



November 15, 2022

VIA E-File

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

**RE: Use of Fully Projected Future Test Year, 52 Pa. Code §§ 53.51—53.56a.,
Docket No. L-2012-2317273**

Dear Secretary Chiavetta,

Please find the **Comments of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA)**, which are respectfully submitted for consideration in the above referenced docket, pursuant to the Notice of Proposed Rulemaking published in the *Pennsylvania Bulletin* on October 1, 2022. An electronic copy will be provided to Commission Staff, as indicated below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John W. Sweet", with a horizontal line above it.

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Use of Fully Projected Future Test Year :
52 Pa. Code §§ 53.51 -53.56a :

Docket No. L-2012-2317273

COMMENTS OF

THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY
IN PENNSYLVANIA (CAUSE-PA)

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I. INTRODUCTION

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) respectfully submits the following Comments in response to the Clarified Notice of Proposed Rulemaking Order (NOPR), issued by the Pennsylvania Public Utility Commission (PUC or Commission) and published in the Pennsylvania Bulletin on October 1, 2022, opening the public comment period for the Commission’s Investigation into the Use of Fully Projected Future Test Year, 52 Pa. Code §§ 53.51—53.56a.

CAUSE-PA is a statewide unincorporated association of low income individuals which advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain safe and affordable water, electric, heating and telecommunication services. 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 and family well-being.

CAUSE-PA has long been concerned with the impact that increasing utility rates has on moderate and low income residential customers and frequently intervenes in rate cases and other proceedings to protect the interests of low and moderate income households. We are especially concerned for low income consumers who already make impossible tradeoffs – such as foregoing food or medicine – to afford to stay connected to service at current rates and cannot afford any increase in monthly expenses. It is vital that the interests of economically vulnerable customers be given due consideration in any proceeding that would result in an increase to their utility bills. Indeed, rates cannot be just and reasonable if they are not reasonably affordable and accessible for all consumers – regardless of their economic status.

CAUSE-PA respectfully recommends that if the Commission is to allow utilities to base a proposed rate increase upon future projections, it should in turn require utilities to project the impact of the increased rates for low income customers, along with relevant and related information regarding the adequacy of the utility's universal service programs to ensure that low income customers will be able to reasonably access and afford service following implementation of a proposed rate increase. To that end, CAUSE-PA hereby submits several recommendations, described more fully below.

II. BACKGROUND

The Commission proposes to amend its regulations governing the submission of public utility rate filings. Initially enacted in 2012, Act 11 amended Chapters 3, 13, and 33 of the Public Utility Code (Code) and authorized the use of a fully projected future test year (FPFTY) in public utility rate filings.¹ On January 13, 2018, the Commission's Advanced Notice of Proposed Rulemaking Order (ANOPR) was published in the Pennsylvania Bulletin, inviting stakeholder comments, and initiating stakeholder meetings.²

On June 17, 2021, the Commission issued a Notice of Proposed Rulemaking Order (June 17, 2021 Order), which was submitted to the Office of Attorney General (OAG) for review.³ The OAG provided its conditional approval of the June 2022 NOPR on May 2, 2022.⁴ On May 12, 2022, the Commission issued an Order Clarifying Notice of Proposed Rulemaking Order and a Clarified Notice of Proposed Rulemaking Order (NOPR). On October 1, 2022, the Clarified NOPR

¹ NOPR at 2.

² Id. In response to stakeholder requests, the Commission moved directly to stakeholder meetings in lieu of comments and convened multiple stakeholder meetings. The last meeting was held on October 30, 2019.

³ Order Clarifying NOPR at 2. On August 12, 2021, the OAG tolled approval of the June 2022 NOPR pending clarification of the Preamble and Annexes A and B. The PUC responded to the OAG's tolling memo on April 25, 2022, providing clarifications and non-substantive edits.

⁴ Id.

was published in the Pennsylvania Bulletin, initiating a 45 day comment period.⁵ The Commission invited public utilities and other interested parties to file comments on any existing or proposed provisions, of Sections 53.51—53.56a, regardless of whether comments are specifically invited.⁶ In response, CAUSE-PA submits these Comments.

