COMMUNITY LEGAL SERVICES
OF PHILADELPHIA

May 8, 2019

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

Re: Energy Affordability for Low-Income Customers in Pennsylvania
Docket No. M-2017-2587711
Comments of the Tenant Union Representative Network, Action Alliance of Senior Citizens of Greater Philadelphia, and the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania

Dear Secretary Chiavetta:

Pursuant to the Commission Order entered January 17, 2019, and the Secretarial letter dated March 7, 2019, enclosed please find the written Comments of the Tenant Union Representative Network (TURN), Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance), and the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA) (collectively, the Low Income Advocates) regarding Energy Affordability for Low Income Customers in Pennsylvania.

Should you have any questions or concerns, please do not hesitate to contact me at jprice@clsphila.org or (215) 981-3756.

Respectfully Submitted,

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Before the Pennsylvania Public Utility Commission

Energy Affordability for	**:**	
Low Income Customers	**:**	**Docket No. M-2017-2587711**

JOINT COMMENTS OF

TENANT UNION REPRESENTATIVE NETWORK (TURN),

ACTION ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA, AND

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

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I. INTRODUCTION AND BACKGROUND

Tenant Union Representative Network (TURN) and Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance), together with the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) (collectively referred to herein as the Low Income Advocates), file the following comments in response to the Commission's January 17, 2019 Order (January 17 Order) and March 7, 2019 Secretarial Letter (March 7 Secretarial Letter) (providing for an extended comment period) at this docket. The January 17 Order accompanied the release of the Home Energy Affordability for Low Income Customers in Pennsylvania Report (Report), in which the Commission's Bureau of Consumer Services (BCS) and Law Bureau looked at data provided by Pennsylvania's largest Natural Gas Distribution Companies (NGDCs) and Electric Distribution Companies (EDCs) regarding energy affordability and energy burdens of low income utility customers. The January 17 Order and March 7 Secretarial Letter also directed NGDCs and EDCs to provide supplemental information and data, including data on the estimated financial impact on ratepayers if Pennsylvania were to adopt a 10% maximum energy burden. The utilities provided supplemental information and data on April 8, 2019.

The Report underscores the need for *immediate* relief to improve gas and electric affordability in Pennsylvania. The Low Income Advocates thank BCS and the Law Bureau for their work in preparing the Report and analyzing the data responses provided by the utilities. The Low Income Advocates previously submitted extensive comments and reply comments in the Commission's Review of Universal Service and Energy Conservation Programs proceeding at Docket No. M-2017-2596907 ("Universal Service Review"). In those comments, the Low Income Advocates recommended the following broad-based changes to resolve the energy affordability crisis in Pennsylvania:

- Adopt a 6% combined heat and electric energy burden, targeted through a Percentage of Income Program (PIP);
- Approve cross-class recovery of universal service program costs; and
- Integrate the administration of universal service programming through a single statewide delivery model.[1]

In addition to these overarching recommendations, the Low Income Advocates addressed a number of critically important programmatic details for each universal service program – the Customer Assistance Program (CAP), the Low Income Usage Reduction Program (LIURP), the Hardship Fund, and CARES. Finally, the Low Income Advocates made a number of recommendations regarding the Commission's review of each utility's universal service programs and the accessibility of important program metrics to promote transparency and allow the public to assess the availability and effectiveness of universal service programming. The Low Income Advocates continue to assert that these changes are both prudent and necessary to significantly address energy affordability in Pennsylvania.

In Reply Comments, the Low Income Advocates rejected the premise that the cost of providing adequate universal service programming to all those in need is too expensive, and cannot or should not be done. The Low Income Advocates also responded to a number of specific programmatic issues raised by stakeholders and/or questions posed by Commission staff.

As set forth more fully in these Comments, the Low Income Advocates continue to assert that comprehensive universal service reform is necessary to achieve the mandates of the Electric

[1] *See* Joint Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Tenant Union Representative Network, and Action Alliance of Senior Citizens of Greater Philadelphia to the Review of Universal Service and Energy Conservation Programs, PUC Docket No. M-2017-2596907 (August 8, 2017) ("Universal Service Review Low Income Advocate Comments").

and Natural Gas Competition Acts[2] and to fully address the energy affordability crisis facing low income households across Pennsylvania. We urge the Commission to take immediate action to lower energy burdens for CAP customers, many of whom are currently unable to afford their gas and electric bills. The available data makes it undeniably clear that many low income households across the state cannot now reasonably afford to maintain service – even with the assistance of CAP. In other words, for many low income customers, CAP programs simply are not working as intended to ensure continued access to essential utility services at reasonably affordable rates. The Low Income Advocates strongly encourage the Commission to recognize that action is long overdue, and to act now to address Pennsylvania's energy affordability crisis. The Report and supplemental utility data support an immediate reduction of CAP energy burdens in Pennsylvania.[3] Lowering these energy burdens is an important first step in combatting energy insecurity and ensuring that all households are able to access affordable energy services in Pennsylvania.[4]

II. COMMENTS

A. The Commission Should Act Now to Reduce CAP Energy Burdens

As set forth below, data over the past 15 years shows that lack of actual affordability is resulting in disproportionately high termination rates for low income customers. The inescapable and unfortunate conclusion that must be drawn is that there is an affordability crisis for low income households in Pennsylvania. Contrary to the statutory mandates of universal service, household income remains a primary determinant for whether a family can access and maintain critical utility services. While current universal service programs improve affordability for some, the design and

[2] 66 Pa. C.S. §§ 2202, 2802.
[3] The Low Income Advocates submit that a 6% combined energy burden is appropriate. The Report and the utility data indicate that a 10% maximum energy burden is a significant necessary improvement, as discussed below.
[4] Universal Service Review Low Income Advocates Comments at 13-16.

implementation of these programs is not resulting in consistently affordable bills for many of Pennsylvania's poorest residents.

In order to effectively address the inability of low income households to afford gas and electric service in Pennsylvania, the Low Income Advocates urge the Commission to act now to establish a maximum energy burden for CAP customers that is in line with the energy burden of middle and higher income households in Pennsylvania and consistent with expert recommendations and the energy affordability policies of our neighboring states.[5] While the Report and accompanying Order and Secretarial Letters suggest a 10% maximum energy burden, **the weight of available evidence demonstrates that a maximum combined gas and electric CAP energy burden of 6% is more appropriately targeted to ensure that low income customers are able to maintain service.**[6]

i. There is an energy affordability crisis in Pennsylvania.

In 2018, at least 18,500 households in Pennsylvania entered the heating season without heat-related utility service or used unsafe heating sources after having their service terminated for nonpayment during the 2018 calendar year.[7] In Pennsylvania, disabled individuals, the elderly, minority communities, and single women with children face significantly higher rates of poverty, and likely make up a disproportionate share of homes that are without heat in the winter.[8] The

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[5] Universal Service Review Low Income Advocates Comments at 16-19.
[6] *See id.*
[7] 2018 Gas and Electric Cold Weather Survey Results, available at http://www.puc.state.pa.us/filing_resources/gas_and_electric_cold_weather_survey_results.aspx. This number is conservative, as it does not include households who were off before the start of the calendar year and did not reconnect to service in 2018. It also does not account for potentially thousands more households who rely on deliverable fuel to heat their homes. When households with deliverable fuel are unable to afford a fuel delivery, they often turn to more expensive and potentially dangerous heating sources, such as electric space heaters, ovens, fires, and portable generators.
[8] As a part of the broader Universal Service Review, a number of social service, legal service, and advocacy organizations submitted comments that highlighted the higher rates of poverty among Pennsylvania's most vulnerable populations, including people with disabilities, minorities, seniors, immigrants, veterans, victims of domestic violence and those with chronic illnesses. *See* Comments of AARP *et al.* to the Review of Universal Service and Energy Conservation Programs, PUC Docket No. M-2017-2596907 (August 8, 2017). See also Ariel

significant number of Pennsylvania households entering the winter without access to heat confirms the striking and painful reality that too many Pennsylvanians are unable to afford gas and electric service. The number of households that continue to struggle with the unaffordable costs of service is simply unacceptable. Lacking resources to restart service, many of the families who occupy these households will have no other option but to vacate their homes[9] or to rely on unsafe heating sources.[10]

