

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Public Meeting held May 18, 2023

Commissioners Present:

Gladys Brown Dutrieuille, Chairman  
Stephen M. DeFrank, Vice Chairman  
Ralph V. Yanora  
Kathryn L. Zerfuss, Statement  
John F. Coleman, Jr.

Initiative to Review and Revise the Existing  
Low-Income Usage Reduction Program (LIURP)  
Regulations at 52 Pa. Code §§ 58.1—58.18

L-2016-2557886

**NOTICE OF PROPOSED RULEMAKING**

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## **BY THE COMMISSION:**

By Secretarial Letter dated December 16, 2016 (2016 Secretarial Letter), the Pennsylvania Public Utility Commission (PUC) sought stakeholder input on topics that are instrumental in determining the scope of a rulemaking to update the PUC’s existing Low-Income Usage Reduction Program (LIURP) Regulations at 52 Pa. Code §§ 58.1—58.18. This Notice of Proposed Rulemaking (NOPR)<sup>1</sup> summarizes the stakeholder comments to the 2016 Secretarial Letter, proposes amendments to the existing LIURP regulations, and seeks comments on the proposed amendments.

## **HISTORY**

The PUC’s existing LIURP regulations apply to “covered” natural gas distribution companies (NGDCs) and “covered” electric distribution companies (EDCs).<sup>2</sup> These EDCs and NGDCs are required to include a low-income weatherization program in their universal service and energy conservation program (universal service) portfolios.<sup>3</sup> 2016 Secretarial Letter at 2.

The 2016 Secretarial Letter requested comments from interested stakeholders on updating the PUC’s existing LIURP regulations and was published in the *Pennsylvania Bulletin* at 46 Pa.B. 8188 (12/31/2016). Parties were encouraged to include proposed regulatory language with their responses and replies. Comments were timely filed by

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<sup>1</sup> This NOPR consists of a PUC Order which serves as the “preamble” under 1 Pa. Code § 301.1 (relating to definitions) and an Annex A containing the text of the proposed regulation under 1 Pa. Code § 305.1 (relating to delivery of a proposed regulation).

<sup>2</sup> See 52 Pa. Code § 58.2 (relating to definitions) for the existing definition of “covered utility.” As noted below, the term “covered” would be changed to “public,” and “public utility” would be defined based on the number of customers that an EDC or NGDC has. The EDCs and NGDCs that would be affected by this amendment are identified below. The terms “natural gas distribution utility or NGDU” and “electric distribution utility or EDU” are synonymous, respectively, with “NGDC” and “EDC.”

<sup>3</sup> A “low-income customer” is one with household income at or below 150% of the Federal poverty income guidelines (FPIG). A public utility may spend up to 20% of its annual LIURP budget on customers having an arrearage and whose household income is at or below 200% of FPIG. See 52 Pa. Code §§ 58.1, 58.2, and 58.10 (relating to purpose; definitions; and program announcement).

Duquesne Light Company (Duquesne)<sup>4</sup>; Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), and West Penn Power Company (West Penn) (collectively FirstEnergy)<sup>5</sup>; PECO Energy Company (PECO)<sup>6</sup>; PPL Electric Utilities Corporation (PPL)<sup>7</sup>; National Fuel Gas Distribution Corporation (NFG)<sup>8</sup>; Philadelphia Gas Works (PGW)<sup>9</sup>; Energy Association of Pennsylvania (EAP)<sup>10</sup>; Office of Consumer Advocate (OCA); Department of Environmental Protection (DEP) and Department of Community and Economic Development (DCED) (collectively DEP & DCED); Commission on Economic Opportunity (CEO)<sup>11</sup>; PA Energy Efficiency For All Coalition (PA-EEFA)<sup>12</sup>; and PA

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<sup>4</sup> Duquesne is an EDC that served approximately 543,000 residential customers in the Commonwealth in 2021. *2021 Report on Universal Service and Collections Performance* at 6.

<sup>5</sup> The four FirstEnergy public utilities providing jurisdictional electric distribution service in the Commonwealth are EDCs. Met-Ed served approximately 512,000 residential customers in the Commonwealth in 2021. Penelec served approximately 502,000 residential customers in the Commonwealth in 2021. Penn Power served approximately 148,000 residential customers in the Commonwealth in 2021. West Penn served approximately 632,000 residential customers in the Commonwealth in 2021. *2021 Report on Universal Service and Collections Performance* at 6.

<sup>6</sup> PECO is an EDC that served approximately 1.5 million residential customers in 2021. *2021 Report on Universal Service and Collections Performance* at 6.

<sup>7</sup> PPL is an EDC that served approximately 1.5 million residential customers in the Commonwealth in 2021. *2021 Report on Universal Service and Collections Performance* at 6.

<sup>8</sup> NFG is an NGDC that served approximately 214,000 residential customers in 14 counties. *2021 Report on Universal Service and Collections Performance* at 6.

<sup>9</sup> PGW is an NGDC that served approximately 489,000 residential customers in the Commonwealth in 2021. *2021 Report on Universal Service and Collections Performance* at 6.

<sup>10</sup> EDC members of EAP include: Citizens' Electric Company, Duquesne, Met-Ed, PECO, Penelec, Penn Power, Pike County Light & Power Company (Pike), PPL, UGI Utilities Inc. (UGI), Wellsboro Electric Company, and West Penn Power. NGDC members of EAP include: Columbia Gas of Pennsylvania, Inc., Pike, NFG, PECO, Peoples, PGW, UGI, and Valley Energy Inc.

<sup>11</sup> CEO is a non-profit organization serving low-income and elderly residents of Luzerne County. CEO has weatherized over 25,000 homes under DCED's Weatherization Assistance Program (WAP) and served as a subcontractor for PPL's and UGI's LIURPs and as the contracted operator of PPL's and UGI's CAPs. CEO Comments at 1.

<sup>12</sup> PA-EEFA is a partnership of Commonwealth and national organizations that share a goal of ensuring that low-income individuals have access to energy efficiency services to reduce their energy consumption. The partners include: Pennsylvania Utility Law Project (PULP); Natural Resources Defense Council (NRDC); National Housing Trust (NHT); Keystone Energy Efficiency Alliance (KEEA); Action Housing, Inc. (AHI); Housing Alliance of Pennsylvania (HAP); Regional Housing Legal Services (RHLS); and Community Legal Services of Philadelphia, Inc. (CLS). PA-EEFA Comments at 3.

Weatherization Providers Task Force (PWPTF)<sup>13</sup>. Reply comments (RC) were timely filed by Duquesne; PECO; PPL; Peoples Natural Gas LLC (PNGC) and Peoples Gas Company LLC (PGC) (collectively, Peoples)<sup>14</sup>; EAP; OCA; PA-EEPA; and CEO.

## BACKGROUND

The endeavors by the PUC and various stakeholders to formally address low-income policies, practices, and services began as early as 1984.<sup>15</sup> As a result, the public utilities began considering how to better address arrearages of low-income customers. 2016 Secretarial Letter at 1.

From 1988 through 2021, LIURPs have provided conservation services to more than 653,000 households.<sup>16</sup> Services may have included full weatherization conservation treatments, furnace repair and replacement, water heating measures and electric baseload measures. In our September 20, 1996 Order, at Docket No. L-00960118, we initiated a proposed rulemaking to extend the LIURP regulations that were scheduled to expire on or before January 28, 1998. In that order, we recognized that LIURP’s weatherization, usage reduction, and conservation services had achieved significant benefits for both public utilities and low-income customers. 28 Pa.B. 25 (1/3/1998).

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<sup>13</sup> PWPTF is a network of 37 organizations providing energy conservation services throughout the Commonwealth. PWPTF entities administer various LIURPs and DCED Weatherization Assistance Programs. PWPTF Comments at 2.

<sup>14</sup> Peoples filed its joint comments in the names of three entities: Peoples Equitable Division, Peoples Natural Gas Company LLC, and Peoples TWP LLC. On August 10, 2017, at Docket No. R-2017-2618118, the PUC approved the request of Peoples TWP LLC to do business as PGC. On October 3, 2019, at Docket No. R-2018-3006818, *et al.*, the PUC approved the merger of Peoples Natural Gas’ separate Peoples and Equitable rate districts into a single rate district known as PNGC. PNGC and PGC are NGDCs that served approximately 593,089 and 58,000 residential customers in the Commonwealth in 2021, respectively. *2021 Report on Universal Service and Collections Performance* at 6, 85.

<sup>15</sup> See, e.g., Recommendations for Dealing with Payment Troubled Customers, Docket No. M-840403. This docket is also indexed as “M-00840403” in some electronic databases.

<sup>16</sup> The LIURP regulations were originally codified as 52 Pa. Code §§ 69.151—69.168 (relating to residential low income usage reduction programs). See 15 Pa.B. 3650 (10/12/1985); 16 Pa.B. 1277 (4/14/1986); and 17 Pa.B. 3220 (8/1/1987). As of January 16, 1993, the LIURP regulations were codified at 52 Pa. Code §§ 58.1—58.18. See 23 Pa.B. 265 (1/13/1993). The Editor’s Note at 23 Pa.B. 265, 274, explains that the “text of the regulations amended [by the annex at 23 Pa.B. 265, 274, was originally codified in Chapter 69 in error.”

Due to the advanced age of Pennsylvania’s residential building stock, which is the second oldest in the nation, and the increasing need for affordable housing, LIURP is an essential program in reducing energy consumption for low-income households. However, much has changed in the marketplace since the LIURP regulations were first promulgated in 1987 and last revised in 1998.<sup>17</sup> The PUC is interested in leveraging the knowledge and experience gained, to-date, by the public utilities, consumers, and other stakeholders to improve the operation of the various LIURPs and thereby maximize ratepayer benefits. 2016 Secretarial Letter at 1.

The four mandatory universal service programs are customer assistance programs (CAPs),<sup>18</sup> LIURPs, customer assistance referral and evaluation programs (CARES), and hardship fund programs.<sup>19</sup> 2016 Secretarial Letter at 2.

The purpose of the LIURP regulations is to require:

[C]overed utilities to establish fair, effective and efficient energy usage reduction programs for their low income [sic] customers. The programs are intended to assist low income [sic] customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs. The programs are also intended to reduce the residential demand for electricity and gas and the peak demand for electricity so as to reduce costs related to the purchase of fuel or of power and concomitantly reduce demand which could lead to the need to construct

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<sup>17</sup> The provisions in Chapter 58 were issued under §§ 501, 1501, and 1505(b) of the Public Utility Code, 66 Pa.C.S. §§ 501, 1501, and 1505(b). Chapter 58 became effective January 16, 1993. See 23 Pa.B. 265 (1/16/1993). Section 58.2, 58.3, 58.8, and 58.10, 52 Pa. Code §§ 58.2, 58.3, 58.8, and 58.10, were amended effective January 3, 1998. See 28 Pa.B. 25 (January 3, 1998).

<sup>18</sup> The CAP Policy Statement, 52 Pa. Code §§ 69.261—69.267, became effective July 25, 1992, was amended, effective May 8, 1999, and was further amended, effective March 21, 2020.

<sup>19</sup> See <https://www.puc.pa.gov/media/1396/energy-assistance-programs2021.pdf>. (Accessed on March 7, 2023.)

new generating capacity. The programs should also result in improved health, safety and comfort levels for program recipients.

2016 Secretarial Letter at 3-4.

LIURPs were initially subject to revision, stakeholder comment, and PUC review every three years as part of each public utility's on-the-record triennial universal service and energy conservation plan (USECP) review. The process leading up to PUC action relative to a USECP is overseen by the PUC's Bureau of Consumer Services (BCS) in docketed collaborative proceedings. This rulemaking would not change the process of BCS oversight of the review and approval process. Additionally, public utility universal service programs, including LIURPs, have been subject to independent third-party impact evaluations at least every six years.<sup>20</sup> On occasion, stakeholders have also proposed changes for consideration in a public utility's base rate proceeding, rider proceeding, demand side management filing, or other proceedings. 2016 Secretarial Letter at 2. Currently, the interval between USECP reviews has been extended to at least every five years, and deadlines for filing the third-party impact evaluations are established as part of the docketed USECP proceedings.<sup>21</sup> Public utilities may propose revisions to programs in an approved USECP for PUC consideration at any time between the periodic USECP reviews.

In January 2009, the Consumer Services Information System Project at The Pennsylvania State University (CSIS PSU), under contract with the PUC, published a long-term study on LIURP in the Commonwealth, including recommendations for policy changes.<sup>22</sup> To date, the PUC has taken no action on the CSIS PSU Report.

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<sup>20</sup> See 52 Pa. Code § 54.76 for EDCs and 52 Pa. Code § 62.5 for NGDCs.

<sup>21</sup> See *Universal Service and Energy Conservation Plan Filing Schedule and Independent Evaluation Schedule*, Docket No. M-2019-3012601 (order entered October 3, 2019).

<sup>22</sup> See Shingler, John. (2009). "Long Term Study of Pennsylvania's Low Income Usage Reduction Program: Results of Analyses and Discussion." Penn State University Consumer Services Information System Project. <http://aese.psu.edu/research/centers/csis/publications> (accessed on March 7, 2023).



This rulemaking docket was opened in 2016 to consider potential revisions to the existing LIURP regulations. Shortly thereafter in 2017, the PUC opened a docket to initiate a comprehensive review of the Universal Service and Energy Conservation model<sup>23</sup> and a docket to study energy affordability for low-income customers in Pennsylvania.<sup>24</sup> Subsequently, the PUC opened proceedings at Docket No. M-2019-3012599 to amend the CAP Policy Statement<sup>25</sup> and at Docket No. L-2019-3012600 to initiate a “comprehensive universal service rulemaking.”<sup>26</sup> The PUC deferred its review of the stand-alone LIURP regulations pending completion of the CAP Policy Statement proceeding and the universal service rulemaking. While the CAP Policy Statement was revised, the universal service rulemaking proceeding is still pending. This notice of proposed rulemaking now resumes the PUC’s review of the LIURP regulations.

In the interim, the PUC has worked with DCED on a state-wide weatherization initiative and inter-agency coordination effort regarding DCED’s Weatherization Assistance Program (WAP) and LIURP. DCED and the PUC shared data and analyses of the two agencies’ weatherization programs. This allowed for additional analysis in conjunction with the PUC’s oversight of the EDCs’ Act 129<sup>27</sup> energy efficiency and conservation program low-income measures. This also allowed CSIS PSU to compile data from these weatherization programs and perform analyses to inform the PUC. 2016 Secretarial Letter at 2-3. The work with DCED is continuing; a memorandum of understanding between the two agencies was renewed in 2022 for another five years.

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<sup>23</sup> *Review of Universal Service and Energy Conservation Programs*, Docket No. M-2017-2596907.

<sup>24</sup> *Energy Affordability for Low-Income Customers*, Docket No. M-2017-2587711.

<sup>25</sup> *2019 Amendments to Policy Statement on Customer Assistance Program*, 52 Pa. Code § 69.261—69.267, Docket No. M-2019-3012599.

<sup>26</sup> See Universal Service Rulemaking, Docket No. L-2019-3012600 (order entered January 2, 2020), at 1.

<sup>27</sup> See 66 Pa. C.S. § 2806.1. Act 129, effective November 14, 2008, expanded, among other things, the PUC’s oversight responsibilities and imposed new requirements on EDCs, with the overall goal of reducing energy consumption and demand.

## **Justification for Reviewing LIURP Regulations**

In 2016, we articulated the justification for reviewing the LIURP regulations, noting that it “is important for the PUC to update the LIURP regulations in order to keep pace with the changing energy landscape and technology improvements, to ensure proper coordination among Commonwealth energy reduction programs, and to ensure that these programs continue to meet the goals established.” Nationally accepted benefit/cost models now measure results on a whole-job basis rather than a per-measure basis as was the case when the LIURP regulations were first promulgated. Further, the existing regulations have no work specifications, contractor certification requirements, or quality control standards. 2016 Secretarial Letter at 3. We noted that it was “prudent and reasonable” to revisit the LIURP regulations to ensure that the regulations are fostering fair, effective, and efficient energy usage reduction programs. 2016 Secretarial Letter at 3. We articulated our interest in leveraging the knowledge and experience of the public utilities, consumers, advocates, and other stakeholders to identify improvements to the design of and the cost-effective operation of LIURPs, to maximize ratepayer benefits. 2016 Secretarial Letter at 3.

The rationale for reviewing the LIURP regulations remains valid. That process continues with this NOPR.

### **2016 Secretarial Letter**

As part of the PUC’s process of reviewing the existing LIURP regulations, and with the goal of ensuring effective and efficient use of ratepayer funds, the PUC posed, in its 2016 Secretarial Letter, the following Questions relative to revising the regulations:

1. Are the existing regulations meeting the charge in 52 Pa. Code § 58.1? If not, what changes should be made?

2. How should LIURPs be structured to maximize coordination with other weatherization programs such as DCED's WAP and Act 129 programs?
3. How can utilities ensure that they are reaching all demographics of the eligible populations in their service territories?
4. What design would better assist/encourage all low-income customers<sup>11</sup> to conserve energy to reduce their residential energy bills and decrease the incidence and risk of payment delinquencies? How does energy education play a role in behavior change?
5. How can the utilities to use their LIURPs to better address costs associated with uncollectible accounts expense, collection costs, and arrearage carrying costs?
6. How can LIURPs best provide for increased health, safety, and comfort levels for participants?
7. How can LIURPs maximize participation and avoid disqualifications of households due to factors such housing stock conditions?
8. What is the appropriate percentage of federal poverty income level to determine eligibility for LIURP?
9. With the additional energy burdens associated with warm weather, what, if any, changes are necessary to place a greater emphasis on cooling needs?
10. What are options to better serve renters, encourage landlord participation, and reach residents of multifamily housing?
11. Should the requirements regarding a needs assessment in developing LIURP budgets, as outlined at 52 Pa. Code § 58.4(c), be updated to provide a calculation methodology uniform across all utilities? If so, provide possible methodologies.
12. Should the interplay between CAPs and LIURPs be addressed within the context of LIURP regulations? If so, how?

13. Are there specific “best practices” that would better serve the LIURP objectives which should be standardized across all the utilities? If so, what are they? For example, is there a more optimal and cost-effective method(s) of procuring energy efficiency services so as to maximize energy savings at lower unit costs?

14. The [PUC] also welcomes stakeholder input on other LIURP issues or topics.

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<sup>11</sup> All income-qualifying, low-income customers are potentially eligible for LIURP, regardless of whether they participate in CAP programs.

2016 Secretarial Letter at 4-5; (Footnote 11 in the original).

Parties were encouraged to submit proposed regulatory language with their responses and replies. 2016 Secretarial Letter at 5. The stakeholder responses to the Questions are addressed below in conjunction with the section of the regulations to which they relate. Questions 13 and 14 are addressed separately as they did not relate to specific sections of the existing regulations.<sup>28</sup>

### **CAP and LIURP**

CAP participation is not a requirement for LIURP eligibility. High usage, arrearages, and income parameters are the primary eligibility requirements for LIURP services. See 52 Pa. Code § 58.10 (relating to program announcement). LIURP conservation and efficiency efforts do not always result in lower energy bills or reduced usage for households receiving LIURP services. CAP asked-to-pay (ATP) amounts do not necessarily change as a result of a household receiving LIURP services. Individual LIURPs and CAPs help to reduce the costs of a public utility’s uncollectible accounts, but the two programs are most effective when working in tandem. Further, when CAP participation is coupled with LIURP participation, the impact may lower a public utility’s

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<sup>28</sup> Additional questions not related to the 2016 Secretarial Letter are posed herein as well.