III. DISCUSSION

CAUSE-PA appreciates the opportunity to comment on this proposed regulation. As indicated above, our primary concern centers on the impact of rapidly increasing utility rates on low and moderate income households, whose income is not keeping pace with the rising cost of connecting to and maintaining utility service. To that end, there are several steps that the Commission can take to help in the analysis of important ratemaking concerns like quality of service and rate affordability to ensure all Pennsylvanians – regardless of economic status – can reasonably afford to maintain service to their home.⁷ CAUSE-PA’s recommendations are targeted to ensure that the impact of a proposed rate increase on economically vulnerable households is given due consideration in the evaluation of any proposed rate increase filing under the proposed regulations.

Preliminarily, CAUSE-PA strongly supports the Commission’s proposed amendment to Section 53.51(d), which provides that public utilities filing for proposed rate changes shall serve a copy of the proposed rate changes and supporting data on the low income advocates in the public utility’s service territory.⁸ While some utilities proactively serve CAUSE-PA with rate filings,

⁵ The NOPR originally proposed a 45 day reply comment period. On October 5, 2022, the Office of Consumer Advocate submitted a letter requesting an extension of the Reply Comment period. On October 7, 2022, CAUSE-PA submitted a letter in support of OCA’s request for an extended reply comment period. On October 14, 2022, the Commission issued a Secretarial Letter granting OCA’s request and extending the reply comment period to January 31, 2023.

⁶ NOPR at 37-38.

⁷ Id.

⁸ Id. at 12.

many do not. The Commission’s proposed amendment will enable CAUSE-PA to promptly review proposed rate filings and make informed decisions about whether and when to intervene.

1. Section 53.53. Information to be furnished with proposed general rate increase filings in excess of \$1 million.

Section 53.53 governs the information and data to be provided by a public utility when it files a general rate increase under 66 Pa.C.S. § 1308(d) in excess of \$1 million in gross annual revenues.⁹ The current Exhibits A, B, C, and D, contain sets of filing requirements, according to utility type, which provide the initial filing requirements and data in support of a public utility’s general rate increase request.¹⁰ In the NOPR, the Commission proposes to eliminate Exhibits A, C, and D, and replace them solely with the proposed new Exhibit E.¹¹ The Commission notes that there is little consistency among Exhibits A, C, and D regarding what the exhibits require and that some public utilities voluntarily include significantly more information than others, “thereby significantly reducing the need for discovery, saving both time and money for all parties concerned.”¹² The proposed Exhibit E would require a public utility to furnish certain information and data addressing rate base, rate of return, financial statements, operating revenues, operating expenses, depreciation expense, interest expense, taxes, and employee costs, pension and other benefits expense, rate structure, cost of service allocation, and the public utility’s Commission-approved Long-Term Infrastructure Improvement Plan (LTIIIP) and Annual Asset Optimization Plan (AAO Plan).

CAUSE-PA respectfully requests that the Commission require utilities to produce data related to the impact of a proposed rate increase on low income customers as part of the revised

⁹ Id. at 16.

¹⁰ Id.

¹¹ Id. at 19-20.

¹² Id.

Exhibit-E, consistent with our more detailed recommendations below. Requiring utilities to include specific data, information, and projections regarding the rate impact on low income consumers and the continued adequacy of the utility's universal service programming in their initial rate filing would help to substantially streamline discovery and would improve the ability of stakeholders to make an informed decision whether to intervene in the case - rather than requiring stakeholders to formally intervene to obtain the information in discovery. This is particularly important for low income advocates, which most often lack comparable resources of other stakeholder groups. As such, inclusion of this information would help to reduce unnecessary time, resources, and expense for the utility, low income advocates, the Commission, and other stakeholders. CAUSE-PA also recommends that the Commission further standardize the filing format to provide a more user-friendly experience for the public when accessing through the Commission's online docketing system. We also respectfully recommend that the Commission update the customer notice requirements, so consumers are better informed about the reasons for and impact of a proposed rate increase. We discuss each of these recommendations in turn.

A. The Commission should require utilities to submit low income data with any proposed rate increase filing as part of the revised Exhibit E.

