caused by a number of factors - including the fact that lower income families are more likely to live in older homes with inadequate, damaged, or leaky plumbing/fixtures.²²

PAWC's low income customers experience face profound challenges to affording their monthly bills and face service termination at far greater levels compared to residential customers as a whole. For example, as further illustrated in Table 4 of Mr. Geller's direct testimony, in 2023, the termination rate for residential customers was 2.31%, compared to 13.54% for low income customers.²³ 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.²⁴ These disparate rates of termination between low income customers and residential customers as a whole underscore the critical need to improve assistance for low income customers, and to address the underlying causes of higher usages which exacerbate already unaffordable rates for low income customers.

With 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.²⁵ Unable to make repairs, these households shoulder bill increases as a result of these conditions and soon face involuntary service termination.²⁶ For example, PAWC's stated policy is to terminate service to customers who do not repair leaks following notice from the Company, with 1,037 customers being terminated due to damaged customer-side service line leaks between January 2020 and December 2023.²⁷

²² CAUSE-PA MB at 58-59.

²³ CAUSE-PA MB at 41-42.

²⁴ Id.

²⁵ CAUSE-PA MB at 59.

²⁶ Id.

²⁷ Id.

To address the substantial need for conservation assistance amongst PAWC's low income customers, we recommended that the Commission require PAWC to develop and implement a comprehensive low income water conservation and leak repair program.²⁸

Despite record evidence showing the critical need for enhanced conservation assistance for PAWC's low income customers, the RD recommends that the Commission reject CAUSE-PA's recommendation that PAWC be required to implement a comprehensive conservation program.²⁹ The RD argues that Low Income Usage Reduction Programs (LIURPs) are only currently required to be maintained by electric and gas distribution utilities in the Commonwealth.³⁰ The RD further finds that, in the absence of a similar regulatory mandate for water utilities, it is not appropriate to require PAWC to establish a LIURP in the absence of a larger regulatory mandate for all jurisdictional water/wastewater utilities.³¹ Importantly, despite recommending that the Commission reject requiring PAWC to implement a comprehensive conservation program, the RD finds that such a program "would certainly be beneficial to PAWC's ratepayers."

We acknowledge that there is currently no statutory or regulatory requirement directing jurisdictional water and wastewater utilities to maintain LIURPs. However, the lack of explicit statutory and/or regulatory requirement does not preclude the Commission from ordering PAWC to implement this important program.³² Indeed, LIURP programs for EDCs and NGDCs were originally designed and implemented in the 1980s – years before promulgation of the

²⁸ CAUSE-PA MB at 60-61.

²⁹ RD at 334.

³⁰ Id.

³¹ Id.

³² CAUSE-PA MB at 62-63.

Commission's LIURP regulations or the adoption of statutory requirements governing universal service programs in the gas and electric Choice Acts.³³

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.³⁴ The Commission has long recognized that targeted conservation is an essential component of an effective universal service program portfolio. For universal service programs to be effective and to achieve program goals (including improved bill payment behavior and reduced uncollectible expenses), programs must deliver holistic services that address to underlying causes of unaffordability and prevent unmanageable arrears which lead to terminations and ultimately affect all ratepayers.³⁵ As discussed in our Main Brief, holistic universal service programs are designed to address past, current, and future unaffordability through bill assistance, debt management, and conservation.³⁶ All three components are critical to provide rate stability and affordability for low income customers.³⁷

To be clear, we are supportive of broader, statewide efforts to examine the need for jurisdictional water and wastewater utilities to maintain comprehensive conservation assistance programs. However, the current absence of a statutory or regulatory mandate does not detract from the record evidence in the present matter showing the critical need for PAWC to establish a comprehensive conservation assistance program. It is imperative that PAWC's low income

³³ See 52 Pa. Code Ch. 58; 66 Pa. C.S. §§ 2203(7)-(10), 2804(9); *Re Guidelines for Universal Service and Energy Conservation Programs*, 178 PUR 508 (July 11, 1997).

³⁴ CAUSE-PA St. 1 at 62-63.

³⁵ Id.

³⁶ Id.