Year after year, the energy affordability crisis in Pennsylvania is borne out in the disproportionate number of involuntary terminations of low income consumers compared to residential consumers as a whole. As the charts below show, over the most recent 10 years of reported data, involuntary termination rates for low income electric customers have ranged from 200% to 450% *higher* than termination rates for the residential customer class as a whole.[11] Likewise, over the same period, involuntary termination rates for low income gas customers have ranged from 175% to 240% *higher* than termination rates for the residential customer class as a whole.[12] These charts also tend to show that once terminations rise – because of external factors such as the passage of Chapter 14, the 2008 recession, or the 2014 polar vortex – they remain high and level off at higher rates. There is a clear need for payment assistance that is targeted to reduce termination of service.

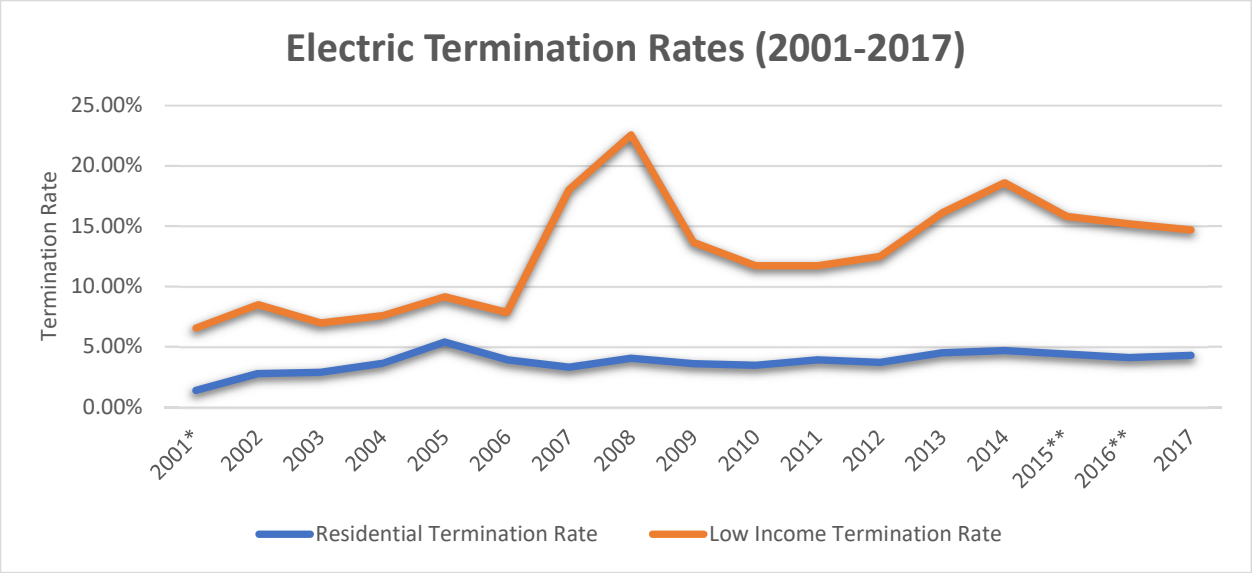
Drehobl & Lauren Ross, ACEEE, Lifting the High Energy Burden in America's Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities, at 13 (April 2016), http://aceee.org/research-report/u1602 (finding that minority households experienced higher energy burdens in large cities across the country).

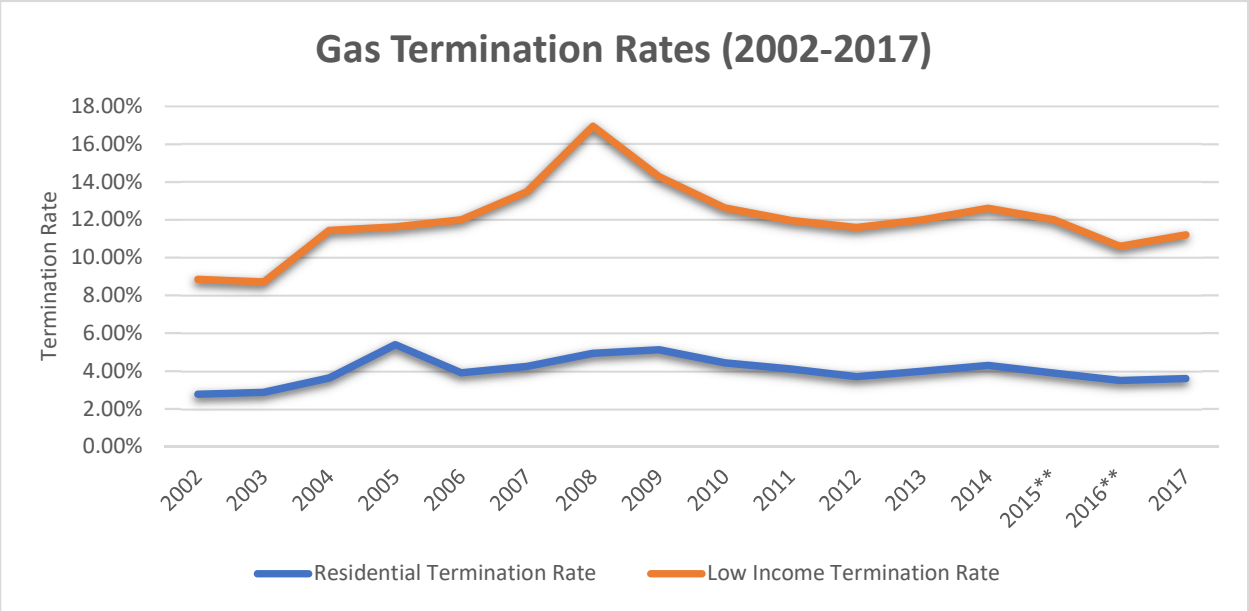
[9] *Id.* The 2018 Survey Results showed that 10,342 residences where electric service was terminated and 3,564 residences where natural gas service appeared to be vacant.

[10] *Id*. The 2018 Survey Results showed 199 households without electric service and 861 households without natural gas service were heating with potentially unsafe heating sources.

[11] Given that the low-income customers are a subset of the residential customer class, the termination rate for *non-low income* residential customers is even lower than the rate for all residential customers as a class.

[12] See *supra* n. 11.