Low income customers struggle to afford to connect to and maintain utility services and are disproportionately likely to face payment trouble and termination. As rates increase, the subset of consumers that cannot afford service will increase, further impacting uncollectible accounts, collections expenses, and access to service. The inclusion of low income data in the submission of any rate filing is critical to understanding the impacts of the proposed increase on low income households and to finding ways to mitigate those impacts. CAUSE-PA respectfully submits that the Commission should require the following data to be submitted as part of the revised Exhibit E.

- i. *All utilities should be required to provide key termination and collection data to help understand the current levels of payment trouble among residential customers.*

As part of any proposal to increase rates for residential service, the Commission should require utilities to submit detailed residential collections and termination data, disaggregated by customer income status (residential, confirmed low income,¹³ and Customer Assistance Program (CAP) customers). Data regarding the utility's collections and termination activities is critical to understand rate affordability and is necessary to project the likely impact of a further rate increase on uncollectible accounts, collections expenses, and service terminations.

The specific datapoints important to evaluating the impact of a proposed rate increase on low income customers includes the following data points, which should be required for both the historic and fully projected future test years:

- The number of customers served by the utility, disaggregated by residential customer group,¹⁴
- The number of estimated low income customers in a utility's service territory based on US Census tract data,
- The number of customers terminated in each residential customer group,
- The number of customers reconnected in each residential customer group, and the average time for those customers to be reconnected,
- The number of payment troubled customers,¹⁵ disaggregated by residential customer group.
- The number of customers enrolled in the utility's CAP or other bill assistance or rate discount program.

¹³ The Commission defines "confirmed low income customers" as accounts where the utility obtained information that would reasonably place the customer in a low income designation (i.e., income at or below 150% of the Federal poverty guidelines). See 52 Pa. Code §§ 54.72, 62.2.

¹⁴ Residential customer groups should include confirmed low income customers, customers enrolled in a utility's Customer Assistance Program (CAP) or other bill assistance or rate discount program, and residential customers as a whole. For consistency, the Commission should define those customer groups consistent with existing regulatory and policy definitions. See 52 Pa. Code §§ 54.72, 62.2, 69.262.

¹⁵ A payment troubled customer is a customer who has failed to maintain one or more payment arrangements in a 1-year period. See 52 Pa. Code §§ 54.72, 62.2.

- The amount of grant assistance distributed through the utility's grant assistance or hardship fund program.

Analyzing this information helps to understand the disparities in access to utility service between customers who can afford to pay and those who cannot afford to pay, as well as the differences in affordability levels between low income customers enrolled in CAP programs versus those who pay the full tariff rate. Understanding these disparities provides a clearer picture of the potential impact of a proposed rate increase in each group of customers, such as whether the increase in rates will lead to an increase in payment trouble for vulnerable customers that could in turn impact collections costs, uncollectible expenses, and termination rates.

Inevitably, some utilities – particularly smaller utilities with older billing systems – may not be able to produce an aspect of the above listed data or may require variances or waivers based on system capacities and past data tracking practices. If a public utility does not track the above data points, it should be required to indicate the specific datapoints that it does not track and provide reasonable estimated and projected figures and should explain the basis for its estimations and projections. If a utility is unable to provide a reasonable estimate or projection, it should be required to provide any related available data which may offer a reasonable proxy for the requested data, along with an explanation of the steps it is taking to reasonably track this basic data and information on a forward going basis. Knowing a utility's system constraints early in the proceeding will substantially improve the efficiency and effectiveness of the discovery process – ensuring the parties can more quickly identify relevant data, improve communications and shared understanding, and eliminate lengthy data disputes.

ii. *Large electric and gas should be required to submit updated Universal Service Reporting Data*

Electric distribution companies (EDCs) with at least 60,000 residential customers and natural gas distribution companies (NGDCs) with at least 100,000 residential customers are required to submit annual residential collection and universal service and energy conservation program reporting to the Commission's Bureau of Consumer Services (BCS).¹⁶ This annual reporting includes data about collections, termination, and universal service data, including the data points identified above. Each year, the EDCs and NGDCs report the previous year's data by April 1 and is published by the Commission as part of its annual Universal Service and Collections Performance Report (USR).¹⁷ However, much of the data reported to BCS is not released publicly as part of the USR, and there is a significant lag between the time the data is reported and the time the data is released – leaving gaps in the ability of interested parties and stakeholders to analyze the impact of a proposed gas or electric rate increase on collections and termination activities on a *forward* going basis. The availability of recent data is essential to reasonably analyze potential impacts.