CAP shortfall<sup>29</sup> by reducing the differences between the actual cost of energy used and CAP ATP amounts.<sup>30</sup> 2016 Secretarial Letter at 5-6.<sup>31</sup>

## DISCUSSION

While the 2016 Secretarial Letter posed specific Questions, this proceeding is a review of the existing regulations and the proposed amendments to those regulations. We shall address each section of the existing regulations and proposed amendments, in turn, drawing upon the stakeholders' answers<sup>32</sup> to the Questions posed in the 2016 Secretarial Letter, as well as best practices identified in PUC reviews of USECPs over the years. We note that any issue raised in response to the 2016 Secretarial Letter that we may not have specifically delineated herein has been considered even though we have not incorporated it in the proposed Annex. Those exclusions have been made without prejudice, and such matters may be introduced by stakeholders in comments to this NOPR.

### Section 58.1. Purpose.

This section of the existing regulations<sup>33</sup> sets forth the purpose and goals of public utility LIURPs. Stakeholder comments to Question Nos. 1 and 5 in the 2016 Secretarial Letter relate to this section.

Question 1: Are the existing regulations meeting the charge in 52 Pa. Code § 58.1? If not, what changes should be made?

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<sup>29</sup> The CAP shortfall (also known as the CAP credit) is the difference between the actual tariff rate for jurisdictional residential energy service and the discounted amount that a CAP participant is expected/asked to pay for that service.

<sup>30</sup> The ATP amount for a CAP participant may only cover a portion of the tariff cost of energy that the customer uses. In some cases, the ATP is tied to usage; in other cases, it might be based on a percent of income or other formula not based solely on usage.

<sup>31</sup> For a discussion of LIURP in relation to universal service and energy conservation programs, see *Re Guidelines for Universal Service and Energy Conservation Programs*, 178 P.U.R. 4th 508 (July 11, 1997), which clarified the incorporation of the LIUPR regulations into universal service and energy conservation programs.

<sup>32</sup> The stakeholder answers are referred to herein as their comments and reply comments.

<sup>33</sup> The provisions of § 58.1 became effective January 16, 1993. See 23 Pa.B. 265. The existing sections discussed below without specified effective dates also became effective January 16, 1993. See 23 Pa.B. 265.

### ***Stakeholder Comments***

FirstEnergy asserted that the existing LIURP regulations are following the purpose of § 58.1. It attributed the success of its LIURP<sup>34</sup> efforts to the flexibility permitted by the existing regulations. Consequently, FirstEnergy recommended that central components of a public utility's LIURP, including the specific LIURP measures, payback periods, and budgeting parameters, should continue to be derived within a public utility's USECP. FirstEnergy did not believe that a full overhaul of LIURP regulations was needed, but it recognized that certain strategies or small changes could modernize LIURP and improve the program for low-income customers. FirstEnergy Comments at 4-5. FirstEnergy recommended that the PUC draw a distinction between issues that are within the scope of a LIURP rulemaking and those that are LIURP policy or best practices. FirstEnergy maintained that due to differences among public utilities, the standardization of certain LIURP practices would fail to promote fair, effective, and efficient LIURP programs for all public utilities. FirstEnergy RC at 2.

Duquesne submitted that the existing regulations meet the charge in § 58.1. However, Duquesne suggested giving flexibility to public utilities to propose alternate ways to measure a program's success besides measuring energy savings. Duquesne Comments at 3-4.

EAP believed that the existing programs generally meet the charge in § 58.1 and the intent of the General Assembly. EAP Comments at 7. EAP stated that LIURP should remain a targeted program to lower bills for low-income households so fewer and smaller delinquencies occur resulting in a benefit for all residential ratepayers. EAP disagreed with broad expansion of programs or budgets as LIURP is not intended to be a "catch-all" solution for customers who struggle to pay bills or a remediation for housing stock

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<sup>34</sup> FirstEnergy's LIURP program is called "WARM."

deficiencies. EAP stated that public utilities are not the social agency of last resort. EAP RC at 3.

While identifying that there is always room for improvement, PECO agreed with EAP that the programs are meeting the charge in § 58.1 and intent of the General Assembly. PECO Comments at 5.

PPL believed that the existing regulations and its LIURP<sup>35</sup> support the regulations' objectives. PPL, however, acknowledged that there may be opportunities to increase LIURP effectiveness through revisions. PPL Comments at 2.

Peoples cautioned that any reworking of the existing LIURP regulations needs to continue to provide flexibility to public utilities to operate their LIURPs based on the unique needs of customers in their service territories. Peoples RC at 2.

According to PA-EEFA, the existing regulations only meet some of the expressed purposes. While PA-EEFA cited to LIURPs success in achieving energy savings, it used its responses to the other Questions to explore whether the existing regulations are successfully targeted to deliver energy efficiency measures that are most effective at reducing energy bills and whether the measures provided are evenly targeted and distributed. PA-EEFA Comments at 6-7.

OCA stated that the existing regulations should be modified to meet the charge in § 58.1. According to OCA, the LIURP regulations should rigorously consider the needs of customers in a public utility's service territory and more fully consider the impacts of LIURP measures outside of usage reduction, such as the costs of a public utility's CAP program and operation costs. OCA Comments at 23. OCA commented that the "overall

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<sup>35</sup> PPL calls its LIURP program "Winter Relief Assistance Program (WRAP)."

objective should not stand in the way of allowing for some exceptions to the customers who are targeted for LIURP assistance.” OCA pointed out that some customers reach their CAP credit maximums due to extremely low incomes or high usage. OCA RC at 4.

PGW believed that changes are needed to better meet the charges of § 58.1. PGW contended that the regulations achieve conservation in low-income homes but fail to acknowledge the reality that customers in a Percent of Income Payment (PIP) CAP may not experience a reduction in energy bills. PGW Comments at 1-2.

Question 5: How can the public utilities use their LIURPs to better address costs associated with uncollectible accounts expense, collection costs, and arrearage carrying costs?

### ***Stakeholder Comments***

OCA suggested improvement in the coordination and information exchange between the public utility credit and collection processes/account managers and community-based organizations (CBOs). According to OCA, there should also be a non-public-utility-based contact regarding LIURP availability involved in the collection process, including the ability to use LIURP to address arrearage issues and disconnection threats. OCA Comments at 26-27. Duquesne agreed with OCA about LIURP availability and preventing arrears by reducing energy bills. Duquesne RC at 6.

PGW contended that the prioritization practices in § 58.10 should have the greatest impact on costs associated with uncollectible accounts, collection and arrearage. Additionally, PGW noted that further prioritization of the lowest-income customers within the highest usage population could have a positive impact by reducing the potential for high bills among the lowest income customers. PGW also noted the importance of managing program budget size as an increase in a program budget results in an additional cost burden for customers and thus increases the potential for customers to fall behind on their payments. PGW Comments at 7-8.



EAP asserted that LIURP is only one vehicle and that it works best with other support such as CAP to reduce customer arrearages and encourage good payment practices. EAP Comments at 10.

PECO asserted that the only way to use LIURP to reduce costs associated with uncollectible accounts, collection and arrearage is through the various methods described in its comments, and in the EAP comments, that target improving usage reduction. PECO Comments at 10.

Duquesne asserted that programs that can lead to usage reduction (such as LIURP and Watt Choices<sup>36</sup>) work best with other mechanisms or programs that assist customers with reducing arrearages and establishing good payment habits, such as budget billing or CAP. Duquesne Comments at 6. OCA agreed with Duquesne that LIURP works best when in tandem with other mechanisms or programs. OCA RC at 7-8.

PA-EEFA suggested that the PUC reconsider its decision not to address CAP issues, as it is critical for the PUC to address the fact that CAP energy burdens are too high to effectively mitigate utility-related economic hardship. PA-EEFA contended that by implementing some of the suggestions contained throughout their comments, such as making savings targets fuel-neutral, eliminating the fuel switching prohibition, and other changes to encourage more comprehensive energy savings, public utilities would realize deeper results in reducing arrears. PA-EEFA stated that the PUC should encourage the public utilities to implement in-person energy education for all household members in the residence at the time of measure installation and to provide follow-ups with the household if savings do not continue. PA-EEFA Comments at 16-17.

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<sup>36</sup> Duquesne's Watt Choices program helps customers conserve energy and reduce demand while lowering their electricity costs. <https://www.duquesnelight.com/energy-money-savings/watt-choices> (accessed on February 14, 2023).

According to PPL, one method it employed involved training LIURP contractors to make referrals to PPL's CAP. PPL further recommended using LIURP funds to educate 1) "high usage" customers who are not eligible for LIURP, and 2) CAP customers with usage increases after LIURP treatment. PPL Comments at 5.

### **Proposed Revisions to Section 58.1.**

We propose to retitle this section "*Statement of Purpose*" (currently "Purpose") for consistency with other regulations and to more accurately reflect the purpose and goals of a public utility LIURP. We also propose to revise the section to explain the purpose of LIURPs, consistent with the statement of purpose currently in § 58.1, with a proposed clarification to reflect that a LIURP may also provide service to a customer with household income between 151%-200% of the federal poverty income guideline level (FPIG) with special needs (i.e., special needs customer), who does not meet the definition of "low-income." This is consistent with existing provisions in several Commission-approved LIURPs. Further, throughout the regulation, when "low" and "income" are combined as an adjective, we propose to use the term "low-income" with a hyphen. The terms in this section would also be updated consistent with the proposed definitions in § 58.2, including replacing "program" with "LIURP" when appropriate.

### **Section 58.2. Definitions.**

This section of the existing regulations<sup>37</sup> sets forth words and terms used in this chapter. There were no Questions in the 2016 Secretarial Letter relative to § 58.2.

### ***Stakeholder Comments***

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<sup>37</sup> The provisions of § 58.2 were amended January 2, 1998, effective January 3, 1998. See 28 Pa.B. 25.

PPL proposed revising the definition of “residential space heating customer” to define “primary heating source” as “a residence with a minimum of 50% installed electric or gas heat as provided by the covered utility.” This was consistent with how PPL categorized customers with electric heat for CAP payments. PPL asserted that those with non-installed electric heat (e.g., portable space heaters) should not be categorized as “residential space heating customers.” PPL Comments at 10.

FirstEnergy suggested that a working group evaluate the definition of a “residential space heating customer” to determine whether revisions would be appropriate based on current customer heating behaviors. FirstEnergy Comments at 12.

PA-EEFA disagreed with PPL’s suggestion that the LIURP definition of residential space heating needs to be revised. PA-EEFA maintained that the definition should include portable space heaters. However, PA-EEFA agreed with PPL and FirstEnergy that a working group to address certain issues would be beneficial. PA-EEFA argued that LIURPs are obligated to address conditions as they exist and that any revised definition that fails to acknowledge *de facto* heating conditions will not meet the needs of LIURP constituents. PA-EEFA supported common sense, cost-effective solutions. PA-EEFA RC at 10-11.

PGW stated that the definition of “usage reduction education” should be broadened to allow for greater flexibility based on the public utility’s program design and territories. PGW also recommended modifying the definition of “energy survey” to allow for future innovations by referring to it as an “analysis” rather than an “onsite inspection.” PGW Comments at 6, 13.

### **Proposed Revisions to Section 58.2.**

We propose to update the existing definitions in the LIURP regulations with current terminology, incorporate definitions used in 52 Pa. Code §§ 54.72, 56.2, 62.2, and

69.262,<sup>38</sup> and add definitions applicable to LIURP as a universal service program. While all the definitions are to be listed in one listing in one section of the LIURP regulations, our discussion herein addresses the proposed revisions in five groups according to the reasons for adding or changing a definition.

Because a public utility is required to administer a LIURP as one of its required universal service programs,<sup>39</sup> this first group of proposed definitions would be introduced in this regulation to reflect common universal service and low-income related programs and terms:

- *BCS—Bureau of Consumer Services*

Since the inception of LIURPs and USECPs, PUC approval of a public utility’s universal service programs has been a process overseen by the PUC’s BCS.<sup>40</sup>

- *CAP—Customer Assistance Program*

The proposed definition is consistent with the definition of “CAP” found in 52 Pa. Code §§ 54.72 and 62.2. We propose to identify a CAP as a universal service program that provides payment assistance and pre-program arrearage (PPA) forgiveness to low-income residential customers.

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<sup>38</sup> Definitions in Sections 69.261—69.267 (relating to policy statement on customer assistance programs) reflect policy considerations.

<sup>39</sup> The Natural Gas Choice and Competition Act and the Electricity Generation Customer Choice and Competition Act direct the PUC to ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each NGDC and EDC service territory. 66 Pa. C.S. §§ 2203(8) (relating to standards for restructuring of natural gas utility industry) and 2804(9) (relating to standards for restructuring of electric industry).

<sup>40</sup> The Commission has directed that “BCS will review the universal service plans and make recommendations to the Commission.” See *Reporting Requirements for Universal Service And Energy Conservation Programs 52 Pa. Code Chapter 62*, Final Rulemaking Order, Docket No. L-00000146, (entered June 26, 2000), at 11.

- *CAP shortfall*

This term would be defined for the first time in this regulation. The definition would explain that the CAP shortfall is the difference between the actual tariff rate for jurisdictional residential energy service and the amount charged on a CAP participant’s bill. Because this term is used interchangeably with “CAP credit” by several public utilities in their universal service proceedings, we propose to indicate that “CAP credit” is a synonym even though we do not propose to use “CAP credit” in the LIURP regulations.

- *CARES—Customer Assistance and Referral Evaluation Services*

The proposed definition is consistent with the definition of “CARES” found in 52 Pa. Code §§ 54.72 and 62.2. We propose to identify CARES as a universal service program and to clarify that a CARES recipients may receive referrals to maximize their ability to pay utility bills.

- *CBO—Community-based organization*

The proposed definition is consistent with the definition of “community-based organization” as defined by the Federal government in 20 U.S.C. § 7801 (relating to definitions). It reflects that a CBO is a public or private nonprofit organization that is representative of a community or a significant segment of a community that works to meet community needs.

- *FPIG—Federal Poverty Income Guidelines*

The proposed definition is consistent with the definition of “Federal Poverty Level” found in 52 Pa. Code § 56.2. The Federal income guidelines are published at least annually in the Federal Register by the United States Department of Health and Human Services.

- *Hardship Fund*

The proposed definition is consistent with the definition of “Hardship Fund” found in 52 Pa. Code §§ 54.72 and 62.2. We propose to clarify that a Hardship Fund as a universal service program that provides cash assistance to help eligible customers pay public utility debt, restore public utility service, or stop a termination of public utility service.

- *LIHEAP—Low-Income Home Energy Assistance Program*

This proposed definition is consistent with the definition of “LIHEAP” found in 52 Pa. Code § 69.262 and with the way the Department of Human Services defines “LIHEAP.”

- *LIURP budget, LIURP funding mechanism, and LIURP funds*

Definitions for these terms are added to conform to the usage distinctions being clarified in the revisions to § 58.4.

- *Payment-troubled customer*

The proposed definition is consistent with the definition of “payment troubled” found in 52 Pa. Code §§ 54.72 and 62.2, reflecting the inclusion of customers with an arrearage and customers who have failed to maintain one or more payment arrangements in a one-year.

- *USAC—Universal Service Advisory Committee*

The proposed definition is consistent with the definition of “USAC” found in 52 Pa. Code § 69.262, reflecting that participants in a USAC are “stakeholders.”

- *USECP—Universal Service and Energy Conservation Plan*

This proposed definition is consistent with the definition of “USECP” found in 52

Pa. Code § 69.262; a USECP describes the benefits, policies, and procedures related to a public utility’s universal service programs.

- *USECP proceeding*

This term replaces language referring to “Commission approval” in the LIURP regulations and refers to the PUC’s process for reviewing a proposed USECP and for a proceeding whereby a public utility proposes to amend an existing USECP.

- *Universal service programs*

This proposed definition is consistent with 66 Pa. C.S. §§ 2203(8) and 2804(9) which require a public utility to offer a LIURP, CAP, CARES, and Hardship Fund, at the minimum, in a USECP. Other programs may be included in a USECP subject to PUC approval.

This second group of proposed definitions are included to clarify LIURP-specific terms and services:

- *De facto heating*

This term would be defined for the first time in this regulation. It has long been used in filings by stakeholders and in PUC orders and other documents to refer to the use of an alternate heating source when the primary or central heating system in a residence is non-functioning or because public utility service or non-utility heating fuel has been terminated or depleted. This proposed definition is based on the description of “de facto heating” developed by the Universal Service Coordination Working Group.<sup>41</sup>

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<sup>41</sup> See *Universal Service Coordination Working Group Report*, Docket No. M-2009-2107153 (Report issued November 18, 2009), at 1. <https://www.puc.pa.gov/pcdocs/1060321.pdf> (accessed on March 2, 2023).

- *Dwelling*

This proposed definition is consistent with the definition of “dwelling” found in 52 Pa. Code § 56.2.

- *ESP—Energy service provider*

Public utilities use a variety of external agents and internal staff to provide program services. “ESP” is a general reference for such program service providers.

- *Health and safety measures*

This proposed definition refers to work necessary to correct conditions that affect the health and safety of the residents, the persons providing the measures in a dwelling, or both, before program measures can be installed, consistent with the guidance given to WAP agencies by the US Department of Energy, which identified Health and Safety actions as those “necessary to maintain the physical well-being of both the occupants and weatherization workers.”<sup>42</sup>

- *Impact evaluation*

This proposed definition, which uses “universal service” to describe “program,” is consistent with the definition of an “impact evaluation” found in 52 Pa. Code §§ 54.72 and 62.2.

- *Incidental repair*

This proposed definition is consistent with the description of “incidental repairs” found in § 58.12.

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<sup>42</sup> See DOE’s *Weatherization Program Notice 17-7: Weatherization Health and Safety Guidance* (issued August 9, 2017), at 2. <https://www.energy.gov/sites/default/files/2017/08/f35/WPN%2017-7%20H%26S%208.9.17.pdf> (accessed on February 21, 2023).



- *LIURP—Low-Income Usage Reduction Program*  
This proposed definition is consistent with the definition of “LIURP” in 52 Pa. Code §§ 54.72 and 62.2 and identifies “LIURP” as a universal service program that provides energy usage reduction services, health, safety and comfort services, conservation education services, or a combination of such services to eligible customers.
- *LIURP job*  
The proposed term refers to program services provided by an ESP to the dwelling of an eligible customer.
- *Post-installation inspection*  
This proposed definition is consistent with the description of “post-installation inspection” in § 58.14.
- *Program year*  
The proposed definition eliminates the need to explain that a LIURP program year begins January 1 and ends December 31 each time the term “program year” is used.
- *Weatherization*  
This proposed definition refers to the work needed to install program measures to make a dwelling more energy efficient, consistent with the WAP technical glossary of the National Association for State Community Services Programs (NASCSPP), which defines “weatherization” as the “process of reducing energy

consumption and increasing comfort in buildings by improving the energy efficiency of the building and maintaining health and safety.”<sup>43</sup>

This third group of proposed definitions are being introduced in this regulation to clarify terms related to the regulation of public utilities:

- *Commission—The Pennsylvania Public Utility Commission*

This term and its use is a standard part of Commission regulations.

- *CNGDO—City natural gas distribution operation*

This proposed definition has the same meaning and obligations as the term is used in 66 Pa.C.S. §§ 102 and 2212.

- *EDC—Electric distribution company*

The acronym replaces references to “electric distribution company” throughout the regulation and is synonymous with “electric distribution utility” (EDU), as defined in 66 Pa.C.S. § 1403.

- *NGDC—Natural gas distribution company*

The acronym replaces references to “natural gas distribution company” throughout the regulation, is synonymous with “natural gas distribution utility” (NGDU), as defined in 66 Pa. C.S. § 1403, and includes a regulated CNGDO for universal service and energy conservation purposes.