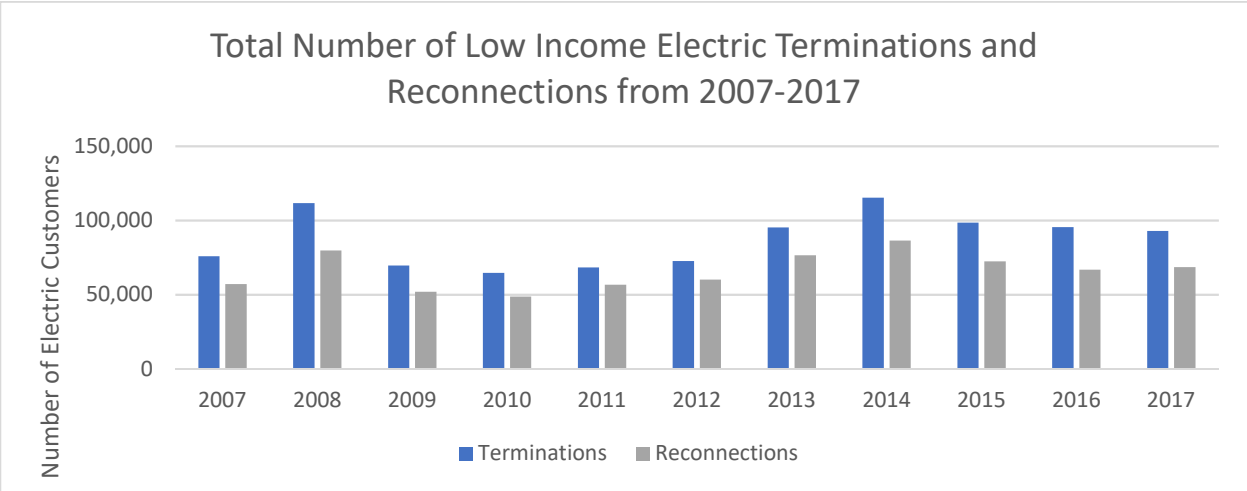


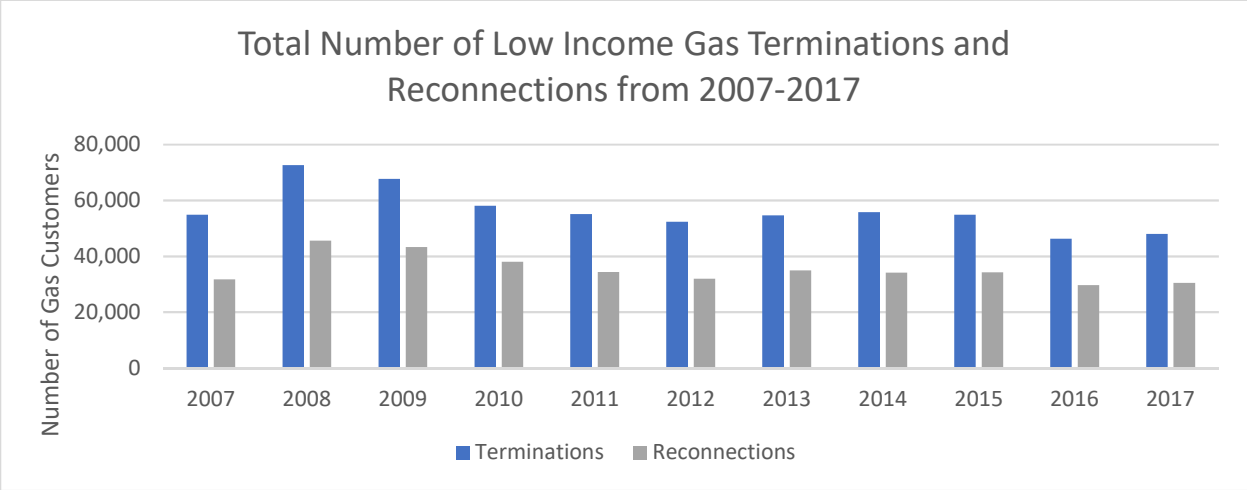


The available data also shows that low income customers whose service is terminated often struggle to reconnect to service.[13] In 2017, Pennsylvania utilities terminated more than 140,000

[13] Of course, each time service is terminated for nonpayment, low income consumers must pay reconnection and/or late fees – which only worsens the affordability gap for low income consumers. Reconnection fees vary across the Commonwealth, with some as low as $20, though most are $50 - $75. In other words, the 99,000 confirmed low income households who reconnected service in 2017 likely paid anywhere between $2 million (99,000 x $20 = $1,980,000) and $7.4 million ($75 x 99,000 = $7,425,000) in reconnection fees alone. These added costs – in

low income customers for nonpayment of gas and electric bills.[14] That same year, the utilities reported approximately 99,000 low income reconnections.[15] This data reflects a continued trend in which every year, Pennsylvania gas and electric utilities terminate more low income customers than they reconnect, as illustrated by the following charts:





addition to the already unaffordable rates – pose an often insurmountable barrier for households seeking to reconnect to service.

[14] 2017 Report on Universal Service Programs & Collections Performance of the Pennsylvania Electric Distribution Companies & Natural Gas Distribution Companies.

[15] *Id.*

The termination and reconnection data above shows the increasing difficulty low income customers have had in maintaining service since the passage of Chapter 14 in 2004, which imposed more stringent collections and terminations requirements on residential consumers. Chapter 14 explicitly sought "to achieve greater equity by eliminating opportunities for customers *capable of paying* to avoid the timely payment of public utility bills," while at the same time ensuring "that service remains available to all customers on reasonable terms and conditions."[16] Chapter 14 was premised on the assumption that CAP rates are affordable.[17] High energy burdens and unaffordable bills, coupled with the harsh termination and collection practices sanctioned by Chapter 14, have instead ensnared those who are simply incapable of paying their bill due to poverty. More than 1 in 10 low income households are disconnected from critical utility services each year. In some years, as many as 1 in 4 low income households are disconnected.

Enrollment in a Customer Assistance Program (CAP) does not shield low income customers from high termination rates. The Report set out to measure CAP defaults (exits)[18] and CAP terminations – two important indicators of affordability within CAP.[19] Unfortunately, due to definitional inconsistencies, BCS was unable to make broad conclusions about the available data. However, in the experience of the Low Income Advocates, CAP exits – whether because of missed payments,[20] failure to recertify program eligibility, or other violations of CAP rules – often lead to

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[16] 66 Pa. C.S. § 1402 (declaration of policy) (emphasis added).

[17] This is demonstrated by the fact that debts accrued in a CAP must be excluded from Commission issued payment arrangements. 66 Pa. C.S. § 1405(c).

[18] CAP defaults, otherwise referred to as CAP exits, refers to customers who are removed from CAP for "failure to meet the requirements of CAP." Report at 63. This includes, among other reasons, nonpayment or late payments. *Id.*

[19] Report at 63. **Both CAP exits and CAP terminations must be considered, as some utilities remove customers from CAP before terminating service, while others terminate service to CAP customers.** *See id.*

[20] Low Income Advocates believe that the Commission needs to address CAP exits/defaults that are caused by the non-payment of CAP bills. It is our view that customers who are in CAP should remain in CAP, even when they miss payments. The recourse for missed CAP payments should be the same as for any missed payments: collection activity that may result in termination of service under Chapter 56. CAP customers should not be cycling on and off CAP because of missed payments. While most utilities have rules that allow these exited CAP customers to be reinstated to CAP if they make up their missed CAP payments, the exit/default process creates a host of

termination of service at rates that consistently exceed termination rates for residential customers as a whole.[21] Thus, under the current CAP structures, customers struggle to maintain service even with assistance through the program. For example, in 2016, CAP exits for natural gas heating customers ranged as high as 50%, while CAP terminations for natural gas heating customers were as high as 16%.[22] On the electric side, CAP exits for electric heating customers in 2016 were as high as 19%, while CAP terminations for this group in the same year exceeded 4%.[23] And, for electric non-heating customers in that year, CAP exits were as high as 50%, and CAP terminations were over 6%.[24]

As the Report concludes, the data regarding CAP terminations and exits is imperfect, given variations in the manner in which the data was collected and reported as well as differences between utility policies for termination of a CAP customer for nonpayment (i.e., some utilities terminate CAP customers, while others remove customers from CAP before moving to terminate service). Regardless of these variations, the conclusion remains the same: unaffordable service leads to high CAP exit rates and places low income customers at disproportionate risk of termination. This is a troubling trend and, based on the other data which is available, points to a broader CAP affordability concern across the state.