As part of the Industry Specific Filing Requirements in Subsection E.I.V., the Commission should require large electric and gas utilities to submit an updated version of the low income data required for annual submission along with the raw data submitted to the BCS for the last five annual reports. USR data provides several critical metrics which allow a company to measure the

¹⁶ See 52 Pa. Code §§ 54.75, 62.5. (Note: The USRR has fewer data requirements⁴⁵ for small public utilities. EDCs with fewer than 60,000 residential customers and NGDCs with fewer than 100,000 residential customers do not file USECPs for Commission approval. Instead, the small public utilities are informally surveyed by the Bureau of Consumer Services (BCS) annually to determine the availability of programs provided to low-income customers as well as the expenses associated with these programs. See 52 Pa. Code §§ 54.77, 62.7.).

¹⁷ See Pa. PUC, Report on 2020 Universal Service Programs & Collection Performance of the Pennsylvania Electric Distribution Companies and Natural Gas Distribution Companies, November 2021, at p. 1, available at: <https://www.puc.pa.gov/filing-resources/reports/universal-service-reports/> .

needs, budgets, and goals of its low income programs and is critical to assessing rate affordability and quality of service in the context of a proposed rate increase. The data provides an indication of the current conditions of the Company's vulnerable customers and an idea of the impact of the proposed rate increase on those customers, including the number of low income customers in the territory, how many are enrolled in low income programs, how many low income customers have had their service terminated for nonpayment, and the annual cost of the utility's low income programs. Datapoints reported in the USR are important to analyzing the potential impact of a rate increase on economically vulnerable customers and helps evaluate a utility's collection performance.¹⁸ Data about utility low income programs also helps evaluate the potential impact of the rate increase on low income customers and the ability of the programs to help low income customers offset the impact of the proposed rate increase.¹⁹

While the prior annual USR is generally available online, there is a substantial lag between the time the data is reported and the time it is released to the public in the USR. By the time the reports are published online, the data is outdated – making it difficult to understand the current status and project into the future, as is intended by the FPPTY. Utilities have usually submitted updated USR data by the time the rate case in question has been filed.²⁰ Thus, utilities should be required to submit the most recent USR data – in the format provided to BCS. In addition to a substantial lag, the data provided in the USR is distilled from the raw data provided by the utilities, but the Commission does not provide all of the collected data in its final published report. Many

¹⁸ Collection performance data includes, *inter alia*: data about payment arrangements, termination of service, payment troubled customers, customer debt and arrearage levels, residential write-offs, and collection expenses.

¹⁹ Low income program data include, *inter alia*: information on participant demographics and income data, Low Income Usage Reduction Program (LIURP) spending and program production, CAP participation rates and default rates, CAP benefits, and CAP program costs.

²⁰ As of the date of these Comments (Nov. 10, 2022), the most recent USR available only provides data as of 2020.

of the unreported datapoints provide a fuller picture of the utilities' customer base and customers service performance metrics and should be made part of the required rate filing. Requiring utilities to provide the raw data submitted annually to BCS with any rate filing would help stakeholders to conduct a more thorough evaluation of the utility's rate proposal and its potential impact on low income customers and universal service programming.

iii. Water and wastewater utilities should be required to submit Universal Service Data with any § 1308(d) rate filing.

Water and wastewater utilities are not currently required to report on collections, terminations, and universal service program data. However, as explained, data regarding a water and wastewater utility's collections, terminations, and low income assistance program performance is critically important to the ability of the parties and the Commission to evaluate the impact of the proposed rate increase on vulnerable customers. It is important that large water and wastewater utilities track and report detailed information and data regarding the impact of a proposed rate increase on low income customers. Indeed, large water and wastewater utilities have implemented increasingly sophisticated customer information systems, and each operate some form of universal service programming. In our experience, large water and wastewater utilities generally can identify most of the data points included in the standard USR reporting requirements. Thus, a form like the one submitted annually by electric and gas utilities to BCS should be provided to water and wastewater utilities as a required filing attached to any proposed water and/or wastewater rate increases more than \$1 million per year. To the extent a water or wastewater utility does not track a requested data point, the utility should be instructed to explain why, and indicate whether it will begin tracking the data on a forward going basis.