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<sup>43</sup> See NASCSP Technical Glossary at <https://nascsp.org/wap/waptac/wap-resources/technical-glossary/> (accessed on August 26, 2021.) NASCSP is the sole national association charged with advocating and enhancing the leadership role of States in the administration of the Community Services Block Grant (CSBG) program and Weatherization Assistance Program (WAP). The U.S. Department of Energy’s WAP reduces heating and cooling costs for low-income families, particularly for the elderly, people with disabilities, and children, by improving the energy efficiency of their homes while ensuring their health and safety. <https://nascsp.org/about/> (accessed on September 17, 2021).

This fourth group of proposed definitions provides amendments and clarifications to existing definitions or terms:

*Administrative costs*

Administrative costs are expenses not directly related to the provision of program services. The proposed amended definition replaces audit expenses with expenses associated with quality control and training. The proposed amended definition eliminates confusion with energy audit expenses, which are directly related to the installation of program measures.

- *Eligible customer*

The proposed amended definition reflects the inclusion of a residential low-income customer or a special needs customer of a public utility because that customer would be eligible for LIURP if the customer meets the criteria for participation as specified in a public utility's USECP, which can include usage thresholds.

- *LIURP Advisory Committee*

The proposed amended definition is consistent with the purpose of LIURP Advisory Committees, which, like USACs, may consult with the public utility and provide advice regarding program services.

- *Low-income customer*

The proposed amended definition is consistent with the definition of "low-income customer" in 52 Pa. Code §§ 62.2 and 69.262.

- *Pilot program*

The proposed amended definition is consistent with the PUC's long-standing

practice of approving a LIURP pilot program for purposes other than usage reduction through a USECP proceeding.

- *Program measure*

The proposed amended definition reflects that program measures may include installation and other related work performed on a dwelling.

- *Program service*

The proposed amended definition reflects that program services are LIURP services offered by or work performed by a public utility under Chapter 58.

- *Residential electric baseload customer*

This proposed term would replace and amend the term “residential high use electric baseload customer.” This proposed definition would reflect that baseload electric usage does not use electric service for heating purposes. Because the proposed operative provision would provide a public utility flexibility to establish its own threshold for high usage for individual electric baseload accounts, subject to PUC approval, the provision that identifies electric baseload “high use” as usage greater than 125% of the average residential baseload customer would be removed from the definition.

- *Residential space-heating customer*

The proposed amended definition reflects changes relative to the primary heating source for the dwelling. The proposed amended definition removes language identifying a residential customer with an inoperable natural gas furnace as a space-heating customer because that usage would now be categorized as de facto heating.

- *Residential water-heating customer*

The proposed amended definition clarifies the long-standing distinction that “water-heating customers” refer to customers who use a water heater as the primary source of heat for their dwelling rather than customers who use a water heater to only heat water.

- *Special needs customer*

The proposed amended definition clarifies that a customer with a household income between 151% and 200% of the FPIG and with a household member or members who are age 62 and over or age five and under, need medical equipment, have a disability, are under a protection from abuse order, or are otherwise so defined as a special needs customer under the approved provisions of the public utility’s USECP is a special needs customer. With the exception of a household member who is a young child, the demographics and conditions related to the special needs designation for a household member is consistent with existing provisions in public utility USECPs.<sup>44</sup> The designation of a household with a young child as “special needs” is consistent with the definition of a “vulnerable household” in Pennsylvania’s 2023 LIHEAP State Plan at § 601.3 (relating to definitions).<sup>45</sup> The proposed amended definition also reflects that a customer does not need to have an arrearage to be considered special needs.

Finally, this fifth group proposes new definitions that would replace existing Chapter 58 terms to clarify program services offered or bring definitions into alignment with the universal service regulations. The following proposed definitions replace existing Chapter 58 definitions:

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<sup>44</sup> See, e.g., FirstEnergy 2019-2021 USECP, Docket Nos. M-2017-2636969, M-2017-2636973, M-2017-2636976, and M-2017-2636978 (filed on June 24, 2019), at 19. See also, NFG 2022-2026 USECP, Docket No. M-2021-3024935 (filed on June 14, 2022), at 33.

<sup>45</sup> <https://www.dhs.pa.gov/Services/Assistance/Pages/LIHEAP.aspx> (assessed on March 23, 2023).

- *Energy audit*

This proposed term replaces and expands on the term “energy survey,” reflecting that the initial energy audit is used to determine the energy usage of the dwelling as well as to identify any appropriate program measures needed to reduce energy use or health and safety issues.

- *Energy conservation education*

This proposed term replaces and expands on the term “usage reduction education” as used within the regulation, reflecting that energy conservation education includes training, instruction, presentations and workshops to explain energy conservation objectives and techniques.

- *Public utility*

This proposed term replaces the term “covered utility,” that identifies utilities subject to the existing regulations based on specific annual sales thresholds (i.e., 750 million kilowatt-hours for EDCs and 10 billion cubic feet of natural gas for NGDCs). The proposed definition is consistent with 52 Pa. Code §§ 54.77 and 62.7, which specify that only EDCs serving at least 60,000 residential customers and NGDCs serving at least 100,000 residential customers are subject to universal service program and reporting requirements.

### **Section 58.3. Establishment of residential low income usage reduction program.**

This section of the existing regulations<sup>46</sup> sets forth the requirement that a public utility establish a LIURP for its low-income customers. Stakeholder comments to Question No. 8 in the 2016 Secretarial Letter relate to this section.

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<sup>46</sup> The provisions of § 58.3 were amended January 2, 1998, effective January 3, 1998. See 28 Pa.B. 25.

Question 8: What is the appropriate percentage of federal poverty income guideline level (FPIG) to determine eligibility for LIURP?

***Stakeholder Comments***

OCA recommended that the bulk of LIURP funds should be set aside for those customers who are income-eligible for CAP. OCA also recommended that the regulations allow a public utility to earmark a certain level of funding, perhaps 20%-25%, for households with income between 150% and 200% of the FPIG. OCA Comments at 30.

PGW asserted that public utilities should have the flexibility to propose appropriate levels beyond the current definition in § 58.2. As PGW has a large population below 150% of the FPIG, it asserted that it would be inappropriate to treat customers above that level. PGW Comments at 9.

EAP suggested that public utilities should be granted leeway to offer measures to customers whose incomes are at or below 200% of the FPIG when deemed appropriate by the public utility due to the under participation or ineligibility of customers at 150% of the FPIG or below. Moreover, EAP recommended removing any limitation on spending up to 200% and allowing public utilities to better address their specific service territory needs. EAP Comments at 13.

PECO recommended allowing greater autonomy in spending LIURP funds on customers with incomes between 151%-200% of the FPIG. It had no specific proposal but cited the 20% limitation as prohibiting reduction opportunities. PECO Comments at 14.

PA-EEFA suggested that the PUC maintain the existing regulations to target individuals who are at or below 150% of the FPIG. PA-EEFA also suggested that LIURP

eligibility levels be kept in conjunction with CAP eligibility levels to reduce the level of non-CAP ratepayer subsidies. PA-EEFA Comments at 20-21. PA-EEFA stated that increasing the threshold to 200% of the FPIG, without an increase in available funding, could result in reduced services to customers who face the greatest financial obstacles to maintaining utility services. PA-EEFA recommended that the PUC perform needs assessments at both 150% and 200% and authorize adequate funding if the pool of eligible ratepayers is increased to 200% of the FPIG. PA-EEFA RC at 4-5.

PPL recommended increasing the income level from 150% of the FPIG to 200% of the FPIG. Alternatively, PPL suggested that the PUC eliminate the “20 percent rule” in § 58.10(c) which would provide public utilities greater flexibility to serve customers whose income ranges from 151% to 200% of the FPIG. PPL Comments at 7. PPL recommended serving customers up to 200% of the FPIG, as it enables EDCs to serve a segment of customers not addressed through Act 129, and to provide more opportunities for coordination with other weatherization programs. PPL RC at 6.

Duquesne agreed that LIURP eligibility should be based on FPIG levels but believed that each public utility should work with BCS to determine the best criteria to meet needs. Duquesne RC at 7. While public utilities should be given discretion to target homes at 150% of the FPIG, Duquesne asserted that the strict 20% budget limitation to address homes with incomes between 150% and 200% of the FPIG should be eliminated. Duquesne Comments at 8.

### **Proposed Revisions to Section 58.3.**

We propose to retitle this section as “Establishment and maintenance of a residential LIURP” (currently “Establishment of a residential low income usage reduction program”). The proposed amendments in this section clarify the responsibility of a public utility to establish and maintain a LIURP for its low-income and special needs



customers. The terms used in the proposed amendments are updated consistent with the proposed definitions in § 58.2.

#### **Section 58.4. Program funding.**

This section of the existing regulations sets forth the methodology of program funding for a LIURP and states that LIURP budgets can only be revised through a public utility petition or USECP proceeding. The existing section sets forth the method by which a LIURP budget is established or changed, the factors to be considered when making revisions to the LIURP budget, and the recovery of LIURP costs. Furthermore, this section permits public utilities to propose pilot programs for the development and evaluation of conservation education and other innovative technologies. Stakeholder comments to Question No. 11 in the 2016 Secretarial Letter relate to this section.

Question 11: Should the requirements regarding a needs assessment in developing LIURP budgets, as outlined at 52 Pa. Code § 58.4(c), be updated to provide a calculation methodology uniform across all utilities? If so, provide possible methodologies.

#### ***Stakeholder Comments***

OCA asserted that the LIURP regulations should include a uniform methodology for calculating the required “needs assessment.” In addition to the factors already contemplated in the existing LIURP regulations, OCA identified several other factors to be added to the needs assessment:

- (1) Type of housing.
- (2) Average age of the housing stock.
- (3) Number of customers who directly pay their utility bills (to distinguish master-metered versus individually metered customers).
- (4) Type of heating fuel used by the customer.
- (5) Housing units occupied by low-income households.

- (6) Housing units that have not been previously treated with LIURP (or other usage reduction program) services in a period longer than that which would not preclude re-treatment.
- (7) Timeline for completion.

OCA Comments at 32-33. OCA further asserted that PUC regulations are silent regarding how unspent LIURP funds are treated at the end of the program year and that unspent funds should be treated in a consistent manner across all public utilities. OCA stated that if a public utility underspends its annual LIURP budget, the amount of the underspending should be rolled over into the next program year's budget. OCA comments at 7-8. OCA agreed with most stakeholders that a standardized, uniform methodology should be explored for calculating the LIURP needs assessment. OCA believed that the needs assessment should be flexible, should set a budget level specific to the utility's needs within the service territory, and that the analysis should account for the impact on non-participating customers who pay the program costs. OCA RC at 15-16.

According to PGW, the variables used in the LIURP needs assessment should be customized to the individual service territories. PGW asserted that the needs assessment must be careful to ensure that non-participating customers are not overburdened by high program costs. The purpose of a needs assessment should be explained, and service territory needs alone should not mandate a specific annual spend amount. PGW Comments at 11-12.

FirstEnergy was interested in exploring improvements to their calculation methodology only if they are developed in recognition of the different conditions among public utilities' service territories. FirstEnergy Comments at 10.

PECO noted its support for developing a standard needs assessment test or tool that would permit the flexibility to illustrate the differences among service territories, income levels, housing stock, number and percentage of eligible customers, number of high-usage CAP customers who have not received LIURP treatment in recent years. PECO Comments at 17.

PA-EEFA suggested that subsections (1) through (4) of § 58.4(c) require more specificity. PA-EEFA believed that a new structure is needed to determine initial funding levels. PA-EEFA suggested using the funding levels in effect at the time the revised regulations are adopted as a minimum floor. Further, PA-EEFA suggested that LIURP funding for natural gas and electric public utilities should be determined based on a PUC-established timeline for providing comprehensive, fuel-neutral services to all income eligible customers. PA-EEFA also submitted that historical participation rates and average costs should not be the sole basis to set expected participation and budgets. PA-EEFA recommended that the PUC:

- Determine the number of income-eligible low-income households within each service territory using current census data.
- Determine expected costs per customer needed to provide comprehensive fuel-neutral efficiency services based on standards to be developed by the PUC that achieve acceptable energy savings.
- Establish a policy for the length of time over which it would be reasonable and appropriate to provide services to all eligible customers.
- Adjust each public utility's budget allocation based on the unique factors of each service territory.

PA-EEFA Comments at 26, 27.

Duquesne recommended that a needs assessment allow for flexibility to account for service territory differences (i.e., a lack of all-electric homes) and income levels. Duquesne Comments at 9.

PPL supported working with the PUC and other stakeholders to work towards a standard and an improved methodology. PPL Comments at 9. However, PPL generally disagreed with OCA's recommendation of a multi-family housing needs assessment as it could impact a public utility's need to serve single-family customers who may have a greater need for the program services. PPL RC at 8.

CEO supported OCA's recommendation that minimum funding levels for NGDCs in Section 58.4(a) should be eliminated and that the budget should be determined by the needs of the customers in a NGDC's service territory. CEO also supported OCA's recommendation that any unspent funds be carried over into the next program year. CEO RC at 1-2.

FirstEnergy was concerned regarding OCA's and PA-EEFA's suggestion that the needs assessment methodology be modified to include a projected timeline identifying when all LIURP-eligible customers would receive services. FirstEnergy stated that the LIURP budget should not be designed to assume installation of weatherization services for all income-eligible customers. FirstEnergy noted that the public utilities have no reasonable basis for projecting the timeline for a single job, let alone for all feasible LIURP jobs, as the timeline of a LIURP job is determined after visiting each residence and evaluating the cost-effective measures available to the customer. FirstEnergy remained interested in joining a working group to discuss the needs assessment and suggested that any changes be personalized to show the public utilities-specific differences throughout the Commonwealth. FirstEnergy RC at 4-5.

EAP noted its support for a standardized and clear needs assessment methodology with measurable criteria that provides sufficient flexibility to account for differences in public utility service territories. EAP suggested that any resulting regulations should clarify the purpose of the needs assessment. EAP Comments at 14-15. EAP agreed with OCA and PA-EEFA that LIURP needs assessments could benefit from additional clarity and standardization, and that this could be achieved through stakeholder collaboration. EAP did not agree with recommendations to incorporate a timeframe to address all potentially eligible households into the LIURP regulations due to the various weatherization programs offered across the state. EAP stated that the additional variables that OCA asked to be considered in a needs assessment (i.e., type of house, age, heating fuel) are not readily available to public utilities and would be costly to collect, along with having to consider privacy concerns. EAP RC at 4-5.

EAP did not support OCA's recommendation to establish LIURP budgets based on the need in the service territory, as it would "create too much ambiguity." EAP asserted that the existing guideline of at least 0.2% of jurisdictional revenues in § 58.4(a) establishes a useful benchmark. EAP stated that the LIURP budgets should not just consider the needs assessment but should also consider the overall cost burden on the service territory ratepayers. EAP asserted that the LIURP budgets should be determined either through a USECP proceeding or be based on the same fixed percentage of jurisdictional revenues for all public utilities. EAP RC at 5.

PA-EEFA asserted that a needs assessment is intended to determine the extent to which need for LIURP exists, and that conflating a determination of need with a determination of cost impact could disguise an accurate understanding of need. PA-EEFA agreed with OCA's recommendation that unspent LIURP funds should be carried over to the next program year, but with the caveat that the unspent funds would be in addition to the budget and that the PUC should be explicit in its expectations that

public utilities try to spend the full budget amount each year, rather than underinvest. PA-EEFA RC at 4, 6.

#### **Proposed Revisions to Section 58.4.**

We propose to retitle this section as “LIURP budgets” (currently “Program funding”) consistent with the proposed definitions in § 58.2, regarding replacing “program” with “LIURP” and to reflect the difference between LIURP budgets and the LIURP funding mechanism. LIURP budgets are approved in a USECP proceeding that includes a comment period. This proposed amendment clarifies that a LIURP budget can only be revised through a USECP proceeding initiated pursuant to the periodic USECP review process or in response to a petition to amend a USECP earlier than the periodic USECP review process. This section sets a maximum annual LIURP budget allowance for special needs customers as well as the factors and expenses that must first be considered to revise a LIURP budget. Furthermore, this section establishes provisions for unspent LIURP funds at the end of a program year and the mechanism for recovering LIURP costs. Other terms in this proposed amendment are updated consistent with the proposed definitions in § 58.2.

Amendments to this section remove § 58.4(a), which addresses NGDCs, and § 58.4(b), which addresses EDCs, to consolidate general LIURP budget provisions for NGDCs and EDCs in a new § 58.4(a.1). Subsection 58.4(a.1) incorporates provisions requiring a public utility to propose annual LIURP budgets for the term of its USECP. Changes to approved LIURP budgets would require a public utility to propose the change in a petition. This proposal is intended to standardize the methodology for determining LIURP budgets to ensure that modifications conform to regulatory or policy-level considerations.

LIURP costs are universal service costs. The requirements of 66 Pa. C.S. §§ 2804(9) and 2203(8) mandate that the PUC ensure universal service and energy

conservation policies, activities and services for residential electric and natural gas customers are appropriately funded,<sup>47</sup> available in each EDC and NGDC territory, and operated cost-effectively. The appropriateness, effectiveness, and prudence of the cost of universal service is determined in a USECP proceeding. How those universal service costs are recovered is addressed in a rate case.

LIURP budgets have sometimes been modified through black box settlements among parties in in rate cases.<sup>48</sup> When a LIURP budget is modified outside a USECP proceeding through a settlement, the settlement agreement often does not explain how the LIURP budget was determined or how this change addresses an unmet need in the public utility's service territory. As LIURP is a ratepayer-funded program, considerations impacting its budget determination should be open to scrutiny and comment. USECP proceedings allow all interested parties to provide comments, raise questions, and review information justifying the proposed change to the LIURP budget in an on-the-record proceeding. Information and data provided by the public utility and stakeholder input allow the PUC to determine whether the proposed LIURP budget appears cost-effective. This change is consistent with EAP's recommendation. EAP RC at 5. Adjusting the LIURP budget based on the needs of the service territory is also consistent with OCA's recommendation. OCA Comments at 7.

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<sup>47</sup> Section 58.4(a) sets annual LIURP funding for a natural gas public utility at a minimum of 0.2% of the public utility's jurisdictional revenues. Section 58.4(b) specifies that a target funding level for an electric public utility is to be computed at the time of the Commission's initial approval of the public utility's LIURP. Both sections provide that the funding continues at the level set "until the [PUC] acts upon a petition from the utility to change the funding level, or until the [PUC] reviews the need for program services and revises the funding level through a [PUC] order that addresses the recovery of program costs in utility rates. Proposed funding revisions that would involve a reduction in program funding shall include public notice found acceptable by [BCS], and the opportunity for public input from affected persons or entities."

<sup>48</sup> See, e.g., *Pa PUC, et al. v. Columbia Gas of Pennsylvania*, Docket No. R-2018-2647577 (order entered December 6, 2018); *Pa PUC, et al. v. Duquesne Light Company*, Docket Nos. R-2018-3000124, R-2018-3000829 (order entered December 20, 2018); and *Pa PUC, et al. v. PPL Electric Utilities*, Docket No. R-2015-2469275 (order entered November 19, 2015).