³⁷ Id.

customers are provided assistance to address and prevent the underlying sources that lead to higher monthly bills. While this assistance is already necessary given the unaffordability of PAWC's current rates of water/wastewater service, it becomes all the more urgent if the Commission allows PAWC's to implement the rate increase set forth in the RD. Thus, we stand firmly by our recommendation that PAWC should be required to implement a comprehensive conservation assistance program, as outlined above and in our Main Brief.

For these reasons, we except to the RD's recommendation that PAWC should not be required to develop and implement a comprehensive conservation assistance program. We recommend that the Commission order PAWC to work with its CAAG to develop this comprehensive assistance program no later than 6 months after the final order in this proceeding.³⁸

As explained in our Main Brief, and in the testimony of our expert witness Harry S. Geller, the program should include comprehensive conservation measures that go the beyond basic measures in PAWC's current conservation kits to cover more comprehensive conservation and leak repair measures - including basic plumbing and service line repair and replacement.³⁹ 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.⁴⁰ In addition, we recommend that this program include annual reporting parameters of water savings and reductions to costs of low income assistance programs resulting from this program. We also recommend that this program set a maximum eligibility at 200% FPL, but target

³⁸ CAUSE-PA MB at 60-61.

³⁹ Id.

⁴⁰ Id.

high usage low income customers enrolled in the BDP.⁴¹ This will help to coordinate across PAWC's low income assistance programs, and reduce costs of PAWC's BDP.

We further recommend that PAWC coordinate the delivery of conservation services with energy reduction programs provided by electric and gas utilities in PAWC's service territory – including electric and gas utility Low Income Usage Reduction Programs (LIURPs), electric Act 129 programs, and other utility efficiency programs. 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.⁴² 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.⁴³

2. CAUSE-PA EXCEPTION 2: The RD errs as a matter of law and sound public policy by concluding that PAWC should not be required to establish and file a Universal Service Plan.

CAUSE-PA and the Office of Consumer Advocate (OCA) both recommend through this proceeding that PAWC be required to file a comprehensive Universal Service Plan (USP) with the Commission.⁴⁴ CAUSE-PA acknowledges that jurisdictional water and wastewater utilities in Pennsylvania are not currently required by statute or regulation to submit period plans related to their universal service programs to the Commission for review and approval.⁴⁵ Nevertheless, the absence of a statutory mandate to file a written plan detailing the rules of its universal service

⁴¹ CAUSE-PA MB at 61.

⁴² CAUSE-PA MB at 61; 52 Pa. Code § 58.14.

⁴³ CAUSE-PA MB at 60-61.

⁴⁴ RD at 350.

⁴⁵ CAUSE-PA MB at 72.

programs does not alleviate PAWC from the requirement to administer rate-supported programs in a fair, equitable, consistent, and transparent manner.

CAUSE-PA raised concerns through its Main Brief that currently, there is no single, unified document for the Commission, customers, and stakeholders to review regarding the benefits and requirements of PAWC's universal service programs.⁴⁶ Failure to maintain a cohesive and accessible USP makes it difficult for consumers and utility advocates to determine important program rules and parameters, and hinders the Commission's ability to properly oversee PAWC's administration of Commission-approved universal service programs.⁴⁷ Instead, the Commission, consumers, and stakeholders must rely on information pieced together from PAWC's tariffs, testimony and briefs in rate proceedings, Commission orders, PAWC's websites, and various outreach materials (where available) to determine important program rules, policies, and procedures.⁴⁸

The lack of a unified plan and document is a substantial customer service issue and affects the ability of PAWC's low income customers to enroll in available assistance.⁴⁹ As addressed in detail in our Main Brief, PAWC's low income assistance programs remain undersubscribed. For example, enrollment in BDP reaches only approximately 25% of estimated low income customers – leaving approximately 75% of estimated income-eligible customers not being enrolled in this program.⁵⁰ Further, from January through November 2023, 9,658 confirmed low income customers were terminated for nonpayment – yet just 3,443 customers received a Hardship Fund

⁴⁶ CAUSE-PA MB at 72-73.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ CAUSE-PA MB at 15.

grant.⁵¹ The continued undersubscription of these programs, despite the demonstrated need for assistance, evidences a need for coordinated and systematic approaches to consumer outreach and education related to PAWC's low income assistance programs.⁵² Indeed, PAWC's lack of a cohesive, central program plan that includes planned outreach and education strategies is patently unreasonable, serving only to complicate program oversight and enforcement, and undermine program enrollment and accessibility.

