



October 23, 2024

VIA E-File

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

Re: **Nunc Pro Tunc Petition of Pennsylvania-American Water Company for Limited Waiver of 52 Pa. Code § 56.11(a) and Related Tariff Provisions, P-2024-3051518**

Petition to Intervene and Answer of CAUSE-PA

Dear Secretary Chiavetta:

Please find the attached **Petition to Intervene and Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)**, which is respectfully submitted for filing in the above noted proceeding.

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

Respectfully Submitted,

John W. Sweet, Esq.
Counsel for CAUSE-PA

CC: Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Nunc Pro Tunc Petition of Pennsylvania- :
American Water Company for Limited : Docket No. P-2024-3051518
Waiver of 52 Pa. Code § 56.11(a) and :
Related Tariff Provisions :

**PETITION TO INTERVENE AND ANSWER
OF THE COALITION FOR AFFORDABLE UTILITY SERVICES
AND ENERGY EFFICIENCY IN PENNSYLVANIA**

PENNSYLVANIA UTILITY LAW PROJECT

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October 23, 2024

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code §§ 5.61-5.76, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, hereby petitions the Pennsylvania Public Utility Commission (Commission) to intervene and files its Answer in the above-captioned proceeding. In support thereof, CAUSE-PA states as follows:

1. On October 3, 2024, Pennsylvania-American Water Company (PAWC or the Company) filed a Nunc Pro Tunc Petition seeking waiver of 52 Pa. Code § 56.11(a) and related tariff provisions (Petition). PAWC’s request for regulatory waiver is intended to address a lapse in billing that occurred between August 26, 2024 and September 12, 2024, when upgrades to PAWC billing systems allegedly caused a technical issue that resulted in over 96,000 customers not receiving a paper bill or notification of their electronic bill. (Petition at 2, 8).

I. PETITION TO INTERVENE

2. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72, which provides in relevant part that “[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.” 52 Pa. Code § 5.72(a).

3. Section 5.72 further provides that the right or interest may be one “which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.” 52 Pa. Code. § 5.72(a)(2).

4. Even though Section 5.72 speaks of the rights of a “person” to intervene, the Commonwealth Court has consistently stated that “an association may have standing as a representative of its members ... as long as an organization has at least one member who has or will suffer a direct, immediate, and substantial injury to an interest as a result of the challenged action, [i.e., is aggrieved, the organization] has standing.” Energy Cons. Council of Pa. v. Pa. PUC, 995 A.2d 465, 476 (Pa. Commw. 2010) (alteration in original) (citing Tripps Park v. Pa. PUC, 415 A.2d 967 (Pa. Commw. 1980); Parents United for Better Schools v. School District of Philadelphia, 646 A.2d 689 (Pa. Commw. 1994)).

5. CAUSE-PA is an unincorporated association of low 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.

6. CAUSE-PA membership is open to moderate and low income individuals residing in the Commonwealth of Pennsylvania who are committed to the goal of helping low income families maintain affordable access to utility services and achieve economic independence.

7. CAUSE-PA is located, c/o the Pennsylvania Legal Aid Network, at 118 Locust Street, Harrisburg, PA 17101.

8. CAUSE-PA has a significant interest in the outcome of this proceeding, given the likely substantial impact that PAWC’s billing lapse, as well as its requested waiver of billing regulations and proposed remedies in its Petition, will have on the Company’s low and moderate income customers. These interests are not adequately represented by other participants.

9. Members of CAUSE-PA are located within PAWC’s service territory and will be directly affected by the outcome of this proceeding. Particularly, this proceeding could directly

affect the ability of CAUSE-PA members to access and maintain affordable water and wastewater service to their home following PAWC's billing lapse. As explained below, it is unclear at this stage whether and to what extent PAWC's proposed remediation measures will fully address the harm caused to PAWC's customers or the impact the proposal may have on the accessibility and availability of PAWC's universal service programs.

10. CAUSE-PA has standing to intervene because its members have or may suffer a direct, immediate, and substantial injury to an interest as a result of this proceeding. See Energy Cons. Council of Pa., 995 A.2d at 476.

11. CAUSE-PA is represented in this proceeding by:

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12. Counsel for CAUSE-PA consents to the service of documents by electronic mail to PULP@pautilitylawproject.org, as provided in 52 Pa. Code § 1.54(b)(3).