The proposed § 58.4(a.2) also incorporates the provision removed from § 58.10(c) that allows a public utility to spend a percentage of its LIURP budget on special needs customers. We propose to increase this spending limit from 20% to 25% of the LIURP budget. This increase provides public utilities greater flexibility to serve more special needs customers who are ineligible for CAP but still need help with their utility bills. Since WAP income limits are set at 200% of the FPIG, this proposal increases the pool of potential LIURP referrals and provides more opportunities for coordination with WAP and other weatherization programs. OCA supported increasing the level of spending for special needs customers to 25%. OCA comments at 30. EAP, PECO, Duquesne, PPL, FirstEnergy, NFG, CEO, and the PA Weatherization Taskforce recommended increasing the LIURP income limit to 200% of the FPIG for all customers or eliminating the 20% spending limit for special needs customers. EAP comments at 13, PECO comments at 14, Duquesne comments at 8, PPL comments at 7, FirstEnergy comments at 5-6, NFG comments at 5, CEO comments at 4, PA Weatherization Taskforce comments at 3. This change would not restrict a public utility's ability to seek a waiver of the spending limit if it is having trouble spending its total annual LIURP budget and if it is able to assist more special needs customers within its service territory.

We propose to revise § 58.4(c) titled to “*Revisions to a LIURP budget*” (currently “guidelines for revising program funding”). Amendments to § 58.4(c) further clarify that revisions to a LIURP budget are accomplished through a USECP proceeding and incorporate additional factors for a public utility to consider when proposing revisions to its LIURP budget. Existing § 58.4(c)(1)—(4) are amended as follows:

- § 58.4 (c)(1)-(2) require a public utility to identify the number of estimated low-income customers and confirmed low-income customers by FPIG levels 0% through 50%, 51% through 100%, 101% through 150%, and 151% through 200%.
- § 58.4(c)(3) requires a public utility to identify the number of special needs customers within its service territory.



- § 58.4(c)(4)-(5) requires a public utility to account for the number of eligible confirmed low-income customers and special needs customers that could be provided program services.
- § 58.4(c)(6) requires that a public utility base its expected LIURP participation rates on the number of eligible confirmed low-income customers and historical participation rates.
- § 58.4(c)(7) includes expenses related to training in the total expense of providing program services.
- § 58.4(c)(8) clarifies that a public utility shall also include a plan, within a proposed timeline, to provide program services to eligible customers.

Subsection 58.4(d) is proposed to be removed and reserved, and the requirements regarding pilot programs is moved to § 58.13a(a) (relating to LIURP pilot programs).

We propose to add § 58.4(d.1) that requires a public utility to re-allocate (i.e., carryover) unspent LIURP funds to the LIURP budget for the following program year, unless an alternate use of these funds is approved through a USECP proceeding. We are proposing this provision to incentivize public utilities to use all available LIURP funds each year or seek out more eligible LIURP participants for the following year. While the existing regulations in Chapter 58 do not expressly require a public utility to carryover unspent LIURP funds from one program year to the next, we have approved carryover of unspent LIURP funds into the next program year in rate case settlements.<sup>49</sup> Section 58.15(c)(6) would require a public utility to report annually if more than 10% of the annual LIURP budget remains unspent.

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<sup>49</sup> See *Pa PUC, et al. v. UGI Utilities, Inc. Gas Division*, Docket No. R-2018-3006814 (order entered October 4, 2019); see also *Pa PUC, et al. v. FirstEnergy Companies*, Docket No. R-2016-2537349 (order entered January 19, 2017).

This change is consistent with the recommendations of OCA, CEO, and PA-EEFA, expressing support for carrying over unspent LIURP funds into the next year's program budget. OCA Comments at 7-8, CEO RC at 2, PA-EEFA RC at 6.

We propose to retitle the existing §58.4(e)(1) as “*Recovery of LIURP costs*” (currently “recovery of costs”). The proposed § 58.4(e)(1) specifies that LIURP costs are allotted among ratepayers. As a universal service cost, LIURP costs are recoverable.<sup>50</sup> The proposed amended § 58.4(e)(2) reflects updated definitions. We propose to add § 58.4(e)(3) to clarify that the LIURP funding mechanism for recovery of LIURP costs must be determined in a public utility's rate proceeding.

#### **Section 58.5. Administrative costs.**

This section of the existing regulations sets the parameters of LIURP administrative costs for program funding and its associated cap, as well as LIURP pilot program administrative cost exemptions. There were no Questions in the 2016 Secretarial Letter relative to Section 58.5.

#### ***Stakeholder Comments***

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<sup>50</sup> See 66 Pa.C.S. §§ 2804(8) and 2203(6). See also *Re Guidelines For Universal Service and Energy Programs*, Docket No. M-00960890 F0010 (order entered 7/11/1997), 87 Pa. P.U.C. 428 (1997), 178 P.U.R.4th 508, in which we said that in 66 Pa.C.S. § 2802(17) (relating to declaration of policy):

[R]requires that the public purpose is to be promoted by continuing universal service and energy conservation policies, protections and services; and full recovery of such costs is to be permitted through a non-bypassable rate mechanism. Section 2804(8) requires that the Commission establish for each [EDC] an appropriate cost recovery mechanism which is designed to fully recover the [EDC's] universal service and energy conservation costs over the life of these programs. Section 2804(9) requires the [PUC] to ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each [EDC] territory. These policies, activities and services shall be funded in each [EDC] territory by non-bypassable competitively neutral cost recovery mechanisms that fully recover the costs of universal service and energy conservation services.

PGW recommended modifying the current 15% cap set forth in § 58.5 by allowing an increase in administrative spending to encourage program coordination but only when and if cost-effective. PGW Comments at 3.

CEO supported keeping the 15% administrative cap for LIURP. CEO pointed out that since 1993, it was believed that LIURP would become more efficient and engage in greater coordination with other programs and, over time, produce lower administrative costs. CEO RC at 1.

### **Proposed Revisions to Section 58.5.**

We propose to divide this section into § 58.5(a) and § 58.5(b) to clarify the different limits associated with LIURP administrative costs and pilot program administrative costs. The terms in this proposed section would also be updated consistent with the proposed definitions in § 58.2.

The proposed § 58.5(a) addresses the provisions in the first sentence in the existing § 58.5 and is titled “*LIURP administrative costs*” to reflect the content.

The proposed § 58.5(b) is titled “*LIURP pilot program administrative costs*” and incorporates existing language from § 58.5 that waives limits on LIURP administrative costs for approved pilot programs. As described in § 58.13a(c), prior to implementation, a pilot program must be reviewed and approved in a USECP proceeding, including establishing its proposed LIURP budgets and permissible administrative costs.

### **Section 58.6. Consultation.**

This section of the existing regulations requires a public utility to consult with certain stakeholders regarding proposed modifications to its LIURP design, including proposing a pilot program. There were no Questions in the 2016 Secretarial Letter or stakeholder comments received relative to § 58.6.

### **Proposed Revisions to Section 58.6.**

The terms in this section are updated consistent with the proposed definitions in § 58.2, including replacing “program” with “LIURP” when appropriate. This section is amended to include persons or entities with experience in the design or administration of energy efficiency and weatherization programs to the list of entities that a public utility may consult with when making proposed modifications to its LIURP or developing a pilot program. Entities that a public utility may consult with include its USAC, its LIURP Advisory Committee, or both.

### **Section 58.7. Integration.**

This section of the existing regulations sets forth the requirement that a public utility coordinate its LIURP with other programs to provide LIURP participants with direct assistance applying for LIHEAP and other relevant low-income assistance programs. It further requires a public utility to provide program services, when possible, through independent agencies with experience and effectiveness in the administration and provision of program services or through a competitive bid process. Stakeholder comments to Question No. 2 in the 2016 Secretarial Letter relate to this section.

Question 2: How should LIURPs be structured to maximize coordination with other weatherization programs such as DCED’s WAP and Act 129 programs?

#### ***Stakeholder Comments***

OCA recommended directing improved coordination efforts toward a “whole-house” approach so that LIURP service providers can meet the home’s needs in a single visit. Further, OCA submitted that the need for separate customer applications and program eligibility determinations would also be avoided under this approach. OCA strongly supported strengthening coordination to maximize the cost-effectiveness of LIURPs. OCA Comments at 23-24. OCA also supported PA-EEFA’s recommendation

that the programs be delivered as “integrated programs.” OCA favored treating the whole house in a single visit and coordinating LIURP resources with WAP regardless of the type of public utility providing the service. OCA stated that this approach would eliminate distinctions between electric or natural gas jobs (i.e., baseload, water heating, heating) and allocated costs could be rectified by the accounting process. OCA agreed with PECO’s assertion that eligibility requirements should be reduced or eliminated to encourage increased program coordination. Increased coordination would ease burdens and minimize inconvenience for the low-income customer which might increase participation. OCA RC at 4-6.

According to PA-EEFA, inter-utility coordination is impeded by several factors. These included: lower LIURP budgets for NGDCs when compared to EDCs’ budgets, the requirement that natural gas customers be residential heating customers, the prohibition on fuel switching, and the insistence on fuel-specific quantification of savings. PA-EEFA recommended that the PUC consider remedies to each of these barriers. PA-EEFA stated that the PUC should consider requiring public utilities to prioritize WAP providers as LIURP and Act 129 providers to better ensure inter-program coordination. PA-EEFA asserted that if a customer qualifies for LIURP based on electric usage, but also has natural gas service, LIURP should address all cost-effective efficiency opportunities in one transaction. PA-EEFA Comments at 9-10.

PGW submitted that coordination between LIURP and other weatherization or home repair programs should be assessed on an individual public utility basis and remain faithful to the purpose in § 58.1. PGW asserted that baseline customer eligibility must be consistent for coordination efforts to be successful. Further, PGW contended that coordination activities could require conservation service providers (CSPs) to perform income verification.<sup>51</sup> PGW stated that this process could involve sharing sensitive

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<sup>51</sup> PGW uses a CSP to provide LIURP services.

customer financial information, which some weatherization contractors may not be equipped to handle, and customers may be unwilling to provide to a CSP. PGW submitted that the area with the greatest potential for coordination opportunities lies in addressing the health and safety issues that prevent comprehensive weatherization measures. PGW Comments at 3.

PGW suggested that the following approaches could be used to help meet program coordination goals: 1) if a CSP is performing work for two utility programs in an overlapping jurisdiction, that CSP could develop agreements with both public utilities for how to perform work and expense it under Utility B's program when in the home for a Utility A customer; 2) if programs that provide services that are the same or similar to PGW's collect PGW account numbers and customer authorization waivers as part of their intake process and provide PGW with a list of those PGW account numbers, PGW would screen its customer list to flag any accounts that are also assigned to its LIURP, so that they are not contacted and treated by two programs; or 3) where possible, programs could develop "prescriptive" approaches toward referrals and coordination. PGW Comments at 4.

According to EAP, one way to better coordinate LIURP and WAP lies in eliminating the 20% maximum public utilities may spend on customers who fall between 150% and 200% of the FPIG when deemed appropriate by the public utility due to under participation or ineligibility of customers at 150% or below. EAP Comments at 8. EAP was concerned that any integrated service delivery also complicates the prioritization of LIURP customers under § 58.10 and may not ensure that the highest users are treated first. EAP stated that the selection criteria of agencies that perform LIURP work should be left to the public utilities to determine and should be based on the public utilities' service territory and procurement requirements, not determined by regulation. EAP cautioned the PUC against inserting itself into the marketplace by mandating the use of certain non-profits or businesses. EAP RC at 8-9.

To improve coordination between WAP and LIURP, FirstEnergy recommended increasing the eligibility level for LIURP to 200% of the FPIG for all low-income customers, thereby eliminating the current inconsistent eligibility levels of the two programs. Due to the EDCs being in the best position to evaluate their internal procedures and determine the best methods for coordinating between their Energy Efficiency and Conservation (EE&C)<sup>52</sup> and LIURP programs, FirstEnergy opined that it is unnecessary for the LIURP regulations to advise uniform coordination procedures. FirstEnergy Comments at 5-6. FirstEnergy stated that it voluntarily coordinates with WAP but noted that, in some cases, coordination did not result in efficient LIURP implementation. FirstEnergy suggested that coordination procedures should be evaluated in USECP proceedings rather than formally adopted within regulations. FirstEnergy RC at 3.

PECO suggested targeting four areas to improve coordination: eligibility and targeting, energy survey requirements, administrative costs, and measure installations. Because varying eligibility standards and targeting requirements often serve as a barrier to coordination, such requirements should be reduced or eliminated where possible to increase coordination. PECO suggested the development of a joint audit data collection system for LIURP and WAP to increase cost savings. While increased coordination may include administrative cost increases, PECO suggested that they should be allowed as a coordination expense. PECO Comments at 6-7.

Duquesne supported open discussion about coordination and suggested that a stakeholder meeting could facilitate the flexibility and forward thinking for such coordination. Duquesne RC at 4. Duquesne claimed that it facilitates such coordination by inviting representatives from overlapping NGDCs and the Commonwealth's WAP to

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<sup>52</sup> Act 129 requires each EDC with at least 100,000 customers to adopt EE&C plans to reduce energy demand and consumption within its service territory. 66 Pa. C.S. § 2806.1.

its Act 129 Stakeholder meetings. Additionally, Duquesne noted that, when possible, an integrated electric and natural gas energy audit is conducted by a common contractor with the costs shared between the public utilities. Further, Duquesne stated that during energy audits for homes eligible for its LIURP,<sup>53</sup> the energy auditor will ask customers if they would like a referral to the NGDC for gas-heating measures. Duquesne Comments at 4-5.

PPL submitted that smaller weatherization programs should identify non-emergency jobs and reach out to larger weatherization providers to streamline coordination efforts. Public utilities should be allowed to share customer application and usage data provided that all providers agree to keep customer information confidential. PPL recommended that the PUC create a working group to update coordination procedures, to provide guidelines for de facto heat customers, and to develop a process for addressing “high energy” customers who use multiple heating sources. PPL suggested that the PUC add language to boost joint training, quality assurance, and training initiatives for weatherization providers when cost effective and reasonable. Additionally, PPL suggested removing the word “direct” from “the covered utility shall provide direct assistance to low income usage reduction program recipients in making application to secure available energy assistance funds” found in § 58.13(a). PPL Comments at 3-4,12.

PPL did not believe the regulations should necessitate the select use of CBOs or WAP agencies as the public utilities are accountable for their program results. PPL noted that it uses a combination of CBOs and private contractors to successfully manage and maximize timely LIURP services. PPL supported coordination between EDCs and NGDCs but believed it should not be a mandate as coordination is not always practical.

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<sup>53</sup> Duquesne’s LIURP is called “Smart Comfort.”



PPL stated that it needs more details on how water company coordination would work before supporting its inclusion in any LIURP regulations. PPL RC at 2-3.

PA-EEFA believed that if smaller public utilities take over a greater share of coordination management, then their administrative costs will be disproportionately large and would create the appearance that their LIURPs are not as efficient as larger public utilities. PA-EEFA asserted that all programs have an obligation to share and coordinate with each other. PA-EEFA stated that coordination can and should reduce administrative costs by eliminating redundant activities such as customer eligibility, audit, and project management services. PA-EEFA added that there will also be increased benefits for low-income ratepayers and the total cost per unit of savings should be less than it would be if multiple programs pursued a similar level of savings. PA-EEFA acknowledged the comments of DEP & DCED that LIURPs should share in the WAP National Work Standards and recognized the technical value of that suggestion but recommended further study and discussion. PA-EEFA RC at 9-10, citing DEP & DCED Comments at 3.

#### **Proposed Revisions to Section 58.7.**

The terms in this amended section are updated consistent with the proposed definitions in §58.2.

We propose to remove and reserve § 58.7(a). Provisions in § 58.7(a) concerning the coordination of program services with existing resources are addressed in §§ 58.7(b) and 58.14c. Subsection 58.7(b) is revised to clarify that LIURPs must work in conjunction with other universal service and public/private programs that provide energy assistance or similar assistance to the community. The revised § 58.7(b) also clarifies that a public utility, directly or through assigned third-party agency, shall assist LIURP participants in applying for energy assistance programs, such as LIHEAP, for which they may be eligible.

We propose to remove and reserve § 58.7(c). The provisions in § 58.7(c) concerning the selection of qualified independent agencies is moved to the proposed § 58.14b (relating to use of an ESP for program services).

The proposed amendments to § 58.7 are consistent with the comments of OCA and PA-EEFA that supported a delivered approach to “integrating programs.” OCA RC at 4-5; PA-EEFA Comments at 7. OCA also supported strengthening coordination to maximize the cost-effectiveness of LIURPs. OCA Comments at 23.

### **Section 58.8. Tenant eligibility.**

This section of the existing regulations<sup>54</sup> explains how tenant households can receive program services and what eligibility criteria must be met. It further directs how voluntary landlord contributions toward a tenant household’s program services are to be applied. Finally, this section mandates that a public utility require landlords to agree to time-limited restrictions on rent increases and evictions before installing program measures. Stakeholder comments to Question No. 10 in the 2016 Secretarial Letter relate to this section.

Question 10: What are options to better serve renters, encourage landlord participation, and reach residents of multifamily housing?

#### ***Stakeholder Comments***

OCA stated that multi-family housing efforts are best undertaken through the EDCs’ Act 129 programs and through voluntary natural gas programs. OCA claimed that LIURP funds should not be used to provide services when the tenant is not the public utility’s direct customer. Instead, OCA submitted that such multi-family units should be treated as commercial property with appropriate cost recovery via the Act 129 program or a voluntary natural gas program. LIURP funding should not be used to treat a housing

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<sup>54</sup> The provisions of § 58.8 were amended January 2, 1998, effective January 3, 1998. See 28 Pa.B. 25.

unit unless a minimum proportion of the housing units in the multi-family building are determined low-income, as defined by the LIURP regulations. Specifically, OCA recommended that the multi-family properties have substantially more than 50% occupancy of low-income tenants to be eligible for LIURP services. OCA Comments at 30-31.

To reach landlords, OCA recommended using partnerships with other agencies as well as with local professionals such as architects and commercial construction managers who are likely to be aware of renovations and repairs in rental properties with which energy usage reduction measures might be piggybacked. OCA also recommended that public utilities partner with local property inspectors to identify rental units that will be undertaking renovations that could provide an opportunity for weatherization services to be performed simultaneously. As obtaining local building (such as for electrical work) permits can be burdensome, OCA suggested having LIURPs seek an expedited permit process for usage reduction projects to make the weatherization process more attractive to building owners or managers. OCA Comments at 31-32.

PGW claimed the requirement in § 58.8 that landlords not evict a renter or raise rent for 12 months post-weatherization may not achieve its purpose. PGW stated that the value added to the property from weatherization measures far outlasts this limited requirement since weatherization measures may last up to 40 years. PGW was concerned that the weatherization improvements may result in landlords increasing rent and marketing the residence to non-low-income customers after the initial 12-month period expires. PGW Comments at 10.

According to PGW, multi-family properties may be master-metered or tenant-metered and that LIURPs must be designed carefully to avoid subsidizing non-low-income customers and the sharing of sensitive customer information and eligibility validation. PGW also suggested that comprehensive weatherization through

LIURP may not be an appropriate method to address multi-family properties. PGW Comments at 11.

EAP asserted that subsidizing weatherization at commercial properties with LIURP funds would be inappropriate because usage reduction programs target residential ratepayers, not building owners. EAP Comments at 14.

While the landlord-tenant dynamic of multi-family housing presents additional installation challenges, FirstEnergy asserted that its efforts to increase landlord participation have been successful. According to FirstEnergy, landlords are also permitted to assist in choosing the measures at the building, e.g., baseload or full weatherization measures, and may be present for LIURP audits. Additionally, FirstEnergy suggested that its use of a “one form” policy whereby landlords can sign one form to approve LIURP installation throughout an entire building has encouraged multi-family property participation. FirstEnergy Comments at 10. FirstEnergy stated that multi-family housing should be encouraged as a best practice but that regulations should not be modified as it will create competition with Act 129 programs, which better address multi-family housing. FirstEnergy RC at 5-6.