We recommended that the Commission direct PAWC to file a USP with 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.⁵³

Despite record evidence showing the need for PAWC to file and maintain a comprehensive USP, the RD found that PAWC should not be required to file a USP because it would be inappropriate to impose this requirement on PAWC alone – as no other jurisdictional water/wastewater utilities is currently required to file a Plan.⁵⁴ The RD referenced its previous finding with regard to CAUSE-PA's proposal for a water conservation program, concluding that PAWC should not be required to memorialize its universal service program rules in a unified USP because it is not explicitly mandated to do so in current law.⁵⁵ The RD also argued that, in the event that the Commission ultimately supports PAWC's filing an USP, it should implement this requirement for all jurisdictional water and wastewater utilities on a statewide basis.⁵⁶

⁵¹ CAUSE-PA MB at 53.

⁵² CAUSE-PA MB at 72-73.

⁵³ CAUSE-PA MB at 72.

⁵⁴ RD at 350.

⁵⁵ Id.

⁵⁶ Id.

CAUSE-PA takes exception with the RD's recommendation that PAWC should not be required to file and maintain a USP. Lack of statutory or regulatory mandate does not preclude the Commission from making important enhancements in the context of this proceeding which will improve access and affordability of services for low income customers. Indeed, the absence of a unified USP, with clear and implementable program rules, frustrates Commission oversight and enforcement and opens the door to inequitable program administration.

As discussed, large swaths of PAWC's low income customers have been unable to access available assistance programs. Instead, these customers have faced the full weight of unaffordable water/wastewater rates. Indeed, CAUSE-PA's analyses of the affordability of rates for low income customers found that PAWC's low income customers face excessive and unaffordable water and wastewater rates, even before any increase is approved – often reaching 20% of household income, depending on household size and usage.⁵⁷ As a result of these high burden levels, PAWC's low income customers also face correspondingly higher rates of involuntary service termination for nonpayment. For example, the termination rate for residential customers as a whole for nonpayment in 2023 was 2.31%, compared to the termination rate for low income customers during that same period of 13.54%.⁵⁸ It is important to both ensure that the assistance provided under PAWC's programs will adequately provide affordable rates and assistance, and to also ensure that low income customers can learn about and ultimately enroll in assistance programs.

We note that PAWC further argued in the underlying proceeding that it should not be required to adopt a USP because the process would require significant time, resources, and associated costs – and argued that developing a written plan may even require a new department

⁵⁷ CAUSE-PA MB at 40.

⁵⁸ CAUSE-PA MB at 42.

to focus on the USP.⁵⁹ Similarly, the Commission’s Bureau of Investigations and Enforcement (I&E) recommended that the Commission provide statewide guidance related to USPs for jurisdictional water/wastewater utilities, rather than singling PAWC out.⁶⁰ In support of its position, I&E also argued that currently only EDCs and NGDCs are required to submit USPs, and that – because low income benefits for water/wastewater utilities flow through base rates – there would be no mechanism for making necessary changes through recommended filings.⁶¹

While submitting a USP may require additional time and resources, it is essential that consumers, the Commission, and stakeholders can learn about the details of PAWC’s low income assistance programs. Without such knowledge, it becomes difficult, if not impossible, for customers to access these assistance programs, and for the Commission and stakeholders to assess whether these 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.⁶²

We also continue to question PAWC’s premise that filing of a USP will require considerable expansion in staff duties, time, and other resources. PAWC is the second largest investor-owned water utility in Pennsylvania, serving hundreds of thousands of customers – including well over 100,000 low income customers.⁶³ Its universal service programs serve thousands of customers, delivering comprehensive rate assistance to economically vulnerable households. 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 to ensure consistent and equitable

⁵⁹ CAUSE-PA MB at 73-74.