- iv. *The Commission should require utilities that operate a rate assistance program (including CAP, bill discount, or other program designs) to provide a statement about the impact of the proposed rate increase on program participant bills.*

The Commission should also require utilities proposing to increase residential rates to provide a statement about the impact that the proposed rate increase will have on customers participating in the utility's rate assistance program – including a CAP or other rate or bill discount program offered by the utility. Program terms differ between utilities; thus, each rate proposal will have a unique impact on a utility's rate assistance program participants. Even within a utility's individual program, rate increases often have unique impacts on customers who pay different rates within the program, such as the difference between a CAP customer who pays according to a percentage of income (who may not see any increased bill) versus a customer whose CAP rate is their average or actual bill (who may be required to pay the full rate increase). It is important for utilities to clearly identify these discrete rate impacts in to understand the effect of raising rates on program participants, as this customer group is uniquely vulnerable to subtle economic pressures and, in turn, are most likely to experience payment trouble and, ultimately, termination.

B. The Commission should further standardize the format of utility rate filings to improve public accessibility.

It is important to the public interest that members of the public can review public utility rate filings and understand how those rate proposals will affect their interests. In our experience, consumers often seek additional information after reviewing a utility's basic public notice statement, but quickly grow frustrated when they are unable to navigate the utility's expansive filing to identify pertinent information. To help alleviate this barrier to public participation, we recommend that the Commission require each Section 1308(d) rate filing to include a plain language executive summary explaining what information is included in the filing, and how to navigate to the sections most relevant to residential consumers.

As a frequent intervenor in utility rate proceedings, CAUSE-PA often reviews utility rate filings in the format that they are published on the Commission’s online database. In our view, the sheer size and technical nature of the filings can create difficulty in navigating the filings for members of the public and hampers their ability to understand the impact that the filing will have on their family and community. In the NOPR, the Commission states that the proposed regulation will benefit affected stakeholders, such as “public utilities and *public utility consumers*, consumer advocates, and other interested intervenors,” because it would standardize and streamline the required filing information and data.²¹ The Commission states, “these standardized and streamlined filing requirements are expected to lessen the regulatory burden and costs associated with reviewing and litigating general rate increase cases brought by public utilities.”²²

CAUSE-PA asserts that, in the interest of public participation and transparency, the Commission should require that utility rate filings be submitted and published to the Commission’s online docketing system in a uniform manner – with standardized naming conventions and content requirements. Further, exhibits and testimony should be clearly marked and easily accessible and navigable by members of the public seeking to understand what impact the proposed rate increase will have on their bill. Each exhibit should be provided in an individual, searchable PDF and clearly labeled (in a standardized naming format) as to contents and subject matter. Exhibits containing residential bill impacts should be individually marked and easily accessible - not buried within the filing. Standardizing the rate filing format and naming conventions would improve accessibility and, in turn, enhance public engagement in setting just and reasonable rates.

²¹ NOPR at 10.

²² Id.

2. Section 53.45. Notice of new tariffs and tariff changes.

Section 53.45 governs the notice required to be provided to utility customers when a utility files a proposed tariff revision that constitutes a general rate increase within the meaning of 66 Pa.C.S. Section 1308(d). Although the Commission's NOPR did not specifically request comments on Section 53.45, it is imperative that customers are properly informed about rate increase filings so that they can understand how the filing impacts the rates they will pay and the terms and conditions of their service. The current notice used to inform customers of a proposed rate increase under Section 53.45 has been used for many years without change and lacks several aspects that would better inform residential customers about the impact of the proposed increase on the consumer and their family. CAUSE-PA recommends that the Commission update and standardize the public notice that is distributed to customers. There are several changes that the Commission should make to the Section 53.45 notice of new tariffs and tariff changes, discussed in turn below, to ensure that customers understand the impact that the proposed rate increase will have on their monthly bill.