PECO contended that landlord refusals should be combatted by education, information, and outreach to landlords. PGW stated that it could be helpful for the PUC to clarify that LIURP funds can be used to support landlord outreach efforts and encourage public utilities to make such efforts. PECO Comments at 16.

PA-EEFA suggested that the PUC revise the LIURP regulations to create targets for multi-family participation that reflect the fraction of the eligible population that lives in multi-family units. PA-EEFA urged the PUC to allow for LIURP services to low-income multi-family tenants who reside in buildings that are heated with natural gas

when the account is master-metered in the landlord's name. PA-EEFA Comments at 24-25.

Duquesne submitted that it focuses on low-income, multi-family premises without master-meters and strives to meet the needs of all low-income customers at those premises. However, it supported further discussion on this topic. Duquesne Comments at 9.

PPL contended that responding to landlord questions in a timely manner and helping tenants with applications and enrollment encourages landlords to participate in LIURP. When it does not receive landlord permission, PPL provides energy education, baseload items, and energy conservation kits to the customer. PPL suggested that the PUC revise § 58.8(a) to eliminate the following required provision from landlord consent letters as it causes confusion or concern for landlords and disincentives them to consent to LIURP services:

[T]he landlord agrees, in writing, that rents will not be raised unless the increase is related to matters other than the installation of the usage reduction measures, and the tenant not evicted for a stated period of time at least 12 months after the installation of the program measures, if the tenant complies with ongoing obligations and responsibilities owed the landlord.

PPL Comments at 8.

OCA recommended that the PUC define multi-family housing to distinguish between master-metered and individually metered properties and to address the way they are treated, including the proper cost recovery for each. OCA stated that LIURP funds should only be used when the tenant is the direct customer of the public utility and that the regulations should be modified to include a separate needs assessment to identify individually metered multi-family housing within each service territory. OCA RC at 12.

OCA did not agree with PA-EEFA that LIURP funds should be used to provide services to gas-heated master-metered buildings because the landlord is the account holder and is served under a commercial tariff. OCA recommended that LIURP create separate multi-family needs assessments for tenant-paid situations that includes a target for participation. OCA supported PA-EEFA's recommendation to consider revising LIURP regulations to look at high usage on a square foot basis, rather than on a strict usage threshold and agrees that multi-family residences are often less efficient on a square-foot basis than single family homes. OCA asked for proper consideration of the inefficiency. OCA stated that, to the extent multi-family housing is addressed with LIURP funding, then the regulations should address 1) cost recovery for both individually metered and master-metered properties, 2) treatment of common areas and types of costs for individually metered buildings, and 3) what percentage of multi-family units should be low-income within a multi-family building. OCA recommended a minimum of 75% of tenants should be low-income to qualify. OCA RC at 13-15, *citing* PA-EEFA Comments at 24.

PPL opposed using any ratepayer funds to incentivize landlord participation in LIURP and does not support creating any participation targets for multi-family housing. PPL stated that it allowed LIURP weatherization of multi-family buildings if 50% of occupants are low-income and thought OCA's recommendation of a 75% threshold would be a barrier for landlords. PPL RC at 7.

PA-EEFA disagreed with some of CEO's and PPL's suggestions. It did not agree with CEO's recommendation to serve a multi-family building if only 50% of units are eligible low-income because that would result in fewer services being provided for those most in need. PA-EEFA supported requiring two-thirds of units to be income-eligible for a multi-family building to receive weatherization and pointed out that a consistent threshold across public utility LIURPs could streamline program communication and

verification. PA-EEFA cautioned that PPL's suggestion of easing landlord requirements could result in reduced benefits to LIURP-qualified tenants who might then be forced to move from their rental homes. PA-EEFA stated that if landlords raise rents or evict tenants, as is currently prohibited with a LIURP consent form, then any benefits in reduced arrears would be rendered null. PA-EEFA RC at 5, *citing* CEO Comments at 4.

PA-EEFA acknowledged the issues and regulatory considerations that must be overcome for LIURP to apply to master-metered-multi-family properties. However, PA-EEFA still urged the PUC to address opportunities for LIURPs to serve multi-family housing that is financed under a Federal or State affordable housing program with long-term affordability restrictions in place, regardless of who pays the utility bill. PA-EEFA supported OCA's recommendation to develop a separate LIURP needs assessment for the multi-family sector and added that the needs assessment should assess master-metered-multi-family properties in addition to those multi-family properties where tenants pay utility bills directly. PA-EEFA RC at 6-7.

EAP did not believe that multi-family housing should be subjected to stringent regulations or specific targets because increasing multi-family participation for property owners earning a profit from a rental business should not be a primary goal of LIURP. EAP cautioned against mandating any threshold requirement or percentage of occupants required to be low-income for a multi-family housing building. EAP disagreed that whoever pays for measures is secondary to ensuring that the measures are performed. EAP pointed out that each program comes with separate funding and recovery mechanisms, so administering a shared LIURP program across a service territory would be prohibitively complex. EAP noted that landlords, not master-metered tenants, are the primary beneficiaries of the weatherization measures provided to a multi-family building. Mandating master-metered program measures would result in residential ratepayers subsidizing the cost of providing weatherization treatments to commercial properties through the LIURP funding mechanism. EAP RC at 6—8.

### **Proposed Revisions to Section 58.8.**

We propose to retitle this section as “*Tenant household eligibility*” (currently “tenant eligibility”) to more accurately reflect the individuals living in a single rented dwelling. The term “tenant household” replaces “tenant” in this section.

The provision in § 58.8(a) that requires an agreement from a landlord to not raise rent or evict a tenant for at least 12 months after installation of program measures would become the new § 58.8(c). The new § 58.8(c) makes the non-eviction clause an option, rather than a requirement, that a public utility could impose as a condition of LIURP. Making this provision optional would not prevent a public utility from requiring the provision in a landlord agreement. The contractual provisions regarding rent increases or evictions would then be a matter for the tenant, the landlord, and the public utility to enforce.

Proposed amendments to § 58.8(a)(1) incorporates modified language from the existing § 58.8(a) requiring a public utility to document the landlord’s agreement for the installation of program measures and includes a new provision that requires the public utility to provide a tenant household with a copy of the landlord’s documented agreement. The proposed amendment to § 58.8(a)(2) allows a tenant household to remain eligible for baseload measures even if the landlord does not approve of more comprehensive measures. We note that PPL, for example, provides a tenant household with energy education, baseload items and energy conservation kits, when the tenant household does not receive landlord permission to install program measures. PPL Comments at 8.

The proposed amendment to § 58.8(b) adds language to clarify that landlord contributions are voluntary and that the lack of landlord contributions may not prohibit eligible tenant households from receiving LIURP. It further clarifies that a public utility



is required to document, in writing, conditions relative to the use of voluntary landlord contributions in writing.

As noted above, the proposed § 58.8(c) is intended to make the requirement for a landlord to not raise rent or evict a tenant for a stated period of time after the installation of program measures an optional provision that the public utility could impose. This optional provision is consistent with WAP regulations that require a notarized agreement signed by both the landlord and tenant to ensure that the tenant is current with rents and that during and for 18 months after the completion of WAP services a landlord cannot raise rents or evict a tenant unless it relates to matters not related to the work that was done. It also requires that there be a process in place for landlords and tenants to follow if rent or eviction issues arise after weatherization assistance. See 10 CFR § 440.22(b)(3) (relating to eligible dwelling units). Making this provision optional is also consistent with PPL's comments. PPL supported eliminating mandatory rent and eviction restrictions on landlords to increase LIURP services to tenant households. PPL Comments at 8.

### **Section 58.9. Program announcement.**

This section of the existing regulations requires a public utility to provide targeted communication about LIURP to potentially eligible customers to solicit applications. It also directs a public utility to consider advertising program services through various outlets. Finally, the section directs a public utility to make additional contacts with potentially eligible customers when funding permits. Stakeholder comments to Question No. 3 in the 2016 Secretarial Letter relate to this section.

Question 3: How can public utilities ensure that they are reaching all demographics of the eligible populations in their service territories?

### ***Stakeholder Comments***

PA-EEFA asserted that the PUC must ensure LIURP budgets are adequate to meet the needs of customers in specific territories. According to PA-EEFA, there is a wide range of budgets for public utilities with substantially similar levels of confirmed low-income populations. PA-EEFA suggested that the PUC ensure that each public utility has communications laid out in plain language, has a robust limited English proficiency outreach program, and has limited identification requirements. While acknowledging that LIURP should remain focused on targeting high users, PA-EEFA suggested that public utilities should be allowed to accept referrals from CBOs and CSPs. PA-EEFA Comments at 11-14.

OCA stated that the necessary regulatory measure would be to identify reporting requirements to determine how the public utilities are serving the needs of their service territories. OCA Comments at 24. OCA submitted that the means to address all demographics of eligible populations should be a function of public utility practices rather than a function of regulations. OCA supported codifying PA-EEFA's suggestions into regulations, including providing outreach in plain language, ensure meaningful access for non-English households, providing written and oral translations for non-English materials, and accepting referrals from CBOs regardless of high usage. OCA RC at 6.

EAP noted that under the existing LIURP regulations, public utilities are required to prioritize customers with the highest usage and greatest opportunities for bill reductions. EAP Comments at 9.

PGW suggested that mass mailing customers under § 58.9 should be based on the prioritized list in § 58.10 and that follow-up communications should be expanded to encompass other contact methods that are most cost-effective based on that program's design. PGW Comments at 5.

PPL stated that it used several methods to reach eligible customers, with the primary method being CBO partnerships to promote LIURP and program referrals. PPL submitted that § 58.9 should be eliminated as program announcement activities are inherently subject to change. It further submitted that public utilities should address announcement and enrollment activities in their USECPs. PPL Comments at 4, 11.

### **Proposed Revisions to Section 58.9.**

We propose to retitle § 58.9 as “*LIURP outreach*” (currently “program announcement”) to reflect the content more accurately and to remove the duplication with § 58.10.

Reflecting the changing way people access information and the demographics of a public utility’s service territory, § 58.9(a) is amended to do both of the following:

- Add additional advertising requirements to a public utility’s program activities through a wider range of media outlets and platforms, including social media.
- Add a requirement that a public utility advertise LIURP in languages other than English when census data indicate that 5% or more of the residents of the public utility’s service territory are using that language. This is consistent with the customer information provisions in 52 Pa. Code § 56.91(b)(17) (relating to general notice provisions and contents of termination notice).

We propose to remove and reserve §§ 58.9(a)(1)—(3).

Subsection 58.9(b) is amended to remove language requiring a public utility to provide a description of its program services and eligibility rules to all residential customers, as this provision has been amended and addressed in § 58.9(a). Subsection 58.9(b) is also amended to add language removed from existing § 58.9(a)(2) and §

58.9(a)(3) to require a public utility to make additional attempts to contact eligible customers who have not responded to initial contacts if funding permits.

**Section 58.10. Program announcement.**

This section of the existing regulations<sup>55</sup> sets forth the criteria that a public utility is required to use to prioritize eligible customers for LIURP. It also requires EDCs to budget for LIURP spending based on different energy accounts (i.e., residential space-heating customers, residential water-heating customers and residential electric baseload customers) based on the prioritization provisions in this section. It further provides that a public utility may spend up to 20% of its LIURP budget on special needs customers. Stakeholder comments to Question No. 12 in the 2016 Secretarial Letter relate to this section.

Question 12: Should the interplay between CAPs and LIURPs be addressed within the context of LIURP regulations? If so, how?

***Stakeholder Comments***

OCA submitted that a determination of CAP eligibility should automatically result in LIURP eligibility without any further application, but CAP participation should not be a prerequisite for LIURP. OCA recommended that public utilities notify CAP participants when they are close to the credit ceiling and begin evaluating them for LIURP. OCA Comments at 25-27, 3; OCA RC at 16-17.

PGW asserted that, while there are some limited CAP-related issues that could be addressed in LIURP regulation, CAP issues are best addressed in a CAP rulemaking. PGW submitted that CAP customers should receive priority in receiving LIURP treatment as using CAP eligibility as a baseline reduces administrative burden and costs for both the public utility and participants by eliminating the need for additional

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<sup>55</sup> The provisions of § 58.10 were amended January 2, 1998, effective January 3, 1998. See 28 Pa.B. 25.

eligibility processes. PGW suggested that the prioritization regulations in § 58.10 should be updated to provide greater flexibility in meeting the goals of targeting the highest usage customers. PGW asserted that the existing regulations lack detail about whether customers must be prioritized individually or whether customers can be prioritized in tiers using statistical analysis.<sup>56</sup> PGW Comments at 6, 12.

EAP submitted that CAP should not be addressed within the framework of LIURP regulations. EAP Comments at 15.

FirstEnergy did not recommend modifying the existing LIURP regulations to address public utilities' CAPs because each program performs a different function. FirstEnergy Comments at 11.

Duquesne submitted that the existing LIURP regulations do not need to incorporate CAP because low-income customers are potentially eligible for LIURP regardless of whether they participate in CAP. Duquesne Comments at 10.

PECO noted that existing regulations do not require CAP participation for LIURP eligibility. Further, PECO contended that the rulemaking should give public utilities the flexibility and autonomy to best achieve LIURP goals. PECO recommended allowing energy burdens (i.e., energy costs as a percentage of income) to be taken into consideration as a key prioritization factor under § 58.10. PECO Comments at 18, 20.

PPL asserted that the most appropriate context to address the link between CAP and LIURP is in a public utility's USECP. PPL submitted that the linkage should not be addressed within the context of the LIURP regulations because each public utility has designed its CAP differently and customer LIURP needs often extend beyond CAP

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<sup>56</sup> PGW proposed amended language for § 58.10 consistent with these recommendations on page 6 of its Comments.

participants. PPL suggested revising the existing LIURP regulations to provide the EDCs with flexibility to serve non-high usage baseload customers. Although PPL agreed that public utilities should target customers with the largest usage and the greatest opportunities for bill reduction, it contended that factors such as the size of the dwelling, the number of occupants, and the end use of public utility service should not play a role in prioritizing services. PPL did not support prioritizing services based on the size of the arrearage or household income. PPL Comments at 9-11; PPL RC at 8.

PA-EEFA recommended addressing the interplay between CAP and LIURP within the existing LIURP regulations. Additionally, PA-EEFA recommended the continued targeting of CAP participants for LIURP services and requiring public utilities to reach out to non-CAP participants for LIURP services and to promote enrollment into CAP. PA-EEFA Comments at 28-29.

#### **Proposed Revisions to Section 58.10.**

This section is currently titled “Program announcement” which is a duplication of § 58.9. The title is also inconsistent with the substance of the section. We propose to retitle the section as “*Prioritization of program services*” to eliminate the duplication and to reflect the content of the section more accurately.

The terms in this proposed amendment are updated consistent with the proposed definitions in § 58.2, including replacing “program” with “LIURP” when appropriate.

Subsection 58.10(a)(1) is amended to include CAP shortfall as one of the factors that a public utility is required to consider when prioritizing eligible customers by usage level and to incorporate a new prioritization factor based on the number of consecutive service months a customer resided at a dwelling. Furthermore, amended § 58.10(a)(1) allows public utilities to consider factors that tend to facilitate utility bill reduction when prioritizing eligible customers by opportunities for utility bill reduction.

With respect to the customers prioritized by usage and opportunity for utility bill reduction, §§ 58.10(a)(2)(i)-(ii) gives first priority to CAP customers with the largest PPAs and in-program arrearage balances and then to non-CAP customers with the largest unpaid balances. “Largest arrearage relative to household income” is derived as a percentage. Priority is given to CAP customers because energy reductions for CAP households decrease costs for both the CAP customer and the ratepayers from whom CAP shortfall costs are recovered.

In our approvals of various public utility-specific USECPs, we have required that all low-income customers, who otherwise meet eligibility requirements, be allowed to participate in LIURP, especially if they have high usage,<sup>57</sup> regardless of CAP participation. We propose adding a new § 58.10(d) that clarifies the prohibition of restricting LIURP participation to customers enrolled in CAPs. Furthermore, we propose a new § 58.10(e) that requires a public utility to document its prioritization protocols in its USECP.

We propose to remove § 58.10(c). We propose to incorporate language removed from § 58.10(c) that allows a public utility to spend a percentage of its LIURP budget on special needs customers into proposed § 58.4(a.2) (relating to special needs customers). That percentage would be increased from 20% to 25%.

### **Section 58.11. Energy survey**

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<sup>57</sup> See Peoples 2015-2018 USECP Final Order, Docket No. M-2014-2432515 (order entered December 17, 2015), at 34-37, which rejected a base rate case settlement provision that relied upon CAP/non-CAP determination as an eligibility requirement for LIURP. See also PGW 2017-2020 USECP Final Order, Docket No. M-2016-2542415 (order entered August 3, 2017), at 38-42, which directed PGW to include all known low-income customers when determining LIURP eligibility, regardless of their enrollment status in PGW’s CAP.

This section of the existing regulations<sup>58</sup> requires a public utility to perform an onsite energy survey to determine if the installation of program measures would be appropriate. This section specifies that a program measure is appropriate if it is not already present or is not performing effectively and when energy savings derived from the installation would result in a payback period of not more than seven or 12 years. There were no Questions in the 2016 Secretarial Letter relative to § 58.11.

### ***Stakeholder Comments***

Duquesne recommended reconsideration of the payback periods for LIURP measures under § 58.11. Duquesne stated that any modification should include greater flexibility when determining the appropriate lifetime of a measure for LIURP installation, deferring instead to manufacturer recommendations, or to evaluating LIURP jobs on a whole-project basis instead of individually by measure. Duquesne Comments at 11.

EAP contended that codified payback requirements at § 58.11(a) should be based on a whole job basis where each individual measure is evaluated on an industry standard recommended useful life, or some other measurement. EAP recommended that the PUC avoid uniformity and allow USECPs to remain tailored to each service territory. EAP Comments at 15.

FirstEnergy recommended that the PUC create a working group to address and explore the appropriate length of payback periods under § 58.11. It also recommended that the PUC address whether the current seven to 12-year periods remain appropriate given widespread deployment of LIURP measures and technological advancements made since the regulations were adopted. FirstEnergy Comments at 12.

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<sup>58</sup> The provisions of § 58.10 were amended January 2, 1998, effective January 3, 1998. See 28 Pa.B. 25.



PPL also recommended flexibility for installing LIURP measures and to include regulations to better define fuel switching. PPL specifically asked that installations not fall under fuel switching when an NGDC or EDC installs electric or natural gas heat in a home which had not used its primary heating source for at least two heating seasons. PPL Comments at 12.

PECO recommended that the life measure should be based on the median number of years that the measure is in place and operable. PECO Comments at 20.

PGW contended that using the seven or 12-year payback period set forth in § 58.11 is detrimental as it limits the type of measures that can be installed, and that requiring shorter payback times discourages public utilities from installing comprehensive energy saving measures that will provide the most impact and long-term benefits. However, PGW would not advocate for the use of a Total Resource Cost (TRC) test<sup>59</sup> in place of the seven or 12-year period as it fails to account for the additional societal benefits. PGW provided proposed amendments to § 58.11 to allow projects to be evaluated for cost-effectiveness based on the total measure package as opposed to individual measures. PGW Comments at 12-13.

PA-EEFA stated that cost effectiveness for measures should be based on the full measure life, not on an arbitrary payback period that artificially biases assessment of cost-effectiveness. PA-EEFA argued that limiting lifetimes for certain measures would unreasonably reduce benefits to low-income ratepayers by excluding cost-effective measures from being installed. They asserted that maximizing benefits to participants at

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<sup>59</sup> Act 129 defines the TRC test as “a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures.” 66 Pa. C.S. § 2806.1(m).

the time they are receiving services decreases the transaction cost per unit of savings. PA-EEFA RC at 7-8.