⁶⁰ RD at 347-348.

⁶¹ Id.

⁶² CAUSE-PA MB at 73-74.

⁶³ CAUSE-PA MB at 74.

application of the program rules. Indeed, it is unreasonable to expect the Commission, consumers, and advocates to track down and reconstruct dozens of orders and documents to piece together the benefits, rules, and requirements of PAWC's universal service programs.⁶⁴

We similarly disagree with I&E's reasoning that because benefits for low income assistance programs flow through base rates, it would be inappropriate to require PAWC to submit a USP in the context of the present case.⁶⁵ Contrary to this assertion, the existence of a unified USP would not divorce universal service issues from a rate case. Indeed, we agree with I&E that the Commission must investigate universal service program issues, including but not limited to the adequacy of program benefits in light of increased rate proposals and the manner and method of cost recovery, in the context of a rate case. As discussed at the outset, all rates and terms and conditions of service must be just and reasonable – including, necessarily, all universal service programs. However, like the electric and gas utilities, the nuanced rules for PAWC's universal service programs should also be subject to a more detailed periodic policy review.

For these reasons, and the reasons set forth in CAUSE-PA Main and Reply Briefs, we except to the RD's recommendation that the Commission not require PAWC to file a USP. Instead, CAUSE-PA recommends that the Commission order PAWC to file a USP with 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.⁶⁶ We further recommended that the Commission require PAWC to include in its USP filing a detailed CEOP.⁶⁷ We specifically recommended that the CEOP should be:⁶⁸

⁶⁴ CAUSE-PA MB at 73-74.

⁶⁵ RD at 347-348.

⁶⁶ CAUSE-PA MB at 72.

⁶⁷ Id.

⁶⁸ CAUSE-PA MB at 72-73.

- 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;
- Tailored to the varying demographics of the Company’s broad service territory;
- 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;
- Include measurable goals and associated metrics to assess those goals.

3. CAUSE-PA EXCEPTION 3: The RD errs as a matter of law and sound public policy by concluding that PAWC should not be required to implement CAUSE-PA’s low income customer outreach, screening, and intake recommendations.

Pursuant to the requirements of section 1410.1 (Public Utility Duties) provides, in pertinent part:⁶⁹

When a customer or applicant contacts a public utility to make a payment agreement as required by section 1410 (relating to complaints filed with commission), the public utility shall:

- (1) Provide information about the public utility’s universal service programs, including a customer assistance program.
- (2) Refer the customer or applicant to the universal service program administrator of the public utility to determine eligibility for enrollment in a program.

In addition, section 1303 requires that a public utility that has more than one rate for service, after notice of service conditions, must compute bills under the rate most advantageous to the customer.⁷⁰

⁶⁹ 66 Pa. C.S. § 1410.1.

⁷⁰ 66 Pa. C.S. § 1303. CAUSE-PA MB at 63.

As discussed at length in CAUSE-PA’s Main and Reply Briefs, and by CAUSE-PA’s expert witness, Mr. Geller, PAWC’s universal service programs are not reasonably accessible to PAWC’s low income customers.⁷¹ Indeed, PAWC’s programs reach just a fraction of PAWC’s eligible customer base.⁷² 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.⁷³ 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.⁷⁴ These figures undercount true need.⁷⁵

CAUSE-PA and its expert witness raised extensive concerns throughout the course of this proceeding that customers are not being timely referred to assistance programs.⁷⁶ Similarly, CAUSE-PA and its expert witness cited concerns that low income customers are not able to enroll in available assistance programs, including PAWC’s BDP and Hardship Fund, before being required to enter into unaffordable payment arrangements.⁷⁷

Despite the tangible need to improve how customers learn about and access PAWC’s low income assistance programs, the RD rejects CAUSE-PA’s recommendations to improve policies and procedures related to routinized program screening and intake.⁷⁸ The RD finds that it is clear that PAWC is meeting its obligations under section 1410.1 because PAWC directs customers to call DEF to enroll in programs, and places 30-day collection/termination holds on accounts if a

⁷¹ CAUSE-PA St. 1 at 54: 1-12. CAUSE-PA MB at 63. CAUSE-PA RB at 25.