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complications. For example, we are aware of at least one utility with CAP shopping protections that does not apply those protections to customers who have missed CAP payments and are, therefore, "defaulted" from CAP. This is true notwithstanding the fact that the customer can make up missed CAP payments and immediately get back into CAP. In the interim, while these customers are in default status, they are not protected by the CAP shopping rules that the Commission has ordered for that utility. This is a loophole that must be closed and it is illustrative of the problems associated with the whole notion of CAP default and exits. As a part of its broader universal service reform, the Commission should require all utilities to end their practices of CAP defaults and exits that are tied to non-payment of CAP bills.

[21] Report at 63-71.

[22] *Id.* at 65-66.

[23] *Id.* at 69-70.

[24] *Id.* at 68-69.

The striking disparity between low income and general residential terminations is particularly important to this analysis, given that the Natural Gas Choice and Competition Act and the Electricity Generation Customer Choice and Competition Act ("Choice Acts") explicitly define "universal service and energy conservation" as the "policies, protections and services that help low income customers ***to maintain [electric and gas service]***."[25] As the termination data above demonstrates, low income customers, including those who are actively enrolled in CAP, are not able to maintain utility service due to unaffordable rates and face frequent loss of service. Universal service programs that fail to help low income customers to maintain service run contrary to the explicit mandates of the Choice Acts.[26]

A central finding of the Report is that, on average, a significant number of CAP customers have unaffordable energy burdens – particularly those with the lowest household income.[27] The Report noted "a wide disparity in the average percent of household income spent on natural gas and electric services by non-CAP residential and CAP customers."[28] While non-CAP residential accounts in Pennsylvania had an average energy burden of 4%, regardless of heating type, CAP customers in Pennsylvania had a combined average energy burden of 12% to 14% for heating and electric non-heating and 8% to 10% for CAP customers with electric heat.[29] Nearly all of the utilities surveyed reported that the lowest income CAP customers, those with household income between 0-50% of the Federal Poverty Level (FPL), had average energy burdens in excess of the Commission's CAP Policy Statement at 52 Pa Code § 69.265.[30] For some utilities, average energy burdens for this income group exceeded 20% of the household's annual income.[31] As noted in the

[25] 66 Pa. C.S. §§ 2202, 2803 (definitions).
[26] 66 Pa. C.S. §§ 2202, 2803.
[27] Report at 22-31.
[28] *Id.* at 109.
[29] *Id.*
[30] *Id.* at 22-31.
[31] *Id.*

Report, "[d]espite the programs and services designed to bridge the energy affordability gap in Pennsylvania, the Commission routinely receives complaints from customers enrolled in CAPs who are failing to or are unable to keep up with payments, accumulating in-program arrears, facing loss of program eligibility, and risking service termination."[32] The Report provides additional statistical confirmation of the energy affordability crisis in Pennsylvania and confirms that many CAP customers are receiving bills that are not affordable.

There are two critical things to keep in mind regarding this energy burden data. First, the maximum energy burdens in the Commission's Policy Statement are already much higher than in neighboring states.[33] As such, Pennsylvania households with incomes at or below 150% FPL experience some of the highest energy burdens in the region, even when they are actively participating in an assistance program.[34]

Second, the Report uses *average* energy burden data, and does not examine the number of individual CAP customers in each income tier which exceed the current CAP energy burden standards or the amount by which those households exceed the current CAP energy burden standards. That is, the report does not look at either the breadth or depth of unaffordability. Looking at energy burden data on a per customer basis, rather than an average basis, would very likely show a much different and starker picture. Nevertheless, even without an individualized assessment of energy burden data, the average data indicates that a large number of CAP customers are receiving a bill that is unaffordable by current Commission standards and, as noted above, is in excess of the targeted energy burden of low income customers across our region.

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[32] *Id.* at 14.
[33] *See* Universal Service Review Low Income Advocate Comments at 17 – 19 (referencing programs in New York, New Jersey, and Maryland which all establish a 6% combined energy burden).
[34] Report at 91 ("Pennsylvania residents with incomes at or below 50% of the FPIG had energy burden levels at 30% or higher for four of the five years of this study.").

The clear picture presented shows that too many Pennsylvanians face energy insecurity and are unable to afford to keep up with their utility bills, even when enrolled in CAP. These households, due to energy insecurity and the realities of living in poverty, face impossible financial trade-offs between losing service, neglecting medical treatment, sacrificing adequate nutrition, or taking other drastic steps.[35] The Low Income Advocates urge the Commission to act now to improve the state's gas and electric CAPs to more effectively enable CAP customers to maintain service, and assert that the Commission can begin to do this by revising the CAP Policy Guidelines and immediately lowering the maximum energy burden for CAP customers.

ii. More data is not necessary to take action.

Although the Commission has identified a number of inconsistencies and limitations in the reported data,[36] all of the available data points clearly to the conclusion that low income households across the state are struggling to maintain access to basic utility services. The Commission should take action now to lower energy burdens for CAP customers in Pennsylvania. Low income CAP customers cannot afford any further delay. As long as electric and gas utility service remains unaffordable, low income customers will continue to experience service termination, forego food or medicine as they struggle to pay utility bills that they cannot afford, and be forced to abandon their homes or to file for bankruptcy to keep up with their energy costs.[37] The Low Income

[35] In Universal Service Review Comments, the Low Income Advocates described extensively the scope of poverty and energy insecurity in Pennsylvania. Rather than reiterate those comments, we incorporate them herein. Universal Service Review Low Income Advocates Comments at 9 – 19. Indeed, termination numbers likely underrepresent the extent to which households struggle to pay their utility bills. It has been consistently documented that low income households will take out payday loans, go without food, or go without medical or dental care to pay their utility bills. *See e.g.*, National Energy Assistance Directors' Association, 2018 National Energy Assistance Survey Final Report, at 35-39 (Dec. 2018), http://neada.org/wp-content/uploads/2015/03/liheapsurvey2018.pdf.

[36] January 17 Order at 18.

[37] *See e.g.*, National Energy Assistance Directors' Association, 2018 National Energy Assistance Survey Final Report (Dec. 2018), http://neada.org/wp-content/uploads/2015/03/liheapsurvey2018.pdf (noting that households who did not have enough money for energy bills used unsafe heating sources, kept their homes at temperature they felt were unsafe or unhealthy, took out payday loans, experienced homelessness, went without food or went without medical care); *See also* United States Energy Information Administration, One in Three Households Faced Challenges in Paying Energy Bills in 2015, https://www.eia.gov/consumption/residential/reports/2015/energybills/.

Advocates note that it has been two years since the Commission initiated its effort to study home energy burdens in Pennsylvania. And it has been two decades since the Choice Acts mandated that the Commission ensure that universal service programs are "appropriately funded and available" to "help low income customers maintain electric service"[38] and the Commission promulgated Universal Service reporting requirements.[39] Low income families should not continue to suffer unaffordable energy burdens because the utilities have yet to reach a consensus on how to track and report data in a consistent manner.

The Low Income Advocates agree with the Commission that the Report reveals a need to standardize data gathering and reporting among the NGDCs and EDCs.[40] The Low Income Advocates welcome the opportunity to participate as stakeholders in the Commission's USR Working Group, which the Commission has tasked with recommending standardized and clarified USR data definitions; proposing how data should be tracked and recorded; and recommending definitions for additional data elements to be included in future reporting.[41] This standardization will help to improve the Commission's ability to assess the need for future reforms, and to better understand the impact of nuanced policy determinations. That said, with regard to CAP energy burdens and affordability, there is no further data necessary to conclude that low income households cannot afford to maintain service under the existing CAP Policy Guidelines. The Low Income Advocates strongly encourage the Commission to lower the energy burdens for CAP customers now in order to provide immediate relief to low income households who are struggling to afford their gas and electric bills. At the same time, the Commission should ensure that the USR Working Group's efforts are meaningful and enable the Commission to implement the robust

[38] 66 Pa. C.S. §§ 2802, 2806; see also 66 Pa. C.S. §§ 2202, 2203.
[39] 52 Pa. Code §§ 54.71-.78; 62.1-.8.
[40] January 17 Order at 18.
[41] *Id.* at 19.

universal service reforms that the Low Income Advocates have recommended in the Commission's Universal Service Review.