### **Proposed Revisions to Section 58.11.**

We propose to retitle this section as “*Energy audit*” (currently “energy survey”) consistent with proposed definitions in §58.2.

Amendments to § 58.11(a) eliminate the provision requiring program measures installed be based on the result of energy savings derived from a simple payback of seven years or less or a 12-year payback criterion for more comprehensive program measures. We propose to replace this criterion with a new provision in § 58.11(d)(2).

We propose to remove and reserve § 58.11(b). The provisions are incorporated into a new § 58.11a (relating to fuel switching).

The proposed § 58.11(c) prohibits a public utility from using the same ESP to conduct an energy audit at a dwelling and to install follow-up program measures determined necessary during that energy audit. ESPs should conduct energy audits impartially without a motivation to benefit financially from the installation of follow-up measures proposed in that energy audit.

The proposed § 58.11(d)(1)-(2) sets out parameters for what an energy audit must determine regarding the appropriateness of installing program measures. Proposed § 58.11(d)(1) clarifies that a program measure is appropriate if it is not already present or is not performing effectively. Subsection 58.11(d)(2) further clarifies that a program measure is determined to be appropriate if its estimated energy savings derived from the installation of all program measures would exceed its costs over its expected lifetime.

The proposed § 58.11(e) provides flexibility in situations where a program measure may be determined necessary for the long-term health, safety, and comfort levels of dwelling occupants. In those situations, program measures may be installed even if there are no estimated energy savings. This proposal is consistent with § 58.1 that identifies improvement to the health, safety, and comfort levels of LIURP recipients as one of the purposes of a LIURP.

The PUC has previously approved temporary waivers of § 58.11(a) to allow a public utility the flexibility to use a cost/benefit calculation to determine what program measures to include in a LIURP job, rather than the seven-year or 12-year simple payback criteria.<sup>60</sup> Some program measures may reduce a dwelling's energy usage but do not qualify because their payback periods exceed seven to 12 years. As a result, some households do not experience the potential energy savings when a public utility cannot install all appropriate program measures in one comprehensive LIURP job.

Our proposed change is consistent with recommendations from Duquesne, EAP, PGW, and PA-EEFA that § 58.11 should allow greater flexibility when determining the appropriate program measure for LIURP installations. Duquesne Comments at 11, EAP Comments at 15, PGW Comments at 13, and PA-EEFA RC at 7.

### **Proposed Section 58.11a. Fuel switching.**

We propose a new § 58.11a titled “*Fuel switching*” that provides requirements related to a public utility using LIURP funds for fuel switching between electric and natural gas. Language moved from the existing §58.11(b) concerning fuel switching within a dual-fuel public utility is incorporated into this section.

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<sup>60</sup> See, e.g., FirstEnergy 2015-2018 USECP Final Order, Docket Nos. M-2014-2407729, M-2014-2407730, M-2014-2407731, and M-2014-2407728 (order entered May 19, 2015), at 45—49. See also PGW 2017-2020 USECP Order, Docket No. M-2016-2542415 (order entered August 3, 2017), at 50—52.

The proposed § 58.11a(a) identifies the conditions under which LIURP funds may be used for program measures involving fuel switching. Proposed § 58.11a(a)(1) allows fuel switching within a dual-fuel public utility. Proposed § 58.11a(a)(2) allows fuel switching if a primary heating source is determined to be inoperable, unrepairable or the cost to repair exceeds the cost of replacement and both public utilities agree in writing that fuel switching is appropriate. Proposed § 58.11a(b) requires the public utility to document the conditions necessitating fuel switching.

PPL and PA-EEFA supported revising Chapter 58 to better define and address fuel switching. PPL Comments at 12; PA-EEFA Comments at 16-17.

### **Section 58.12. Incidental repairs.**

This section of the existing regulations sets forth the criteria for performing incidental repairs. Stakeholder comments to Question Nos. 6 and 7 in the 2016 Secretarial Letter relate to this section.

Question 6: How can LIURPs best provide for increased health, safety, and comfort levels for participants?

#### ***Stakeholder Comments***

OCA submitted that a public utility should be permitted to use a percentage of its LIURP budget for the separate categories of health, safety, and incidental expenditures. OCA further submitted that while incidental repairs are specifically defined in the PUC's regulations, the "health and safety" measures referenced in § 58.1 remain undefined. OCA recommended that the PUC provide more guidance on health and safety measures in the regulations. OCA Comments at 27-28.

PGW asserted that “health and safety” concerns are broad and require different levels of treatment and should be assessed on a case-by-case basis. PGW recommended that the regulations clarify whether health and safety measures could be considered “incidental repairs” in § 58.12 if they would allow establishment of weatherization measures. Further, PGW contended that not all health and safety measures should be included in the cost-effectiveness calculation, as this is not LIURP’s core responsibility. PGW Comments at 8.

EAP asserted that the costs of health and safety measures “could be prudently recovered by residential ratepayers through LIURP, provided that overall LIURP budgets do not increase or funds not by mandated to be diverted from primary program purposes, and that health and safety measures are not included in cost effectiveness measurement.” EAP stated that any health and safety proposal needs to justify the additional administrative costs required to facilitate the coordination and report on the initiative. EAP Comments at 10-11.

FirstEnergy argued that the need and scope of a health and safety budget should be considered within the USECP proceedings, not as part of the LIURP rulemaking. FirstEnergy RC at 7. Because FirstEnergy allocates up to 50% of its seasonal allowance budgets to health and safety repairs that permit installation of energy savings measures, FirstEnergy supported the sustained flexibility to include health and safety spending within the LIURP budgets, which maximizes LIURP participation. FirstEnergy also recommended that a public utility develop partnerships with other agencies and non-profit organizations that specialize in health and safety measures to work with the public utility during the LIURP installation process. FirstEnergy Comments at 8.

PECO reiterated its belief that LIURP funds should be used almost exclusively for usage reduction. However, PECO supported limited use of LIURP funds to address health and safety issues if three limiting factors are addressed. First, PECO submitted

that there must be a material usage reduction measure that can only be implemented upon removal of the health and safety concern. Second, PECO suggested the inclusion of a limitation, either on an audit-by-audit or overall project basis, on the percentage of LIURP funds that can be used for such health and safety measures. Third, PECO contended that the PUC should permit public utilities to use a limited amount of LIURP funds on remediation of health and safety issues. Due to varying needs, PECO recommended that the PUC allow public utilities to propose health and safety spending to be completed with LIURP funds in USECP proceedings. PECO Comments 11-12.

PA-EEFA argued that a streamlined, integrated program delivery would potentially “free up” funds to address prevalent health and safety issues, such as a reliance on de facto heating, thus improving flexibility and reducing cost burden. Decisions like repairing a furnace should be resolved in the customer’s best interest, using a fuel-neutral approach, and premised on providing energy solutions with the lowest life cycle cost. PA-EEFA noted that energy efficiency programs are to help potential participants facing challenges in adopting energy efficient practices. Public utilities are obligated to provide energy efficiency to low-income customers, so public utilities must address health and safety issues. PA-EEFA stated that it is appropriate for public utilities to resolve health and safety concerns necessary for the delivery of critical energy efficiency services to high use low-income customers to provide service on reasonable terms and conditions and to continue universal service programs like LIURP. PA-EEFA RC at 8-9, 17-18.

OCA supported using a portion of the LIURP budget to address health and safety situations. OCA agreed with PECO that there should be a limit on the amount that could be used for issues such as mold or pest remediation, and that the limit should be based on either an audit-by-audit basis or an overall project percentage. OCA questioned PECO’s recommendation about providing health and safety measures which only lead to energy savings, as that requirement would eliminate measures like smoke/carbon monoxide

detectors. OCA agreed with PA-EEFA that *de facto* heating needs to be addressed but suggested that it be handled as a standalone issue in the regulations, so it can address specific measures and direct the NGDCs and EDCs to work together on the initiative. OCA RC at 8-9.

Duquesne asserted that LIURP's main goal should remain energy conservation and could be achieved through better coordination with programs like DCED's Crisis Interface Program. However, Duquesne asserted that setting a predetermined limit (i.e., either dollar amount or percentage of job) to complete incidental, safety, or comfort level measures may also address this issue. Duquesne Comments at 7.

PPL supported the installation of necessary cost-effective health and safety measures but did not want to revise the regulations to provide for rehabilitation or remediation that exceeds the scope of LIURP. PPL asserted that allowing for such services would likely result in fewer customers being served. PPL further argued that it would not be cost-effective for LIURP contractors to train people in providing these services as they would not be provided regularly. PPL Comments at 6.

Question 7: How can LIURPs maximize participation and avoid disqualifications of households due to factors such housing stock conditions?

### ***Stakeholder Comments***

OCA submitted that when a public utility evaluates a customer for installation of weatherization benefits, the main analysis is to determine whether the weatherization measures will be cost-effective given the housing stock conditions. OCA suggested that LIURP service providers be permitted sufficient time to make referrals for assistance and have the repairs completed before the public utility disqualifies a housing unit. Additionally, OCA contended that LIURP service providers should maintain internal program lists to refer housing units to when the necessary remediation is not possible to

allow LIURP to move forward. Lastly, OCA submitted that the regulations should ensure that the number of housing units disqualified from LIURP services and the circumstances surrounding disqualifications are recorded. OCA Comments at 28-29. OCA submitted that there must be a determination that weatherization measures will be cost-effective given the condition of the house. OCA stated that LIURP is not a housing rehabilitation program, and agreed with EAP, FirstEnergy, Duquesne, PECO, and PPL that referrals should be made to other agencies and housing programs which are designed to address housing stock repairs and rehabilitation. OCA RC at 9-10.

PGW asserted that it is essential to recognize that LIURP is not a housing program and that it is not the program's purpose to remediate all low-income housing stock in a service territory. While PGW stated that it does not automatically disqualify cases for having a health and safety issue, the extra remediation work may make comprehensive treatment cost-ineffective. Thus, PGW recommended that cost-effectiveness tests be developed in a way that provides case-by-case flexibility. PGW Comments at 9.

EAP, PECO, and Duquesne separately claimed that it is not the public utility's role or within LIURP's jurisdictional scope to address housing stock conditions. EAP Comments at 12, PECO Comments at 13, Duquesne Comments at 8. EAP stated that, where possible, public utilities should partner with other community agencies, such as Habitat for Humanity, to comprehensively address issues. However, EAP maintained that state-designated entities are best equipped to help finance the construction and rehabilitation of affordable rental housing. EAP Comments at 12.

PPL noted that LIURP's purpose is to reduce energy usage and not to repair defective housing conditions. PPL recommended the practice of reducing comprehensive services rather than program disqualification where housing stock prevents the installation of certain measures. When homes are disqualified because of housing stock



conditions, PPL recommended that the public utility re-enroll and prioritize the customer once the issue has been resolved. PPL Comments at 6.

FirstEnergy submitted that it is not its practice to disqualify eligible LIURP participants based on housing stock conditions. FirstEnergy reported that, where safety issues exist that cannot be remediated, customers can still qualify for baseload measures, including lighting, refrigerator testing and possible replacement, smart power strips, and water heating measures. Further, where significant remediation or renovation is required, FirstEnergy asserted that its practice is to attempt coordination with other agencies to perform this work. FirstEnergy Comments at 8-9.

PA-EEFA recommended that public utilities accept referrals from outside agencies to identify and engage more eligible customers. PA-EEFA suggested that public utilities try community-level customer recruitment as opposed to the traditional individual-level approach, such as partnering with housing authorities and non-profit housing providers, to facilitate tenant engagement. For multi-family properties, PA-EEFA recommended that LIURPs consider ways to gain access to units to install lighting and water conservation measures that do not necessarily require individual tenants to provide consent. PA-EEFA asserted that integrating natural gas LIURPs, electric LIURPs, and Act 129 will allow program administrators to choose the best-suited funding stream to address the housing stock conditions and reduce disqualifications. PA-EEFA Comments at 19-20.

Duquesne agreed that sometimes repairs must occur for LIURP measures to work appropriately but cautioned against fixing personal property with LIURP funds. Duquesne suggested that this would be a good issue to address in a stakeholder meeting. Duquesne RC at 6-7.

### **Proposed Revisions to Section 58.12.**

We propose to retitle this section as “*Incidental repairs and health and safety measures*” (currently “incidental repairs”) to establish provisions for both incidental repairs and health and safety measures.

The proposed § 58.12(a) requires a public utility to identify in its USECP the criteria used for performing incidental repairs and health and safety measures. Services provided by incidental repairs and health and safety measures would be identified separately in proposed §§ 58.12(a)(1)-(2).

The proposed § 58.12(b) requires a public utility to set separate allowance limits for incidental repairs and health and safety measures through a USECP proceeding.

The PUC has previously directed public utilities to develop LIURP protocols and allowance limits for incidental repairs and health and safety measures.<sup>61</sup> We recognize that while LIURP is not designed to support major repairs or rehabilitation of dwellings, there are often situations that could justify small repairs or remediation of health hazards to perform more comprehensive weatherization treatments.

The proposed § 58.12(c) establishes requirements under which a public utility may defer a dwelling that does not meet the criteria for incidental repairs or health and safety measures or that exceeds the maximum budget allowance. It also requires a public utility to provide written notification to customers when the dwelling is deferred and require the public utility to track deferred dwellings for a period of at least three years.

The proposed deferral provisions are consistent with DCED’s WAP protocols that require agencies to maintain a list of all clients who are deferred, the reason for deferral

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<sup>61</sup> See, e.g., PECO 2016-2018 USECP Tentative Order, Docket No. M-2015-2507139 (order entered February 25, 2016), at 21-22.

and the other program they were referred to, if appropriate.<sup>62</sup> Public utilities are not currently required to report deferrals under Chapter 58, and it is unclear how many Pennsylvania households are being disqualified from LIURP based on health or safety conditions, or both, in a residence (e.g., mold, moisture, or structural issues). Updating Chapter 58 to be consistent with DCED's WAP protocols establishes a uniform approach to identifying and tracking low-income dwellings in need of repairs before weatherization work can be provided.

### **Section 58.13. Usage reduction education.**

This section of the existing regulations sets forth the objectives of applicability, funding levels, pilot programs and program services for public utility energy conservation education. Energy conservation education activities for a public utility are described as a recommendation to include group presentations, workshops, and in-home presentations. Stakeholder comments to Question No. 4 in the 2016 Secretarial Letter relate to this section.

Question 4: What design would better assist/encourage all low-income customers to conserve energy to reduce their residential energy bills and decrease the incidence and risk of payment delinquencies? How does energy education play a role in behavior change?

#### ***Stakeholder Comments***

PGW recommended updating § 58.13 to encourage greater flexibility and modernization for usage reduction education. PGW asserted that public utilities should be given discretion to determine whether the costs for such education are justified based on a cost-effectiveness review process. PGW Comments at 6.

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<sup>62</sup> See DCED 2022-2023 DOE State Plan – Health & Safety Plan at 1. <https://dced.pa.gov/download/22-23-doe-state-plan-health-safety-plan-final/?wpdmdl=106450&refresh=63f5253bcfb331677010235> (accessed on February 21, 2023).

EAP noted that education leads to behavior changes towards energy conservation. EAP asserted that customer education best practices can be explored among public utilities in future meetings without codifying any specifics in regulation. EAP Comments at 10. FirstEnergy contended that a LIURP design focused on both the installation of cost-effective LIURP measures and strong energy education promotes future energy savings and reduced arrearages among low-income customers. FirstEnergy Comments at 7. Duquesne asserted that the more a customer understands the relationship between usage and bill increase, the more likely they will manage energy usage and avoid payment delinquencies. Duquesne Comments at 6.

PPL suggested that public utilities have “discretion to require participation in energy education as a pre-requisite for LIURP, prior to the initial contractor visit.” PPL further suggested that LIURP-funded energy education be offered when a CAP customer has low-usage and/or is an unlikely recipient for direct-install measures. PPL further suggested determining strategies to make educating customers easier and more convenient, such as a video emailed to the customer. PPL supported joint educational and contractor training efforts with weatherization providers when cost-effective. PPL recommended revising § 58.13(d) to include technology as an educational method, leaving room for changes and advancements. PPL Comments at 5, 12. PPL did not support CEO’s recommendations to set aside LIURP funds to create energy education and to require customers to participate in education before, during, and after the LIURP process. Citing CEO Comments at 3. PPL stated that education is a critical component but that the public utilities should have flexibility to develop what works best for their customers. PPL cautioned against requiring public utilities to provide non-English languages outreach materials, as the additional costs might not yield results. PPL pointed out that it uses local CBOs to provide referrals and outreach to engage non-English speakers as an alternative. PPL opined that public utilities should have the flexibility to create educational procedures in their USECPs. PPL RC at 4-5.

PECO suggested that public utilities continue to provide education and outreach about LIURP to all identified low-income customers. PECO further suggested coordination of Act 129 services for low-income customers. PECO Comments at 9.

OCA suggested that energy education spending should be targeted at the “remedial in-home visits” found to be effective by Penn State. OCA asserted that energy education and timing play an important role in LIURP, as do remedial in-home visits, an approach reinforced by Penn State’s Long-Term Study. OCA supported PPL’s recommendation to provide LIURP education to low usage CAP customers as a means of controlling CAP costs and PECO’s recommendation to provide education and outreach at community events. OCA Comments at 25-26, OCA RC at 7, *citing Long-Term Study of Pennsylvania’s Low Income Usage Reduction Program: Analyses and Discussion* at 46.

PA-EEFA supported the use of a customized educational approach, whereby the educational information is provided to the customer at the time of measure installation and at a six-month follow-up date, to all household members, in the language used by the household. PA-EEFA Comments at 14-15.

Duquesne agreed with PA-EEFA that education is most effective at the time measures are installed. Duquesne asserted that energy education is an important component, but cautioned that if too burdensome, customers may be dissuaded from using other reduction measures. Duquesne believed that smart meter technology should help behavior change and decrease consumption. Duquesne did not believe any prescriptive mandate was necessary and suggested funds be used to reach more eligible homes for weatherization. Duquesne RC at 5-6.

### **Proposed Revisions to Section 58.13.**

We propose to retitle this section as “*Energy conservation education*” (currently “usage reduction education”) consistent with the proposed definitions in §58.2. The

terms in this section are updated consistent with the proposed definitions in §58.2, including replacing “program” with “LIURP” when appropriate.

We propose retitling § 58.13(b) as “*LIURP budget*” (currently “funding level”). This proposed change is consistent with the proposed clarification in § 58.4 regarding the difference between a LIURP budget and a LIURP funding mechanism. The amendments proposed in § 58.13(b) remove the requirement that an energy conservation program that exceeds \$150 per recipient be “pilot tested for 1 year” and “be measured for the incremental contribution to energy savings that the education produces in addition to the cost effectiveness of that contribution.” Instead, we propose to require that an energy conservation education program that exceeds \$150 per recipient be approved through a USECP proceeding, thus providing the opportunity for stakeholder comments, staff review and revisions. Furthermore, it would appear to be unreasonable to require a public utility to measure energy savings based solely on energy conservation education. Education services may include training and materials such as pamphlets, flyers, and presentations intended to change customer behavior toward energy usage. It may not be possible to measure or ascribe future energy savings based solely on the energy conservation education provided.

We propose to remove and reserve § 58.13(c) (relating to pilot programs). Language from this deleted subsection is incorporated into § 58.13a(a) (relating to *LIURP pilot programs*).

Subsection 58.13(d) is amended to require a public utility to provide energy conservation education activities in a language or method of communication appropriate to its target audience, providing all LIURP recipients with an equal opportunity to access energy resources. This proposal is consistent with the customer information provisions in 52 Pa. Code § 56.91(b)(17).