II. ANSWER

13. CAUSE-PA has preliminarily reviewed PAWC's Petition and submits that additional investigation and review is necessary to determine the full scope of PAWC's billing issues and the adequacy and appropriateness of its proposed relief.

14. CAUSE-PA is generally supportive of PAWC's proposal to waive late fees, place

dunning locks on affected accounts, and contribute additional money to PAWC's Hardship Fund to help address the financial strain caused by its billing lapse. However, further investigation and review is needed to ensure that this proposed relief is adequate to protect low and moderate income customers from the negative impact of PAWC's billing lapse and to ensure that PAWC's proposed remediation does not create other unintended consequences to the accessibility and availability of PAWC's existing universal service programs.

- a. More specifically, while CAUSE-PA generally supports PAWC's proposal to contribute additional money to its Hardship Fund to help customers who suffer a financial hardship due to the billing lapse, we respectfully assert that PAWC's proposed \$100,000 contribution is likely inadequate to address the financial hardship resulting from the billing lapse. PAWC alleges that over 96,000 accounts were impacted from its billing errors. (Pet. at 8). The overall level of arrears and the associated number of low income customers impacted as a result of these errors is likely significant, and must be investigated fully to determine the appropriate level of contribution to PAWC's Hardship Fund. If the contribution is inadequate to fully address the financial hardship created by the billing error, it will erode the availability of assistance intended to address hardships not associated with PAWC's errors.
- b. Similarly, while CAUSE-PA supports PAWC's proposal to place a dunning lock on affected accounts, we question the adequacy of the timeline for the locks and respectfully assert that PAWC must take additional steps to ensure that impacted households are able to avoid service termination associated with PAWC's billing errors once the dunning locks are removed.

15. CAUSE-PA further asserts that PAWC's proposed 12-month payment agreements are inadequate for low income customers, who already face acute rate unaffordability. Low income customers should not bear the compounding burden of an unaffordable payment arrangement as a result of PAWC's errors. Additional steps must be taken to protect PAWC's low income customers and ensure that PAWC's billing lapse does not cause undue hardship. PAWC's Petition also lacks critical detail necessary to determine how the proposed payment arrangements would apply to accounts with existing arrears and/or existing payment arrangements which predate the billing errors. These complicating factors should not be overlooked in review of PAWC's Petition.

16. Additional investigation and review are also needed to determine the impact of PAWC's request for a retroactive waiver of the Commission's billing regulations, and the appropriateness of such a request. CAUSE-PA is not aware of any precedent for retroactive regulatory waiver of the nature requested by PAWC and is concerned about the precedent that granting such a request could create.

17. Notably, after PAWC's Petition was filed, there have been widespread reports of a data breach affecting PAWC's customers and their billing procedures.¹ While it is unclear whether and to what extent this data breach may be connected to the billing lapse that is the subject of this proceeding, CAUSE-PA asserts that these intervening events are likely to result in additional hardships for low income customers and cause PAWC to request additional waivers. Further investigation is needed to understand the full scope of issues impacting PAWC's billing systems and other critical consumer protections.

18. CAUSE-PA respectfully requests that the Commission refer the matter to the Office of

¹ See *Menichini v. American Water Works Co.*, Docket No. 1:24-cv-09776 (D.N.J. Oct 14, 2024).

Administrative Law Judge (OALJ) for further review and investigation. The issues set forth herein must be thoroughly investigated to ensure that PAWC's customers, particularly its financially-vulnerable low income customers, are not detrimentally impacted by PAWC's billing lapse and its proposals set forth in its Petition.

WHEREFORE, CAUSE-PA respectfully requests that the Commission enter an order granting CAUSE-PA full status as an intervener in this proceeding with active party status. CAUSE-PA further requests that the Commission refer the matter to its Office of Administrative Law Judge for further review.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA



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Verification

I, Elizabeth Marx, Counsel for the Coalition for Affordable Utility Services and Energy Efficiency (“CAUSE-PA”), hereby state on behalf of CAUSE-PA that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



On behalf of the Coalition for Affordable Utility Services
and Energy Efficiency in Pennsylvania (CAUSE-PA)

Date: October 23, 2024

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Nunc Pro Tunc Petition of Pennsylvania- :
American Water Company for Limited : Docket No. P-2024-3051518
Waiver of 52 Pa. Code § 56.11(a) and :
Related Tariff Provisions :

Certificate of Service

I hereby certify that I have on this day served copies of the **Petition to Intervene and Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania** upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54.

Via Email

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