⁷² CAUSE-PA MB at 63. CAUSE-PA RB at 25.

⁷³ CAUSE-PA MB at 64.

⁷⁴ Id.

⁷⁵ Id.

⁷⁶ CAUSE-PA MB at 63-67.

⁷⁷ CAUSE-PA MB at 64.

⁷⁸ RD at 341.

customer indicates they are working with an agency or partner to obtain payment assistance.⁷⁹ The RD similarly finds that PAWC is adequately educating callers about the availability of assistance programs.⁸⁰

CAUSE-PA excepts to the RD's recommendation that the Commission reject our recommended improvements to PAWC's intake and screening for its low income assistance programs. We note that the RD makes factual and legal errors in concluding that PAWC's current screening and intake processes are adequate and in compliance with the law.

The undersubscription in PAWC's low income assistance programs severely limits the ability of PAWC's low income customers to access affordable services prior to the build up of unmanageable arrears and service termination – the costs of which ultimately affect all ratepayers. As discussed, section 1303 explicitly requires that PAWC ensure customers are enrolled in the most advantageous rate – which necessarily includes rates available through PAWC's BDP.⁸¹ Similarly, section 1410.1 requires PAWC to refer customers to available universal service programs – including the BDP and Hardship Fund – prior to being placed in payment arrangements that will further compound unaffordability of low income customers' monthly bills.⁸²

We maintain our position that the significant undersubscription of PAWC's low income assistance programs contravenes statutory requirements in sections 1303 and 1410.1.⁸³ Without access to available assistance programs, including the ability to enroll in the BDP, PAWC's low income customers face steep levels of unaffordability, even at existing rates.⁸⁴ For example,

⁷⁹ RD at 341.

⁸⁰ Id.

⁸¹ CAUSE-PA MB at 63-64.

⁸² Id.

⁸³ Id.

⁸⁴ CAUSE-PA RB at 3.

without the assistance of the BDP, at present rates, a family of four with 5,000 gallons of usage for water and wastewater respectively at 50% FPL will see a combined burden of approximately 20%.⁸⁵ While these burden levels are reduced through BDP rates,⁸⁶ customers must be able to successfully learn about and enroll in available assistance for BDP rates to have any impact on affordability. It is unjust, unreasonable, and squarely contrary to the public interest and the requirements of sections 1303 and 1410.1 to require low income customers who are eligible for assistance to continue to pay unaffordable rates without access to PAWC's available assistance programs.

For these reasons and the reasons set forth in our Main and Reply Briefs, we except to the RD's recommendation that CAUSE-PA's proposed improvements to PAWC's outreach, screening, and intake policies and procedures should be rejected. Instead, 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.

First, we recommend that the Commission require PAWC to 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.⁸⁷ Currently, PAWC obtains low income status information from customers through its Ability to Pay (ATP) process. This process is not initiated until a customer is already behind on their bills.⁸⁸ Routine income

⁸⁵ CAUSE-PA RB at 3.

⁸⁶ Id.

⁸⁷ CAUSE-PA MB at 65-66.

⁸⁸ Id.

screening will help ensure that low income customers are enrolled in available assistance programming *before* accruing unmanageable levels of debt.⁸⁹

Second, CAUSE-PA recommends that PAWC develop call scripting and checklists for its Customer Service Representatives (CSRs) to assist in screening customers for eligibility in its universal service programs. Customers identified as low income through this process should be provided a warm referral to PAWC's universal service programs, so that they are not required to provide duplicative information.⁹⁰ Requiring call scripting and checklists which require PAWC representatives to routinely screen for eligibility related to PAWC's assistance programs will help to routinize enrollment – ensuring, in turn, that low income customers are matched with available assistance *before* they face payment troubles.⁹¹ This prevention-based approach not only improves affordability for the customer, it also reduces other program and collections costs that would otherwise be incurred if the customer continued to receive unaffordable bills – unnecessarily compounding debt and resulting uncollectible expenses.