B. The Commission Should Impose a True Maximum Energy Burden Threshold

To fulfill the mandates of the Choice Acts, and ensure that CAP customers are able to maintain service, the Low Income Advocates assert that any new energy burden target must be a true maximum – whether that be 6%, as the Low Income Advocates support, or 10% as the Commission staff appear to support.[42] In other words, the Commission's revised energy burden target should create a ceiling – not a floor. As such, in lowering the maximum energy burden, the Commission should direct utilities to eliminate CAP design elements and features which could cause CAP energy burdens to exceed the maximum threshold established. Similarly, the Commission should not set a policy that would require CAP customers to pay more than they currently pay.

i. The Commission should eliminate CAP design elements which cause CAP customers to exceed the maximum energy burden threshold.

The Low Income Advocates have previously submitted Comments about the need to eliminate universal service design elements that contribute to energy unaffordability in Pennsylvania.[43] If the Commission acts to lower the maximum energy burden for CAP customers, which the Low Income Advocates urge it to do, the Commission should also direct utilities to eliminate CAP design elements that result in CAP payment amounts above the Commission established maximum affordability levels. This includes maximum CAP credit limits, which cut

[42] As mentioned above, the Low Income Advocates continue to assert that the appropriate energy burden threshold is a maximum combined energy burden of 6%; however, we also believe that a 10% maximum energy burden would be a marked improvement – and would help immediately address the energy affordability crisis faced by low income Pennsylvanians across the state.
[43] Universal Service Review Low Income Advocates Comments at 23-24.

CAP households off from CAP assistance when the household reaches an arbitrarily predetermined threshold; CAP Plus charges, which add a monthly fee to CAP bills based on projected receipt of LIHEAP grants; arrearage co-pays, which require CAP households to make additional payment toward preprogram arrearage; and minimum payment requirements, which impose a monthly minimum which is not connected in any way to the household's ability to pay.[44] These design elements often cause CAP customer bills to exceed the Commission's current affordability targets, and will contribute to ongoing CAP unaffordability if allowed to continue.

If the Commission lowers the CAP energy burden without disallowing CAP design elements that expose CAP customers to full tariff rates, or that require customers to pay fees above and beyond their discounted CAP rates, the Commission will not be able to ensure that its changes actually improve affordability for CAP customers. Indeed, if and when the Commission acts to impose a maximum energy burden, it should be a true maximum – and should not be subject to "nickel and dime" policies which undercut the affordability achievements gained by reducing the energy burden.

ii. The Commission should not require CAP customers to pay more if their current energy burden is below the maximum energy burden threshold.

The Low Income Advocates encourage the Commission to take immediate action to lower the *maximum* combined CAP energy burden. But in doing so, the Commission should ensure that any current CAP program features which provide bills below the maximum established by the Commission are not disturbed by this change. Under no circumstances should reducing the maximum energy burden cause a CAP customer to face a higher bill. For the reasons discussed in our Universal Service Review Comments and again in the sections below, the Low Income

[44] *Id.*

Advocates assert that 10% is a financial stretch for low income households, and exceeds the energy burden thresholds established by most states in the region. A 10% energy burden is more than two times higher than the energy burden for moderate and higher income Pennsylvania households, and may continue to be unaffordable for many CAP customers. However, enacting a 10% maximum energy burden will begin to approve affordability for many CAP customers – particularly households with the lowest income levels – who currently pay more than 10% of their income on energy costs alone. In addition, lowering the maximum energy burden would allow the Commission and stakeholders to collect actual information, not just estimates, regarding cost impacts and benefits – data the Low Income Advocates submit would support a further lowering of the energy burden to 6% of income.

In analyzing the estimated costs of lowering the energy burden, Commission staff noted that the model developed in its study "does not take into consideration any possible reductions in CAP costs if some CAP customers are required to pay more at the selected energy burdens."[45] However, cost savings should not be achieved at the expense of increasing current CAP customer bills. Any energy burden that is established by the Commission should form the ceiling and not the floor for affordability in Pennsylvania. That is, no utility should be permitted to bill any CAP customer in excess of the established maximum energy burden; however, any utility that is providing its CAP customers with greater levels of affordability than those established by the Commission should be permitted - and encouraged - to continue to do so.

[45] Report at 108.

C. Costs Concerns Should Not Delay Commission Action to Address Affordability

i. The projected costs of reducing the energy burden in Pennsylvania do not account for reductions in arrears, collections, and terminations.

Commission staff estimated that the total amount of additional discounts needed to establish a maximum CAP energy burden of 10% in Pennsylvania is approximately $102 million.[46] This projection does not take into account the many significant benefits that are likely to result from improved CAP affordability, including reductions in utility uncollectible expenses, improved payment behavior of CAP customers, decreased disconnection rates, avoided collection costs, reduced social costs[47] and improvements to the general health and welfare of Pennsylvanians.[48] The Commission should not consider the financial impact of lowering CAP energy burdens without also considering the full scope of benefits that will flow to CAP customers, utilities, and the wider public as a result of improved CAP affordability. Furthermore, while a 6% energy burden would achieve the statutory mandates of the Choice Acts, an incremental adjustment to 10%, together with the reporting improvements discussed in these comments, would permit the PUC to obtain actual information regarding the costs and benefits of improved affordability.

ii. The Commission should permit cross-class recovery of CAP costs in Pennsylvania

The Report assumes that the cost of adjusting CAP energy burdens to improve affordability will be borne solely by Pennsylvania's non-CAP residential customers.[49] Based on this assumption, Commission staff estimated in the Report that the costs to improve CAP affordability

[46] Report at 107 - 108.
[47] These reduced social costs include, for example, the costs of providing housing to individuals who are displaced from their homes as a result of losing access to utility service. Universal Service Review Low Income Advocates Comments at 14; 58.
[48] *Id.*
[49] Report at 107-108.

would increase gas and electric bills for these ratepayers.[50] Given the statutory mandates of the Choice Acts, it is appropriate to give careful consideration to the need to recover these costs in an equitable manner. The Choice Acts require the Commission to ensure that electric and natural gas universal service programs are appropriately funded and available in each service territory.[51] The Low Income Advocates assert that it is not appropriate to recover the costs of public purpose programs that address poverty from the residential class alone. Energy insecurity has impacts across classes of customers, affecting industry, commerce, educational institutions, hospitals, local governments, and all categories and classes of customers in identifiable ways.