Amendments in this section are consistent with the customized educational approach supported by PA-EEFA, which recommend providing energy conservation education to all household members, in the language used by the household. PA-EEFA Comments at 15.

The proposed amendments in § 58.13(d)(3) replace the current term “occupant or owner” with “owner, landlord, or tenant.”

A new § 58.13(d)(4), titled “*Post-installation education*,” requires that energy conservation education be provided by phone or in-person to recipients of program measures whose energy usage increased within 12 months post-installation. This provision is consistent with the practices of some public utilities, which provide additional energy conservation education when a customer’s usage remains high or continues to increase after receiving LIURP services.<sup>63</sup> Such a practice tends to produce better conservation results.

### **Proposed Section 58.13a. LIURP pilot programs.**

Chapter 58 does not currently provide direction regarding the development and evaluation of LIURP pilot programs. The proposed § 58.13a would provide such directions. These proposed provisions would also codify the long-standing practice of approving proposed LIURP pilot programs through a USECP proceeding.<sup>64</sup>

The proposed § 58.13a, titled “*LIURP pilot programs*,” explains the approval process, timeframes, and reporting requirements related to LIURP pilot programs. This

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<sup>63</sup> See, e.g., Columbia Gas 2019-2021 USECP, Docket No. M-2018-2645401 (filed on November 25, 2019), at 26. See also FirstEnergy 2019-2021 USECP at 23.

<sup>64</sup> See, e.g., Petition of NFG - Approval of Low-Consumption LIURP Pilot Program Order, Docket Nos. P-2019-3008559 and M-2016-2573847 (order entered October 24, 2019). This Order approved NFG’s Petition to implement its LC-LIURP Pilot Program.

section incorporates and amends language removed from § 58.13(c) regarding the development and evaluation of proposed pilot programs.

Subsection 58.13a(a) allows a public utility to propose LIURP pilot programs that offer innovative services. The proposed § 58.13a(a)(1)—(4) expands on the types of pilot programs that public utilities may propose, including proposals related to energy conservation education, renewable energy sources, fuel switching, and air conditioning.

The proposed § 58.13a(b) requires a public utility to attempt to coordinate pilot program-related services among other community resources, including EDC and NGDC universal service programs.

The proposed § 58.13a(c)-(d) require that proposed pilot programs be subject to approval in a USECP proceeding and not exceed a maximum timeframe of five years or the expiration of the public utility's current USECP, whichever comes later. Public utilities would also be required to seek PUC approval in a USECP proceeding, to discontinue a pilot program earlier than previously approved or to incorporate an approved pilot program as a regular component of LIURP.

#### **Section 58.14. Program measure installation.**

This section of the existing regulations requires a public utility to arrange and install LIURP program measures, if appropriate, after a § 58.11 energy survey (or “energy audit” going forward) is performed. It identifies potential program measure installations for space heating, water heating, and baseload jobs. It also sets forth provisions for LIURP budget expenses incurred through work with other public utilities as well as what may or may not be included in inter-utility billing arrangements. Stakeholder comments to Question No. 9 in the 2016 Secretarial Letter relate to this section.



Question 9: With the additional energy burdens associated with warm weather, what if any changes are necessary to place a greater emphasis on cooling needs?

### ***Stakeholder Comments***

PPL, EAP, FirstEnergy, PECO, and Duquesne separately contended that there was no need to address cooling needs in the LIURP regulations. PPL Comments at 8; EAP Comments at 13; FirstEnergy Comments at 9; PECO Comments at 15; Duquesne Comments at 8. EAP cautioned the PUC against making cooling a primary purpose of LIURP, especially since addressing heating needs also provides summer benefits by way of reducing customer energy needs year-round. EAP Comments at 13. FirstEnergy noted that existing LIURP heating measures, such as duct sealing insulation and air sealing, allow for energy usage reductions during the warm weather months as well. FirstEnergy asserted that a working group should develop revised procedures for “inter-utility coordination” under § 58.14(c) that reflect current coordination procedures between EDCs and NGDCs. FirstEnergy Comments at 9, 12.

OCA and PA-EEFA supported addressing cooling needs in the LIURP regulations. OCA suggested that LIURP be modified to allow for a multi-fuel, whole house approach. OCA Comments at 30. PA-EEFA recommended that opportunities associated with cooling needs should be considered and implemented where improvements can cost-effectively reduce energy use. PA-EEFA also supported a cost-benefit analysis based on specific circumstances and suggested that energy education should extend to information on cooling efficiency when cooling measures are installed. PA-EEFA Comments at 22.

### **Proposed Revisions to Section 58.14.**

The amendments to this section clarify and update the existing provisions regarding the installation of program measures for residential space-heating, water-heating and baseload customers. Subsection 58.14(a)(2) is reformatted to §

58.14(a)(2)(i)—(iii). Rewiring water heaters to permit billing on a time of day or other off-peak rate schedule is removed as a potential program measure for residential water-heating customers; smart meters and newer technologies have made such measures unnecessary. Subsection 58.14(a)(3) includes repairing and replacing water heaters that are not the primary heating source for the dwelling as applicable baseload program measures. We propose to remove and reserve existing § 58.14(b) and incorporate it into proposed § 58.14(d). Subsection 58.14(d) is added and require that program measures installed have a minimum of a one-year warranty covering workmanship and materials. The terms in this section are also updated consistent with the proposed definitions in § 58.2.

We propose to remove and reserve § 58.14(c). Language from this deleted subsection is incorporated into proposed § 58.14a (relating to quality control) and § 58.14c (relating to inter-utility coordination).

**Proposed Section 58.14a. Quality control.**

We propose to add a new § 58.14a titled “*Quality control*” that incorporates language moved from the existing § 58.14(b) concerning quality control standards for LIURPs. This new section establishes requirements regarding:

- (a) Quality control standards for installation of program measures and evaluation of ESP performance.
- (b) Frequency of post-installation inspections.
- (c) Installation of program measures, post-installation inspections, and documentation in a USECP.
- (d) Complaint Process for customers
- (e) Who may not perform a post-installation inspection.
- (f) Investigating increases in consumption post-installation of program measures.
- (g) Documentation required from an ESP.

(h) Documentation retention.

The proposed § 58.14a(a) requires a public utility to establish quality control standards for the installation of program measures. The proposed § 58.14a(b) requires post-installation inspections on at least 10% of completed heating jobs and at least 5% of completed baseload LIURP jobs. The proposed minimum percentage of post-installation inspections per job type is below or consistent with current Commission-approved public utility standards. For example, Columbia Gas requires post-installation inspection on a minimum of 25% of heating jobs<sup>65</sup>; and PECO performs post-installation inspections on all heating jobs and 5% of all baseload jobs.<sup>66</sup> This provision is consistent with DCED's WAP protocols that requires agencies to inspect at least 5% of completed jobs.<sup>67</sup>

In addition, the proposed §§ 58.14a(a) and 58.14a(c) require a public utility to document in its USECP (1) the quality control standards used to evaluate the work of the ESP and the performance of the program measures; and (2) the procedures used for installing program measures and performing post-installation inspections. PPL supported addressing quality control in a USECP. PPL RC at 9.

The proposed § 58.14a(d) requires a public utility to establish a complaint process to be followed if a customer is not satisfied with the quality of the work, workmanship or serviceability of the ESP and to document its complaint process in its USECP. This proposed provision is consistent with DCED's WAP protocols that requires an agency to develop a customer complaint process.<sup>68</sup>

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<sup>65</sup> See Columbia Gas 2019-2021 USECP at 17.

<sup>66</sup> See PECO 2019-2024 USECP, Docket No. M-2018-3005795 (filed on August 18, 2022), at 14. PECO's 2019-2024 USECP may be effective through at least 2028, and PECO identifies it as the "2019-2028" USECP.

<sup>67</sup> See DCED 2022-2023 DOE State Plan – Master File, at 21, 28.

<sup>68</sup> See DCED 2022-2023 DOE State Plan – Master File at 8, 16.

The proposed § 58.14a(e) prohibits a public utility from allowing an ESP that installed program measures at a dwelling to perform the post-installation inspection of those program measures.<sup>69</sup> This proposed provision is new to Chapter 58. To ensure post-installation inspections are conducted impartially, a public utility would not be permitted to allow an ESP to conduct the post-installation inspection on its own work at a dwelling. This provision is consistent with DCED's WAP protocols that require post-installation inspections to be conducted by a Quality Control Inspector that had no involvement in the prior installation of program measures at the dwelling.<sup>70</sup> This provision is also consistent with the current practices of some public utilities. PPL permits its ESPs to conduct post-installation inspections if they did not perform the energy audit or install the program measures for the that same job.<sup>71</sup> Duquesne contracts with a third-party ESP to perform independent post-installation inspections.<sup>72</sup> The proposed § 58.14a(e) requires that EDCs and NGDCs follow this practice of separation between the performance of the work and the inspection of the work. The separation would provide greater assurance that a post-installation inspection does not overlook lapses in an ESP's installation work.

The proposed § 58.14a(f)-(g) build on the proposed § 58.14a(a)-(c) to establish requirements for post-installation inspections to validate that installed program measures are working properly.

- Subsection 58.14a(f) requires a public utility to contact a LIURP recipient whose energy usage increase more than 10% within 12 months post-installation of program measures. A public utility would also be required, if appropriate, to

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<sup>69</sup> The ESP can and should inspect its own work, but that inspection would not suffice as the required post-installation inspection.

<sup>70</sup> See DCED 2022-2023 DOE State Plan – Master File at 21, 23.

<sup>71</sup> See PPL 2017-2019 USECP, Docket No. M-2016-2554787 (filed on November 6, 2017), at 49.

<sup>72</sup> See Duquesne 2017-2019 USECP, Docket No. M-2016-2534323 (filed on March 12, 2018), at 24.

schedule a post-installation inspection to ensure the installed program measures are working properly.

- Subsection 58.14a(g)(1)-(2) require a public utility to mandate that an ESP documents its post-installation inspection results and its follow up program services, if provided.
- Subsection 58.14a(h) requires a public utility to retain quality control records for a minimum of four years or until its impact evaluation<sup>73</sup> is completed, whichever is later. This would include documentation and records related to post-installation inspection results, follow-up program services and ESP performance evaluations.

The proposed provisions in this section standardize requirements for performing quality control procedures, evaluating ESP performance and retention of quality control records. Chapter 58 does not currently specify requirements for quality control procedures or record retention. The proposed quality control record retention requirements are consistent with Chapter 56 provisions that require public utilities to preserve written or recorded records related to disputes for a minimum of four years. 52 Pa. Code §§ 58.2, 56.202 and 56.432.

**Proposed Section 58.14b. Use of an ESP for program services.**

We propose to add a new § 58.14b titled “*Use of an ESP for program services*” that establishes the use of an ESP to perform program services for a public utility LIURP. A public utility must use qualified ESPs. A qualified ESP is one that has, *inter alia*, demonstrated experience and effectiveness in the provision of energy efficiency and usage reduction services. Language moved from § 58.7(c) is incorporated into this new

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<sup>73</sup> Under 66 Pa. C.S. §§ 2203(8) and 2804(9), independent impact evaluations are due to the PUC every six years.

section to provide greater clarification to a public utility on the selection of qualified ESPs.

The proposed § 58.14b(a) requires a public utility to select outsourced ESPs through a competitive bid process. The proposed § 58.14b(b)(1)—(4) establish minimum qualifications for ESPs. This proposed provision requires ESPs to have obtained certification in program-related services, to carry appropriate insurance, and to provide a minimum of one-year warranty covering workmanship and materials.

The proposed § 58.14b(c) requires a public utility to contract with more than one ESP, if applicable, and to file and serve a justification if selection is limited to one ESP. Furthermore, the proposed § 58.14b(d) allows a public utility to prioritize contracts with CBOs that meet its ESP qualifications. This proposal is consistent with the requirements of 66 Pa.C.S. §§ 2804(9) and 2203(8) that mandate the PUC to encourage the use of CBOs that have the necessary technical and administrative experience to be the direct providers of services or programs which reduce energy consumption.

Chapter 58 does not currently specify work quality standards, nor does it require a public utility to establish or to verify credentials for contractors. As other weatherization programs in Pennsylvania move toward higher standards and more consistent work quality and protocols,<sup>74</sup> we propose that LIURPs do the same.

#### **Proposed Section 58.14c. Inter-utility coordination.**

We propose to add a new § 58.14c titled “*Inter-utility coordination*” that incorporates modified language moved from existing § 58.14(c).

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<sup>74</sup> For example, DCED’s WAP program implemented the Department of Energy’s Standard Work Specifications (SWS) new requirements for Quality Control Inspections on July 1, 2015. DCED 2022-2023 DOE State Plan – Master File at 20-23. <https://dced.pa.gov/download/22-23-doe-state-plan-master-file-final/?wpdmdl=106451&refresh=63f525989ec701677010328> (accessed on February 23, 2023).

The new § 58.14c(a) ensures that a public utility pursues opportunities to coordinate its LIURP services, trainings, outreach, and resources with other public utility LIURPs and assistance programs. This proposal is consistent with the comments of PPL, which supported the opportunity for inter-utility and coordinated training. PPL Comments at 5.

The new §58.14c(b) clarifies that a single energy audit and post-installation inspection be coordinated when two public utilities are providing program services. We have encouraged public utilities working on the same dwelling to use a single, coordinated, or combined energy audit and/or post-installation inspection, when appropriate.<sup>75</sup>

Proposed language in § 58.14c(c) outlines the obligation for costs and installation of program measures between coordinating public utilities. The new § 58.14c(d) allows a public utility to use up to 1% of its total LIURP budget on costs associated with inter-utility trainings, coordinated trainings, or outreach, or a combination of these efforts.

Coordinating program services and costs between public utilities and assistance programs can and often does result in cost savings and the ability to install more efficiency measures which can lead to deeper savings. As noted above relative to other sections, OCA also supported strengthening coordination to maximize the cost-effectiveness of LIURPs. OCA Comments at 23.

### **Section 58.15. Program evaluation.**

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<sup>75</sup> See, e.g., FirstEnergy 2015-2018 USECP Final Order, Docket Nos. M-2014-2407729, M-2014-2407730, M-2014-2407731, and M-2014-2407728 (order entered May 19, 2015), at 51-53.

This section of the existing regulations sets forth the responsibility of a public utility to establish procedures for monitoring and evaluating LIURP program results. There were no Questions in the 2016 Secretarial Letter relative to § 58.15.

### ***Stakeholder Comments***

PECO recommended that the program evaluation guidelines set forth in § 58.15 be expanded to allow for the use of weather normalization and a comparison group in reviews. PECO Comments at 21. OCA recommended that the regulation require public utilities to record the number of housing units disqualified from LIURP services and the circumstances surrounding that disqualification. OCA Comments at 29.

### **Proposed Revisions to Section 58.15.**

The goal of amending § 58.15 is to create equal and uniform reporting standards for all public utilities. While these proposals build upon the LIURP reporting requirements in 52 Pa. Code §§ 54.75 and 62.5, these proposed amendments are not intended to restrict a public utility's ability to provide additional data or to restrict the PUC from requesting additional information if necessary.

We propose to retitle this section as “*LIURP reporting and evaluation*” (currently “program evaluation”) to more accurately reflect its content. We propose to update the terms in this section to be consistent with the proposed definitions in § 58.2, including replacing “program” with “*LIURP*” when appropriate.

The proposed amendments to § 58.15 set forth the requirement that public utilities compile and report LIURP data and evaluation findings to the PUC on an annual basis, including the annual LIURP data required by Chapters 54 and 62. We propose to clarify these requirements by associating specific dates with each reporting requirement, in the proposed § 58.15(1)—(4) to state the requirements for each data set.



The proposed § 58.15(1) requires a public utility to report actual LIURP production and spending data for the recently completed program year and projections for the current program year by February 28. The proposed § 58.15(2) requires a public utility to report universal service program data by April 1. These requirements are consistent with the annual residential collection and universal service and energy conservation program reporting requirements under 52 Pa. Code §§ 54.75 and 54.75(2)(ii)(A)(I-II) (relating to annual residential collection universal service and energy conservation program reporting requirements) and 52 Pa. Code §§ 62.5(a) and 62.5(a)(2)(ii)(A)(I-II) (relating to annual residential collection and universal service and energy conservation program reporting requirements).

The proposed § 58.15(3) requires a public utility to report the statistical data on LIURP jobs completed in the preceding program year by April 30. The proposed § 58.15(4) requires a public utility to report the evaluation data and analysis of LIURP jobs completed, including periods covering the pre-installation and post-installation of program measures, ending within the previous program year by April 30. These proposed subsections align with existing regulations under 52 Pa. Code §§ 54.75(2)(ii)(A)(I) and 62.5(A)(I) that require a public utility to report LIURP data by April 30.

The proposed § 58.15(3)(i) requires a public utility to compile and report the number of LIURP jobs including the number and type of dwelling, the number of each job type completed, the number of fuel-switching jobs, the number of deferred dwellings, the number of previously deferred dwellings that received program services during the program year, the number of inter-utility coordinated LIURP jobs and the number of LIURP jobs coordinated with other weatherization programs. Currently, it is unclear how many dwellings are disqualified for LIURP services annually because of major health or safety issues that are currently outside the scope of LIURP. This proposed amendment calls for deferral data which in turn helps identify the need for addressing health and

safety barriers within LIURP. This proposal is also consistent with OCA's recommendation that the regulation be amended to require a public utility to record the number of housing units disqualified from LIURP services and the circumstances surrounding that disqualification. OCA Comments at 29.

The proposed § 58.15(3)(ii)—(iv) require a public utility to report:

- Specific costs associated with LIURP (i.e., administrative, inter-utility training, coordinated training and outreach, health and safety, incidental repairs, special needs customers, energy conservation education).
- Overall percentage of energy savings and energy savings by job type.
- Total number of CAP households and special needs households served by LIURP.

The proposed § 58.15(3)(v) incorporates uniformed reporting requirements for proposed LIURP pilot programs, expanding upon § 58.13a (relating to LIURP pilot programs). Chapter 58 does not currently provide requirements to assist public utilities in reporting pilot program data. The proposed amendment requires a public utility to report the budget and actual spending for each pilot program, the number of jobs completed, the duration of the pilot, and the pilot program's results and measures.

The proposed § 58.15(3)(vi) requires a public utility to provide an explanation if the public utility underspent its annual LIURP budget by more than 10%. This proposal is intended to identify potential trends in LIURP performance or spending that should be addressed before a public utility's next scheduled USECP proceeding. Further, underspending may indicate a need for the public utility to contract with additional ESPs or that the annual budget is not in alignment with the current needs of customers in its service territory.

The proposed §§ 58.15(4)(i)—(v) require a public utility to report LIURP evaluation data and analysis to the PUC annually by April 30, in compliance with the reporting requirements provided electronically by BCS, and incorporate modified language removed from the existing § 58.15(2), including additional language requiring data related to household demographics.

### **Section 58.16. Advisory panels.**

This section of the existing regulations sets forth the purpose of a public utility to create and maintain a LIURP advisory panel. It further sets provisions for membership, review and the creation of additional advisory panels. There were no Questions in the 2016 Secretarial Letter relative to § 58.16.

#### ***Stakeholder Comments***

PPL suggested revising § 58.16 to provide more flexibility in the types of meetings that public utilities hold with stakeholders and the rules governing membership participation, including adding references to “stakeholder meetings” and “collaboratives”. PPL also suggested allowing flexibility in how such meetings occur, as technology now allows a variety of communication options for groups to participate in such meetings. PPL Comments at 13.