Third, we recommend that the Commission require PAWC to refer low income customers to PAWC's universal service programs prior to being placed in payment arrangements. This is not only sound public policy to prevent the accrual of unmanageably high debts, it is also mandated in Chapter 14.⁹² As discussed, it does not appear that PAWC's low income customers are 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 that may serve to compound rate unaffordability*.⁹³ While payment arrangements can be an important tool to manage accrued arrears for those who fall

⁸⁹ CAUSE-PA MB at 65-66.

⁹⁰ Id.

⁹¹ Id.

⁹² CAUSE-PA MB at 65-66. 66 Pa. C.S. § 1410.1 (Duties of Public Utilities).

⁹³ Id.

behind as a result of shorter-term financial circumstances, they can also serve to exacerbate preexisting unaffordability and add additional payment obligations on top of a customer's monthly bills.⁹⁴ 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.⁹⁵ Similarly, PAWC should be prohibited from requiring customers to enter a payment arrangement as a condition to applying for or enrolling in assistance programs.⁹⁶ PAWC should review DEF's policies and procedures to ensure that its administration of PAWC's assistance programs reflect these policies and procedures.⁹⁷

We note that PAWC argued in this proceeding that CAUSE-PA's intake and screening recommendations should be rejected because (1) they should not decide on behalf of customers whether to apply for assistance programs and (2) soliciting income information from customers pay be considered private or confidential by customers.⁹⁸

We disagree with PAWC's argument that its representatives should not solicit income information from customers because customers may consider this information confidential or private. There is a significant difference in a customer's perception when they are informed they may be eligible for a discount on their bills if they provide certain household income information – as opposed to when they are coldly asked for income information without further context.⁹⁹ PAWC should be required to clarify that the purpose of their inquiry is to determine if the customer

⁹⁴ CAUSE-PA MB at 65-66.

⁹⁵ Id.

⁹⁶ Id.

⁹⁷ Id.

⁹⁸ PAWC MB at 87-88. (Public); CAUSE-PA RB at 10-11.

⁹⁹ CAUSE-PA RB at 10-11.

is eligible for a lower rate, or other forms of assistance – and that customers may choose to not disclose income information.¹⁰⁰

We also disagree with PAWC’s argument that our recommendations related to screening and intake would deprive customers of the choice of whether to enroll in universal service programs. As discussed, we are concerned that low income customers are not being adequately referred to assistance programs, and are being required to enroll in payment arrangements before accessing assistance programs, including the BDP and Hardship Fund.¹⁰¹ PAWC’s process creates an inappropriate barrier to accessing Hardship Fund grants, contradicts clear statutory mandate, and exacerbates customer arrears and payment troubles prior to customers being able to access available grant funding. We agree that customers should be given a choice whether to enroll in universal service programs. However, a customer should be able to make a fully informed choice whether to enroll in universal service programs, unfettered by inappropriate barriers to enrollment.¹⁰²

Ultimately, screening customers for enrollment in all available assistance programs is sound public policy and mandated by the requirements pursuant to sections 1303 and 1410.1.¹⁰³ For these reasons and the reasons set forth in our Main Brief and Reply Briefs, we except to the RD and urge the Commission to implement our recommended improvements to PAWC’s screening and intake related to its universal service programs.

¹⁰⁰ CAUSE-PA RB at 10-11.

¹⁰¹ CAUSE-PA RB at 11-12.

¹⁰² Id.

¹⁰³ Id.

III. CONCLUSION

For the reasons set forth above, and as more fully explained in CAUSE-PA's Main Brief and Reply Brief, CAUSE-PA urges the Commission to amend and/or clarify the RD in this matter consistent with its above Exceptions. PAWC's low income customers are struggling profoundly to afford critical water and wastewater services. It is unjust, unreasonable, and contrary to the public interest to preclude implementation of important enhancements to low income assistance programs while recommending a substantial increase to basic water/wastewater rates, as set forth in the RD. Instead, we urge the Commission to require PAWC to implement the above-detailed improvements to its low income assistance programs to ensure that all customers, regardless of their income, can access safe and affordable water and wastewater services in their homes.

Respectfully submitted,
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