The Report did not explore the feasibility of permitting cross-class recovery in Pennsylvania; nor did it determine the average increase to bills if Pennsylvania's non-residential customers were required to contribute to the costs of providing affordable utility service to Pennsylvania's low income households. However, the Low Income Advocates submit that this is a significant omission, and that the responsibility to provide universal access to life-sustaining utility service should, in fact, be shared by all utility consumers. The Low Income Advocates have previously encouraged the Commission to allow for recovery of universal service costs from all rate classes, and continue to do so here.[52] Pennsylvania courts have explicitly concluded that cross-class recovery of public purpose program costs is permitted by law.[53] In the past, the Commission made a policy determination that CAP costs would be recovered from the residential class only.[54]

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[50] *Id.*
[51] 66 Pa. C.S. §§ 2804(9), 2203(8)-(9).
[52] Universal Service Review Low Income Advocate Comments at 51-61.
[53] *Id.* at 53-55.
[54] Universal Service Review Low Income Advocates Comments at 54 (citing Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms, Final Investigatory Order, Docket No. M-00051923, at 15-16 (Oct. 19, 2006 and Met-Ed Indus. Users Group v. Pa. PUC, 960 A.2d 189 (Pa. Commw. Ct. 2007). However, the Commission has also consistently held that PGW can recover from all firm customers, including commercial and industrial customers. *See* PUC v. PGW, Docket No. R-2017-2586783 (Opinion and Order entered November 8,

That policy determination needs to be reversed and the responsibility for the contribution for universal services by all rate classes recognized. Indeed, poverty is a broad social problem, impacting all customers and requiring a collective solution. The Commission can and should modify its policy to permit recovery of CAP costs from the state's non-residential ratepayers.[55] As the Low Income Advocates have previously submitted:

> While it is perhaps true that the most obvious benefits of universal service programs – including decreased uncollectible expenses and improved payment behavior of residential customers – are generally thought to be primarily beneficial to the residential rate class, there are a multitude of societal benefits which inure to non-residential ratepayers that should not be ignored. As a public good, the cost of ensuring affordable access to very basic human needs should be borne by all those who enjoy the benefits of the public utility.
>
> To a great extent, employers are being subsidized by residential ratepayers, who are shouldering the burden of providing critical safety-net programs to ensure universal access to basic utility services which benefit all ratepayers. In 2015, between 27-45% of low income consumers enrolled in a universal service program are employed and between 15-31% are retired. These customers are not currently paid sufficient wages, or were not paid sufficient wages while employed, to pay for their basic living expenses, and require assistance through universal service programs in order to make ends meet. Comparatively, just 2-5% of low income customers enrolled in a universal service program receive public assistance.
>
> At the same time, the added stress associated with poverty – and the inability to afford basic life necessities – can have a negative impact on employers. Low income customers faced with the threat of termination or loss of service often struggle to cope with heightened levels of stress and anxiety, and must take time away from work to arrange payments, locate or apply for assistance programs, and arrange for reconnection. Indeed, the toll of poverty – and particularly the loss of energy services – can be severe, and can cause economic consequences for employers, including low productivity, frequent absences, and unnecessarily high turn-over.
>
> It is time for the Commission to recognize that all utility customers enjoy the benefit of providing universally available utility service and, therefore, all utility customers should bear responsibility for the costs.[56]

2017) ("We also find merit in the argument of the opposing Parties that all firm customers, including commercial and industrial customers, benefit indirectly from PGW's extensive low-income assistance programs.").

[55] Universal Service Review Low Income Advocates Comments at 54.

[56] *Id.* at 56-57 (internal citations omitted).

To the extent that adjusting the CAP energy burdens to improve affordability will result in an increase to CAP program costs, the impact of these costs on non-CAP residential ratepayers, including other low income ratepayers, can and should be mitigated by permitting these costs to be recovered from every customer class. Permitting cross-class recovery would not only alleviate the financial impact on residential customers while providing more affordable gas and electric service to CAP customers, it would more fairly allocate the costs of these critical programs between all of the entities who enjoy the benefits of the public utility. Regardless of whether the Commission modifies its policy to permit cross-class recovery, the Commission should not delay in taking action. Part of any evaluation of the reasonableness of the cost of adjusting CAP energy burdens must be the Commission's mandates under the Choice Acts, which require the Commission to ensure that universal service programs are available and help low income customers to maintain service.

D. Pennsylvania Needs Broad Universal Service Reform to Significantly Improve Gas and Electric Affordability for Low Income Households

Reducing the maximum energy burden will be a significant improvement. However, it is only the first step. In order to comprehensively address gas and electric affordability, the Commission must make changes to the overall structure, design, and implementation of universal service programs in Pennsylvania.[57] The current model for the delivery of universal service is fragmented and uncoordinated, and results in disparate levels of assistance across the state. Utility programs vary in significant ways across the state, with some producing greater levels of affordability than others, and at varied costs to ratepayers.[58] This variation has produced significant

[57] *See generally* Universal Service Review Low Income Advocates Comments, M-2017-2596907.
[58] This variation can be seen in the data submitted by the utilities at this docket.

hardships in some service territories – producing greater levels of terminations and debt across the low income population compared to others. Indeed it is this variation, in part, that complicated the Commission's efforts to assess relative energy burdens in this proceeding. Some of the variation in utility practice that the Report noted included the following:

- There is marked variability among the utilities in how they determine and verify the income status of their customers.[59]

- Utilities use a variety of payment approaches to structure their CAP programs[…]. Utilities charge different amounts, offer various percentage discounts or billing options, and can have differing payment requirements.[60]

- The amount of time required for a CAP household to receive full PPA forgiveness differs by utility.[61]

- One possible reason for the variance in the average amounts of PPAs between Columbia Gas and PGW may be the differences in their CAP enrollment restrictions.[62]

- Most utilities require customers to pay a balance to re-enroll in CAP. This balance may consist of a CAP catch-up amount (*i.e.,* any in-program arrears and the CAP billing price for the months spent out of the program). Other utilities require CAP customers to pay any in-program arrears and the full-tariff residential rates for any months spent out of the program.[63]

The Commission cannot ensure consistent affordability for CAP customers without significantly improving and coordinating the universal service model in Pennsylvania. While lowering the energy burden is a necessary first step in the right direction, the Commission must take additional action to reform universal service programs in Pennsylvania. The Low Income Advocates have provided extensive comments in the Commission's Universal Service Review proceeding at Docket No. M-2017-2596907, and submit those comments for consideration in the

[59] Report at 17.
[60] *Id.* at 18.
[61] *Id.* at 43.
[62] *Id.* at 45.
[63] *Id.* at 63.

Commission's ongoing efforts to address home energy affordability for low income customers in this proceeding and in any other proceedings that follow.

The Low Income Advocates have provided the Commission with a broad outline for how to begin making comprehensive, substantive improvements to the existing universal service model. Specifically, we encouraged the Commission to do the following:

- **CAP**
    - Adopt a 6% combined electric and natural gas energy burden.
    - Institute a statewide Percentage of Income Program Design, with an average bill alternative for those with a burden below the energy burden target.
    - Clarify termination procedure for CAP customers.
    - Provide arrearage forgiveness for full tariff arrears upon entry or reentry into CAP.
    - Establish a transitional arrearage forgiveness program to address arrears accrued through an unaffordable rate design.
    - Standardize eligibility requirements to allow all low income consumers to access assistance.
    - Coordinate and streamline program delivery within the utility, between overlapping utilities, and with other state and federal assistance programs.
    - Further explore and investigate nuanced program rules and procedures which undermine efforts to produce an affordable bill for participants.
- **LIURP**
    - Enhance coordination between LIURP and CAP.
    - Adjust usage thresholds to better reach small homes with high per square foot usage.
    - Incorporate other comments and recommendations incorporated by reference from the LIURP Rulemaking.[64]
- **CARES**

[64] See, e.g., Initiative to Review and Revise the Existing Low-Income Usage Reduction Program (LIURP) Regulation at 52 Pa. Code §§ 58.1-58.18, Docket No. L-2016-2557886, Joint Comments of the Pa. Energy Efficiency for All Coalition (Jan. 30, 2017).

- Require utilities to appoint a dedicated staff person, with appropriate education and background in social work, to handle intensive case management and referrals.