#### **Proposed Revisions to Section 58.16.**

We propose to retitle this section as “*LIURP advisory committee*” (currently “advisory panels”) to more accurately reflect its content. This section is amended to provide greater flexibility for a public utility to collaborate with stakeholders by allowing a public utility to combine the functions of its LIURP advisory committee with its existing USAC. This amended section also requires a public utility to meet with stakeholders at least semiannually to consult and receive advice regarding its LIURP services.

All public utilities currently have some form of USAC that meets on at least a semiannually basis to receive universal service program updates, including LIURP, and provide feedback on proposed program initiatives. The PUC has found that USACs provide an opportunity for a public utility to collaborate with stakeholders on outreach, coordination, and implementation issues impacting all universal service programs.<sup>76</sup>

We propose to retitle § 58.16(b) as “*Committee participants*” (currently “membership”). We propose to remove and reserve the existing §§ 58.16(c)-(d). This change gives a public utility flexibility in establishing membership and responsibilities for its advisory committee. These changes allow for greater collaboration between public utilities and stakeholders when addressing LIURP issues.

We propose to remove and reserve the existing § 58.16(e), regarding the use of existing advisory panels. This provision is addressed by allowing a public utility to use its USAC in place of a LIURP Advisory Committee.

#### **Section 58.17. Regulatory review.**

This section of the existing regulations sets forth a requirement that a public utility may not implement or significantly modify a LIURP without PUC approval. There were no Questions in the 2016 Secretarial Letter relative to § 58.17.

#### ***Stakeholder Comments***

CEO recommended that the regulations be amended to require that a public utility’s USECP be submitted to the PUC’s Office of Administrative Law Judge for a recommended decision. CEO Comments at 1.

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<sup>76</sup> See, e.g., NFG 2017-2020 USECP Order, Docket No. M-2016-2573847 (order entered March 1, 2018), at 29, 66; and FirstEnergy 2019-2021 USECP Order, Docket Nos. M-2017-2636969, M-2017-2636973, M-2017-2636976, and M-2017-2636978 (order entered May 23, 2019), at 61, OP No. 11.

Duquesne, PPL, Peoples, and EAP separately opposed CEO’s recommendation and expressed support for maintaining the current USECP review and approval process, which is led by BCS. Duquesne RC at 3-4; PPL RC at 2; Peoples RC at 2; EAP RC at 9-10. Duquesne, PPL, Peoples, and EAP supported the procedure whereby LIURPs are modified through a USECP review process led by the PUC’s BCS. Duquesne RC at 3-4; PPL RC at 2; Peoples RC at 2; EAP RC at 9-10.

**Proposed Revisions to Section 58.17.**

We propose to retitle this section as “*Modifications of a LIURP*” (currently “regulatory review”) to more accurately reflect its content and PUC practice. The existing language in this section provides that a public utility may not implement a LIURP or significantly modify it without “Commission approval.” We propose to replace “Commission approval” in the existing regulation with “USECP proceeding” to reflect that a public utility electing to modify its program services or its LIURP budget must do so through a USECP proceeding. This proposed amendment is consistent with our proposed amendments in § 58.4(a.1). We are not proposing to modify the role of BCS in reviewing LIURP or USECP proposals. Duquesne, PPL, Peoples, and EAP supported modifying LIURPs through a USECP review process led by the PUC’s BCS. Duquesne RC at 3-4; PPL RC at 2; Peoples RC at 2; EAP RC at 9-10. CEO has not persuaded us that USECP proceedings should be OALJ proceedings.

**Section 58.18. Exemptions.**

This section of the existing regulations sets forth how a public utility can request LIURP exemptions to the provisions of this Chapter. There were no Questions in the 2016 Secretarial Letter or stakeholder comments received relative to § 58.18.

**Proposed Revisions to Section 58.18.**

We propose to retitle this section as “*Waiver*” (currently “exemptions”) to refer to provisions under 52 Pa. Code § 1.91 (relating to applications for waiver of formal

requirements). An EDC or an NGDC has the burden to establish the merits of making a change in or addition to its LIURP, regardless of whether that change or addition is proposed mid-USECP or in conjunction with a periodic USECP review. If the proposed change requests a deviation from the provisions of Chapter 28, the public utility would need to comply with 52 Pa. code § 1.91 in making the request for the change. This provision supports the proposed amendments throughout Chapter 58 that replace “Commission approval” with “USECP proceeding.” The terms in this section are updated consistent with the proposed definitions in § 58.2.

**Proposed Section 58.19. Temporary suspension of program services.**

We propose to add new § 58.19 regarding temporary suspension of program services that establishes notification and reporting requirements if a public utility suspends or plans to suspend its program services. We recognize that it may be reasonable for a public utility to temporarily suspend all or some of its program services for 30 days or longer due to circumstances beyond the public utility’s control. Circumstances may include a public health emergency, such as a natural disaster or a pandemic. Most recently, all public utilities in the Commonwealth suspended in-person program services for several months in 2020 due to the restrictions created by the COVID-19 pandemic.<sup>77</sup> Public utilities offered limited LIURP services during this timeframe and maintained a suspension of in-person services for varying periods of time. However, some suspensions are not the result of highly publicized events and may only affect one public utility or one portion of a public utility’s service territory. In light of this experience, we find it reasonable to require a public utility to keep the PUC and the public informed when suspension of program services is necessary and provide monthly status updates until these program services are resumed.

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<sup>77</sup> On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency (*Emergency Proclamation*) in response to the COVID-19 pandemic. The proclamation, which has since expired, is available at <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-03/Pennsylvania%2020200306-COVID19-Digital-Proclamation.pdf>. (Accessed on March 14, 2023.)

## **2016 Secretarial Letter Questions 13 and 14**

Questions Nos. 13 and 14 in the 2016 Secretarial Letter were not specific to or limited to a particular existing section of the LIURP regulations.

Question 13: Are there specific “best practices” that would better serve the LIURP objectives which should be standardized across all the utilities? If so, what are they? For example, is there a more optimal and cost-effective method(s) of procuring energy efficiency services so as to maximize energy savings at lower unit costs?

### ***Stakeholder Comments***

PPL, FirstEnergy, and Duquesne separately asserted that the existing LIURP regulations already possess an adequate framework. PPL Comments at 9; FirstEnergy Comments at 11; Duquesne Comments at 10.

PPL opined that best practices ought to be addressed in each public utility’s USECP. PPL Comments at 9. FirstEnergy also supported addressing best practices regarding public utility-specific issues, including the appropriate measures, budget level parameters, outreach efforts, and agency coordination, in the public utilities’ USECP proceedings. FirstEnergy Comments at 11-12. PGW contended that any specific LIURP “best practices” for one public utility would not necessarily apply to other public utilities because they have very different service territories. PGW supported more flexibility in existing regulations to allow each public utility to address its service territory and any ongoing changes in the weatherization industry. PGW Comments at 12. PECO asserted that evaluating all LIURP practices with the following framework will produce the best results: 1) targeting the highest users, 2) providing installation of major measures when cost-effective opportunities are present, and 3) providing effective quality installations. PECO Comments at 19.

Duquesne recommended that the PUC call for a collaborative meeting of interested stakeholders to identify situations where coordination between public utilities as well as state and federal agencies could result in better outcomes for eligible customers. Duquesne Comments at 10.

PECO asserted that evaluating all LIURP practices with the following framework will produce the best results: 1) targeting the highest users, 2) providing installation of major measures when cost-effective opportunities are present, and 3) providing effective quality installations. PECO Comments at 19.

PA-EEFA recommended shifting program focus to an integrated, whole approach that best serves the needs of low-income households and has the greatest impact on reducing arrearages by saving households the most money on overall energy bills. They contended that this change should be undertaken through improved implementation practices and the adoption of reporting protocols and success metrics that emphasize maximizing savings per household. PA-EEFA noted that revising the existing regulations could allow and encourage a broad range of eligible energy saving measures for renters, including refrigeration and air-cooling appliances. They recommended that the PUC consider procurement of program delivery services in which compensation would be based, to a degree, on performance and outcome. PA-EEFA stated that there is precedent to support this approach in Act 129 where public utilities have linked CSP compensation to performance. PA-EEFA Comments at 30-31.

DCED & DEP jointly suggested that regulatory changes focus on ways to minimize barriers to entry and maximize energy efficiency benefits to low-income consumers by improving the quality of work performed, prioritizing the most cost-effective practices, and expanding targeted educational and outreach efforts. They recommended prioritizing high-energy users and coordinating services as much as possible. DEP & DCED Comments at 2.



OCA recommended that the PUC address the following areas in any LIURP regulation revisions: 1) LIURP funding; 2) both single-family homes and multi-family dwellings needs assessments; 3) partnerships; 4) *de facto* space heating; 5) program eligibility; and 6) LIURP cost-effectiveness. OCA Comments at 4-5. OCA supported modifying the existing regulations to reflect partnerships and coordination with other programs to encourage a whole-house approach for LIURP services. OCA did not support amending the existing regulations to move toward a performance or outcome-based compensation LIURP structure, as this could potentially increase administrative costs. OCA submitted that energy burdens should be taken into consideration when targeting for LIURP and suggested that special funding should be focused toward customers in the deepest poverty (i.e., below 50% FPIG). OCA noted that targeting CAP customers with the highest energy burdens would help reduce the amount of CAP credits used and allow for more affordable bills even if the customer exceeds the maximum CAP credit limit. OCA RC at 17-19.

### **Proposed Considerations**

The PUC welcomes stakeholder input in the form of comments or reply comments on the points raised in response to Question 13.

Question 14: The [PUC] welcomes stakeholder input on other LIURP issues or topics.

### ***Stakeholder Comments***

EAP, Duquesne, OCA, Peoples, PPL, PA-EEFA, FirstEnergy, and PECO separately supported stakeholder meetings to discuss the proposed regulations to ensure a collaborative effort. EAP Comments at 16; Duquesne RC at 8-9; OCA RC at 17; Peoples RC at 1; PPL RC at 3; PA-EEFA RC at 10-11; PECO RC at 1; PPL RC at 6; Met Ed RC at 5.

PA-EEFA, PPL, and FirstEnergy separately recommended that the PUC establish a working group to address issues such as coordination, training, and *de facto* heating. PA-EEFA RC at 10-11; PPL Comments at 3-4; FirstEnergy Comments at 12-13. EAP took no position on *de facto* heating but noted that the commenters did not address the issues of reconnection fees and outstanding arrearages. EAP RC at 10.

PGW reemphasized the need to give a public utility flexibility in its LIURP implementation and claimed that regulations must allow for the adoption of innovative approaches, cost effectiveness for evaluations, and modern equipment and technologies. PGW submitted that the establishment of a stakeholder meeting or working group would be appropriate to address several issues raised by the 2016 Secretarial Letter before the issuance of any proposed regulations. PGW Comments at 14.

### **Proposed Considerations**

The PUC welcomes stakeholder input in the form of comments or reply comments on the points raised in response to Question 14.

### **Cost Compliance with the Proposed Amendments and Timelines**

Stakeholders are requested to address the following topics regarding the proposed amendments:

- Identify the benefits and adverse effects of the proposed amendments, including costs and cost savings. Explain how you arrived at your estimates.
- Quantify the specific costs, savings, or both, to a public utility anticipated to be associated with compliance with the proposed amendments. Your comments should provide details in terms of administering a LIURP. If you wish to address this in terms of the cost of providing LIURP services, that information must be set

out separately from the cost of administration. Explain how you arrived at your estimates.

- Explain the additional legal, accounting, consulting, reporting, recordkeeping, and other work that would be involved in complying with the proposed regulations.

### **Additional Questions**

LIURP services are statutorily mandated universal services for low-income customers. Ratepayers pay the cost of LIURP services; these costs are recoverable and non-bypassable. We have seen over the years that the cost of providing usage reduction services for low-income customers is more affordable to ratepayers than writing off high debts in the future.

There are households, some above 150% of the FPIG, that currently carry public utility arrearage balances in excess of \$10,000. To the extent that these high arrearages are attributable to conservation issues or health and safety issues, or both, we seek input on potential roles for LIURP in helping to reduce or eliminate further accumulation of arrearages.

With this in mind, we pose the following additional questions for comment in this NOPR:

Question A Has LIURP proven to be an effective means to help customers with extremely high arrearage balances (e.g., \$10,000 or more) maintain utility service and pay down this debt?

Question B Would offering LIURP to customers with high utility account balances and unusually high monthly average bills result in a decrease in the cost

of collection efforts and a decrease in uncollectible write-offs? If so, what eligibility criteria may apply?

Question C At what arrearage accumulation point or points should a public utility intervene to assist a customer reduce the household's monthly bill to make the bills more affordable before the customer accumulates a balance of \$10,000 or greater? What criteria could the public utility use to identify customers who could benefit from LIURP treatment to minimize extremely high balances (e.g., amount of arrearage accumulating, age of housing and ability to provide conservation treatment, amount of average monthly bill compared to ability to pay, history of good faith payments, and the like)? Should the accumulation point be based on household income level or FPIG tier? What should the point or points be?

Question D How can coordination with other programs (e.g., Act 129) help customers with high arrearage balances who are income-ineligible for LIURP?

Question E What other avenues should be considered, in combination with or separate from LIURP, to help public utility customers maintain service if they have arrearage balances near or exceeding \$10,000? What programs exist or could be recommended to address the existing arrearage for customers income-eligible for CAPs so as not to burden ratepayers with write-offs of accumulated arrearages in the future?

## **CONCLUSION**

Having reviewed the comments and reply comments to the 2016 Secretarial Letter, completed another round of periodic USECP proceedings, and revised the PUC's CAP Policy Statement (2020), the PUC has now developed this NOPR to propose revisions to the existing LIURP regulations.

This NOPR will be posted to the PUC’s website and served on all parties of record at this proceeding. All interested parties and persons are encouraged to participate in this rulemaking proceeding by filing public comments after this NOPR is published in the *Pennsylvania Bulletin*.

The Law Bureau, with the assistance of the Bureau of Consumer Services, will prepare the requisite supporting documents for the various deliveries of this NOPR pursuant to the Regulatory Review Act. 71 P.S. §§ 745.1 — 745.15. Thereafter, the Law Bureau will deliver this NOPR along with the requisite supporting documents to the Office of Attorney General (OAG) and to the Governor’s Office of Budget (Budget) for review. Upon receipt of approvals from OAG and from Budget, the Law Bureau will deliver this NOPR along with the requisite supporting documents to the Legislative Standing Committees, to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and to the Independent Regulatory Review Commission (IRRC). 71 P.S. § 745.5(a).

Interested parties and persons may file written comments to this NOPR, as it is published in the *Pennsylvania Bulletin*, during the 45-day period following publication in the *Pennsylvania Bulletin*. Reply comments may be filed within the 30-day period following the close of the comment period. Comments and reply comments must reference Docket No. L-2016-2557886. This 75-day period is the “public comment period.” The PUC is obligated to forward every filed comment and reply comment received during the public comment period to the Legislative Committees and to IRRC within five days of the PUC’s receipt of the timely filed comment or reply comment. 71 P.S. § 745.5(c). Therefore, comments and reply comments filed prior to publication of this NOPR in the *Pennsylvania Bulletin*, that is, before the opening of the public comment period, will be considered premature and must be refiled within the public comment period, that is after publication of the NOPR in the *Pennsylvania Bulletin*.

Accordingly, under sections 501, 1501, 2203, and 2804 of the Public Utility Code (66 Pa.C.S. §§ 501, 1501, 2203, and 2804); section 201 of the act of July 31, 1968, (P.L. 769, No. 240), referred to as the Commonwealth Documents Law (45 P.S. § 1201), and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5 (relating to notice of proposed rulemaking required; adoption of regulations; and approval as to legality); section 732-204(b) of the Commonwealth Attorneys Act (71 P.S. § 732-204(b)); section 745.5 of the Regulatory Review Act (71 P.S. § 745.5); and section 612 of The Administrative Code of 1929 (71 P.S. § 232), and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234 (relating to fiscal note), we are considering adopting proposed changes to existing regulations and proposed new regulations, at 52 Pa. Code §§ 58.1—58.19, as set forth in Annex A, attached hereto; **THEREFORE,**

**IT IS ORDERED:**

1. That, upon entry, this Notice of Proposed Rulemaking, consisting of an Order and an Annex A, be posted on the website of the Pennsylvania Public Utility Commission and served on parties of record. The comment period will not open until the Notice of Proposed Rulemaking is published in the *Pennsylvania Bulletin*.

2. That the Law Bureau, with the assistance of the Bureau of Consumer Services, shall prepare the requisite supporting documents for the various deliveries of this Notice of Proposed Rulemaking pursuant to the Regulatory Review Act. 71 P.S. §§ 745.1—745.15.

3. That the Law Bureau shall deliver this Notice of Proposed Rulemaking along with the requisite supporting documents to the Office of the Attorney General and the Governor's Office of the Budget for review.

4. That, upon receipt of approval from the Office of the Attorney General and from the Governor's Office of the Budget, the Law Bureau shall deliver, on a single day, this Notice of Proposed Rulemaking along with the requisite supporting documents to the Legislative Standing Committee, the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Independent Regulatory Review Commission. 71 P.S. § 745.5(a).

5. That interested persons may file written comments to this Notice of Proposed Rulemaking, as published in the *Pennsylvania Bulletin*, during the 45-day period following publication in the *Pennsylvania Bulletin*. Reply comments may be filed within the 30-day period following the close of the comment period. The 75 days constitute the public comment period. Comments and reply comments filed during the public comment period will be forwarded by the Commission to the Legislative Committees and the Independent Regulatory Review Commission.

6. That comments and reply comments may be filed electronically through the Public Utility Commission's efilings system,<sup>78</sup> in which case no paper copy needs to be filed with the Secretary provided that the filing is less than 250 pages.<sup>79</sup> If you do not efile, then you are required to mail, preferable by overnight delivery, one original filing, signed and dated, with the Commission's Secretary at: Pennsylvania Public Utility Commission, Commonwealth Keystone Building 2nd Floor, 400 North Street, Harrisburg, PA 17120. Comments and reply comments must reference Docket No. L-2016-2557886. All pages of filed comments and reply comments, with the exception of a cover letter, must be numbered.

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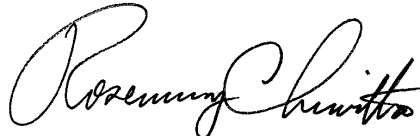
<sup>78</sup> <https://www.puc.pa.gov/efiling/default.aspx>

<sup>79</sup> If your filing is 250 pages or more, then you are required to mail one copy of the filing to the Secretary.

7. That an electronic copy, in WORD® or WORD®-compatible format, of all filed submissions, comments and reply comments at this docket be provided to Regina Carter, Bureau of Consumer Services, [regincarte@pa.gov](mailto:regincarte@pa.gov); Joseph Magee, Bureau of Consumer Services, [jmagee@pa.gov](mailto:jmagee@pa.gov); Louise Fink Smith, Esq., Law Bureau, [finksmith@pa.gov](mailto:finksmith@pa.gov); Erin Tate, Esq., Law Bureau, [etate@pa.gov](mailto:etate@pa.gov); Karen Thorne, Regulatory Review Assistant, Law Bureau, [kathorne@pa.gov](mailto:kathorne@pa.gov); [RA-PCLAW-LIURP@pa.gov](mailto:RA-PCLAW-LIURP@pa.gov); and [ra-pcpcregreview@pa.gov](mailto:ra-pcpcregreview@pa.gov).

8. That the contact persons for this proceeding are Regina Carter, Bureau of Consumer Services, 717-425-5441, [regincarte@pa.gov](mailto:regincarte@pa.gov); and Karen Thorne, Regulatory Review Assistant, Law Bureau, [kathorne@pa.gov](mailto:kathorne@pa.gov).

**BY THE COMMISSION,**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: May 18, 2023

ORDER ENTERED: May 18, 2023