A. The Commission should require that notice be provided in multiple languages.

The Commission should require that notice be distributed in both English and Spanish, and that an online copy of the notice be developed in the languages most spoken at home by limited English proficient (LEP) residents in the service territory according to census data. The Commission can facilitate this by providing translations of the sample template provided in §53.45(b)(1)(i). Pennsylvania's LEP population has grown substantially since the §53.45 notice requirements were originally developed.²³ To ensure that all Pennsylvanians can reasonably

²³ According to the Migration Policy Institute, Pennsylvania's LEP population increased by 87.9% from 2000-2018. See Migration Policy Institute, [Data Hub, Pennsylvania State Immigration Data Profiles](https://www.migrationpolicy.org/data/state-profiles/state/language/PA), available at: <https://www.migrationpolicy.org/data/state-profiles/state/language/PA>.

participate in the process, it is important that customers receive notice of a proposed rate increase in a language they understand.

B. The Commission should require utilities to provide the bill impact data in more detail so that customers can more accurately assess their likely bill impact.

As it stands, the current notice only provides an estimated impact for a residential customer bill at “typical usage level.” However, there are no guidelines for how a utility should calculate “typical usage,” and customers usage varies widely. Thus, the Commission should require that the bill impact data on the customer notice be provided in more detail to allow residential customers to better assess how the utility’s rate proposal will impact their monthly bill.

The calculation between the volumetric rate and fixed customer charge is complex, and it can be difficult for a consumer to calculate their estimated monthly bill impacts based on the utility’s estimated annual rate increase for a customer with “typical usage.” The notice should provide bill impacts at multiple specific levels of usage and usage types (e.g., heating vs. non-heating), and should appear in both annual and monthly estimates. We recommend that utilities use a standardized table to provide at least three estimated residential rate impacts at different usage levels for each usage type. This additional level of detail would allow customers to estimate the impact of the proposed rate increase more accurately as it applies to their own bill. The notice should explain where the customer can find their usage rate on their bill. The notice should also include bill impacts for CAP customers, whose rates are calculated differently than typical residential customers.

C. The Commission should update the template notice language to indicate that customers can access tariff filings online and provide directions on how to find them.

The current draft of the notice indicates that members of the public can examine rates requested by reviewing a copy of the tariff at the company’s office and that they can request a

copy of the Statement of Reasons to be sent to them. Considering the technological advances in the many years since this sample notice was originally drafted, the language should be updated to explain that these documents are available on the company's website and the Commission's online docket and provide instructions on how to access them. When distributed electronically, utilities should be required to include clickable links to the filing, and direct links to the most pertinent and commonly requested information. For example, given the critical importance of bill impact assessments, the notice should include a direct link to the utility's bill impact charts.

D. The Commission should require utilities to distribute notices electronically to customers who have consented to receiving electronic notices.

In addition to the current distribution methods for public notices, the notices should also be distributed electronically to all customers who have consented to receiving electronic notices from the utility and have an email address on file with the utility. As technology continually improves and becomes increasingly ubiquitous, consumers rely more than ever on electronic communications. While the distribution of written notices remains an important method of informing consumers about a proposed rate increase, the public interest in such proceedings is such that consumers should be as well informed as possible. Notices should be distributed electronically to ensure they reach as many consumers as possible. The electronic notices should also provide a link to the filing so that customers are able to review and evaluate the filing and understand the impacts that the proposed rate increase will have on their own household.

IV. CONCLUSION

CAUSE-PA thanks the Commission for the opportunity to comment on this important issue. We support promulgation of this rulemaking as amended by our recommendations included in these comments. The collection and reporting of low income customer service data is critical to understanding the impact of a proposed rate increase on economically vulnerable households. In

turn, further standardization of utility filings and improved public notice will help improve public access and participation – driving substantial benefit to the public, the Commission, the utilities, and other stakeholders. Thus, CAUSE-PA respectfully requests that the Commission implement these recommended reforms as part of its rulemaking.

Respectfully Submitted,
Counsel for CAUSE-PA

A handwritten signature in black ink, appearing to read "John W. Sweet", with a horizontal line above it.

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