- **Hardship Fund**
  - Require that fines, fees, expense reductions, pipeline or grid credits, and other rate reductions or refunds be allocated to Hardship Fund programs.
  - Establish uniform eligibility rules that eliminate harsh eligibility barriers which exclude households in need.
  - Affirm/restore utility authority over Hardship Fund program terms and conditions.
- **Program Delivery**
  - Investigate options to deliver statewide universal service programming, and adopt an appropriate model for implementation.
- **Cost Recovery**
  - Assign universal service costs on all rate classes.
  - Impose a cross-class System Benefit Charge to finance universal service programs.
  - If allocation of costs between rate classes is reserved for base rate proceedings, establish criteria to guide the distribution of costs.
- **Oversight and Reporting**
  - Review and improve complaint handling requirements and procedures.
  - Require that a record be developed prior to the Commission's consideration of Universal Service and Energy Conservation Plans.
  - Require advanced disclosure of utility data to enhance data reporting requirements.[65]

The Low Income Advocates strongly urge the Commission to adopt our more comprehensive recommendations for universal service program reform. However, notwithstanding the need to streamline and improve the state's universal service programs, the Low Income Advocates

[65] Universal Service Review Low Income Advocates Comments at 75-76.

commend the Commission for completing its energy affordability study and encourage the Commission to take the first necessary step to address gas and electric affordability by immediately lowering the energy burden for CAP customers.

E. A 6% Maximum CAP Energy Burden Should be the Goal for Pennsylvania

i. Empirical evidence and sound public policy support establishing a combined maximum energy burden of 6%

The Low Income Advocates have encouraged the Commission to establish a combined maximum CAP energy burden of 6% based on empirical evidence and sound public policy, which demonstrates that 6% is an affordable energy burden for low income households. As set forth in relevant part in our Universal Service Review Comments:

> A 6% energy burden is not arbitrary, but rather has a logical and coherent basis rooted in accepted policy regarding housing and utility affordability. As the New York Public Service Commission found in its recent exploration of the state's universal service programming:
>
> > There is no universal measure of energy affordability; however, a widely accepted principle is that total shelter costs should not exceed 30% of income. For example, this percentage is often used by lenders to determine affordability of mortgage payments. It is further reasonable to expect that utility costs should not exceed 20% of shelter costs, leading to the conclusion that an affordable energy burden should be at or below 6% of household income (20% x 30% = 6%). A 6% energy burden is the target energy burden used for affordability programs in several states (e.g., New Jersey and Ohio), and thus appears to be reasonable. It also corresponds to what US Energy Information Administration data reflects is the upper end of middle and upper income customer household energy burdens (generally in the range of 1 to 5%). The Commission therefore adopts a policy that an energy burden at or below 6% of household income shall be the target level for all low income customers.
>
> There is inherent logic in New York's calculation of an affordable energy burden, targeting energy affordability as a component percentage of overall shelter costs.[66]

[66] Universal Service Review Low Income Advocates Comments at 18-19 (internal citations omitted).

A 6% energy burden has been adopted in Pennsylvania's neighboring states of New Jersey and New York, along with several other states across the country, and is more closely in line with the 4% energy burden for non-CAP residential customers in Pennsylvania.[67]

F. LIHEAP Does Not Fully Address or Eliminate Affordability Concerns

The Report analyzed the impact of LIHEAP on household energy burdens, and shows that generally, LIHEAP grants lowered household energy burdens. The Report looked at the impact of LIHEAP grants to the energy burdens of low-income gas, electric non-heating, and electric heating CAP customers in each of the three income tiers (0-50%; 50-100%; 100-150%).[68] The Report further shows that the average impact of LIHEAP on energy burdens was greatest for CAP households with the lowest incomes.[69] LIHEAP clearly provides valuable assistance to low income households. And in fact, it makes logical sense that LIHEAP would lower energy burdens for the lowest income households the most. Cash grants to lower-income households are often higher in both actual dollars and as a percentage of that household's income. The Energy Assistance Summary Cash Demographic Report put out by the Department of Human Services shows that the average grants are highest for the lowest incomes.[70] But LIHEAP cannot fully address affordability concerns. As the Report notes, the energy burdens used in the LIHEAP section of the report are <u>not</u> comparable to the energy burdens identified in other parts of the

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[67] Report at 84; 109.
[68] Report at 32 – 42.
[69] Report at 35 – 37.
[70] *See* Commonwealth of Pennsylvania Department of Human Services, Energy Assistance Summary for 9/22/2018 - 5/2/2019 at 68 (Statewide Cash Demographic Report) ("EASUM"), attached hereto. For the 2018-2019 LIHEAP season, the minimum cash grant was $200. *See* LIHEAP State Plan at ii, http://www.dhs.pa.gov/cs/groups/webcontent/documents/document/c_279179.pdf. For 2018, 50% of the Federal Poverty Level guidelines for a household of three was $10,390, while 150% of FPL for a household of three was $31,170. The same cash grant of $200 would be approximately 2% of income for a household of three at 50% FPL and .6% of income for a household of three at 150% FPL. This holds true for Crisis grants as well, but that may also be because households with less income have higher energy burdens and therefore higher balances to resolve. EASUM at 136.

report.[71] Given this, it is hard to determine what, if any, conclusions can be drawn beyond the simple fact that LIHEAP grants, on average, help improve energy burdens. While LIHEAP grants, by their nature, will offset energy burdens for those households who receive them and assign them to their gas or electric utility, they should not be counted upon to address the energy insecurity for all low income households. First, LIHEAP is not available to all CAP customers for many different reasons, and, second, the report's methodology failed to capture the true impact of LIHEAP on low income households.

i. Not all CAP customers can access LIHEAP.

Many low income households are not eligible for LIHEAP. LIHEAP eligibility requires, among other things, a home heating responsibility. But not all CAP customers, particular those who are electric non-heating customers, have an independent home heating responsibility. Also, as a federally funded program, there are limitations on who is eligible for LIHEAP. For example, only certain categories of non-citizens can get LIHEAP grants.[72] LIHEAP also counts income differently for households with individuals with mixed immigration statuses, which may render those households ineligible for LIHEAP even though they are CAP-eligible. As such, there are CAP households that cannot access LIHEAP to lower their energy burden.

In addition to eligibility barriers to accessing LIHEAP, there are a number of bureaucratic barriers that make it difficult for low income people to access the program consistently. DHS has certain forms and verification it requires of applicants. Although it may seem straightforward, meeting those requirements can be cumbersome and pose a real barrier to accessing benefits for many families, such as those who are paid in cash, have no income, or face other barriers such as

[71] Report at 34.
[72] LIHEAP State Plan, Appendix B at B-26.

limited English proficiency or disabilities which can complicate the application process. There is no guarantee that a household will receive LIHEAP benefits every year.

Even when customers do access LIHEAP, they are limited in how many different fuel sources can receive a grant. For example, Cash Grants can only to allocated to one vendor — whether this is a deliverable fuel company or a utility. While it is theoretically possible, to allocate Crisis Grants to more than one vendor, this does not occur often because household typically need the entirety of the grant amount to resolve a single crisis. Pennsylvania households often use LIHEAP funds to pay for deliverable fuel sources, including oil, propane, wood, and coal. Last program year, 21% of LIHEAP Cash Grants and 64% of LIHEAP Crisis Grants went to deliverable fuel sources.[73] Additionally, customers must choose whether to direct their Cash grant (and Crisis grant, if relevant) to the gas company or the electric company. Many utility consumers are served by both a regulated gas company and a regulated electric company, and may participate in the Customer Assistance Program of each utility. In a sense, as they readily acknowledge, EDCs and NGDCs compete for LIHEAP funds. As such, while some households may see a reduction in their energy burden due to LIHEAP, those benefits will be limited by which utilities the household is sending the grants to and whether a household is also using a grant for non-utility heat sources.

ii. <u>The methodology used in the Report does not accurately reflect LIHEAP's impact on energy burdens.</u>

First, the report notes that the energy burdens used in the LIHEAP section of the report are not comparable to the energy burdens identified in other parts of the report.[74] Given this variation, it is hard to determine what, if any, conclusions can be drawn beyond the simple fact that LIHEAP grants, on average, offset energy burdens.

[73] EASUM at 68, 136. These numbers do not reflect the additional money that may have gone to non-jurisdictional electric or gas companies.
[74] Report at 34.

In addition, the Report obscures the actual impact LIHEAP has on energy burdens by conflating LIHEAP Cash Grants and LIHEAP Crisis Grants into one category of LIHEAP dollars. The methodology is described as follows:

> Staff compared the average energy burdens of CAP customers before and after they received a LIHEAP grant to determine the impact that LIHEAP grants have in making CAP bills more affordable. Staff examined the following information for CAP customers who received LIHEAP: total number of customers who received LIHEAP, average usage, average billing, average income, and the total amount of LIHEAP dollars received. Most utilities provided this data by FPIG level and heating type.
>
> The impact of the LIHEAP grants on CAP energy burden levels was determined by comparing the average energy burdens for CAP customers prior to receiving LIHEAP and then after the annual LIHEAP amount is applied to their average bill. This analysis examined the change in energy burdens for each FPIG level and heating type.[75]

The Report uses the total amount of LIHEAP dollars received (including Cash, Crisis, and supplemental grants), without disaggregating by type of LIHEAP grant, to examine the impact on average energy burdens by income tier and heating type. However, not all households are eligible for Crisis grants. To be eligible for a Crisis grant, a household must either be without heat or in imminent danger of being without heat.[76] This means that households that are current on their heating bills are not eligible for a Crisis grant – notwithstanding that a household may be going without other necessities to stay current on their heating bills. This methodology does not reflect that some households receive varying amounts of grant assistance from LIHEAP each season, even though their income remains the same. The number varies based on whether the household has a crisis that season; the amount of dollars appropriated to the program by the Federal government; and whether DHS determines it will issue supplemental grants during the off season, as well as

[75] *Id.*

[76] LIHEAP State Plan § 601.32 (2).

who DHS issues those grants to - which also changes year by year. By conflating Cash, Crisis dollars, and supplemental grant dollars, the Report obscures the actual impact LIHEAP has on reducing energy burdens. For these reasons, LIHEAP dollars cannot be counted upon to address energy affordability for all Pennsylvania households.

III. RESPONSE TO COMMISSIONER SWEET

A. LIHEAP

i. How, if at all, are LIHEAP applications encouraged at the time of CAP enrollment? Are there ways the intake process could be improved to ensure dual enrollment in both programs?

The Low Income Advocates assert that utilities – and the Commission – should improve education and outreach campaigns to ensure that eligible populations are informed and knowledgeable about both CAP and LIHEAP. In the Low Income Advocates' experience, many households do not understand the differences between CAP and LIHEAP, and may participate in one or the other because they do not know that they can participate in both – or even that the programs are different. Many others do not realize that they can apply for a LIHEAP grant every year, and believe erroneously that the grant is a one-time program. Still others do not realize that they can apply for both Cash and Crisis grants. The Low Income Advocates assert that perhaps the most effective way to improve education and outreach about LIHEAP and CAP would be to standardize program rules across the state and/or to move to a statewide program administration model for universal service programming. This would help simplify program offerings and, in turn, would streamline outreach efforts, focus messaging, and coordinate efforts. As it stands, Pennsylvania's universal service programs present a complicated web of programs which are difficult for experienced policy experts to navigate – let alone individual households which may be reaching out for help for the first time.

That said, the Low Income Advocates do not believe that receipt of LIHEAP can or should be a requirement for participation in CAP. Many utilities already include a requirement to direct LIHEAP grants to them as part of their CAPs.[77] But households with non-electric heating systems are often unable to comply with this requirement if they participate in both an electric and natural gas CAP – or if they need the grant to help pay for deliverable fuel. And, as explained above, not all CAP participants are eligible to participate in LIHEAP. These households nevertheless need assistance to maintain service. Households should retain the right to make the choice where to direct their LIHEAP grant(s). Those who heat with natural gas, for example, must retain the ability to direct their LIHEAP grant to either their electric company – to ensure that the natural gas heating system has the electricity needed to be operational. Likewise, those who heat with deliverable fuel must retain the ability to direct their grant to pay for their deliverable fuel to prevent undue reliance on electric space heaters if they are unable to otherwise afford a fuel delivery.

It would also be difficult to ensure dual enrollment in CAP and LIHEAP, as the LIHEAP season is limited to the winter months (in 2018-2019, LIHEAP was open from November 1, 2018 until April 12, 2019). If a household enrolls in CAP in the summer time, it could not apply to LIHEAP at that time. There has been some discussion within the Department of Human Services' LIHEAP Advisory Committee about creating a system for LIHEAP recipients to be automatically enrolled in CAP programs. Those conversations remain ongoing but are somewhat impeded by the many different CAP programs across the state with varying enrollment requirements and procedures.

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[77] PGW, for example, includes as a program requirement for CRP applying for LIHEAP and assigning the grant to PGW. PGW Second Amended Universal Service and Energy Conservation Plan 2017-2020 (Filed August 31, 2017), PUC Docket No. M-2016-2542415, at 8, http://www.puc.state.pa.us/pcdocs/1535412.pdf. Similarly, PECO "encourages" its CAP customers to apply for a LIHEAP grant each LIHEAP season. PECO Universal Service and Energy Conservation Plan (2016-2018) (Filed February 17, 2017), PUC Docket No. M-2015-2507139 at 6, http://www.puc.state.pa.us/pcdocs/1510970.pdf.

Ultimately, the Low Income Advocates assert that there are many ways to encourage and promote LIHEAP participation without imposing a specific program requirement for the household to apply. In our experience, low income households want to apply for assistance, but face numerous barriers to doing so. Improving outreach and streamlining complicated program rules and administration will help ensure that the eligible population is informed and knowledgeable about both CAP and LIHEAP – and encouraged to apply.

ii. What are the known or perceived barriers to LIHEAP enrollment, if any?

There are numerous barriers to LIHEAP enrollment, including a limited LIHEAP season, limits on immigration status to qualify for LIHEAP, LIHEAP eligibility requirements such as home heating responsibility, choices as to where to direct LIHEAP funds, and particular verification requirements on households.

First, LIHEAP enrollment is limited by season of the year. As noted above, LIHEAP is only open during the winter months, and the timeframe can change from year to year.[78] In addition, to qualify for LIHEAP Crisis dollars, a household must meet the definition of crisis.[79] The current LIHEAP State Plan, interpreting federal regulations requiring the imminent loss of service or actual termination prior to issuing a Crisis grant, specifically restricts the ability of low income households to direct their Crisis grant to regulated utilities during the winter period (December 1 through March 31) unless the utility has been granted approval to terminate service by the PUC.[80]

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[78] LIHEAP State Plan at ii, http://www.dhs.pa.gov/cs/groups/webcontent/documents/document/c_279179.pdf (setting season as November 1, 2018 through April 12, 2019).

[79] LIHEAP State Plan, Appendix B at §601.62(2) (defining an energy supply shortage crisis as needing deliverable fuel within 15 days, or a household without heat or in imminent danger of being without heat because of actual or scheduled termination of the primary or secondary fuel type by a utility company).

[80] LIHEAP State Plan, Appendix B at §601.62(2)(ii)(A), http://www.dhs.pa.gov/cs/groups/webcontent/documents/document/c_279179.pdf. Notwithstanding this prohibition, most years DHS has permitted individuals who received a termination notice dated on or after February 1st to use that notice as proof of crisis and receive a crisis grant because the notice could be acted on *after* the March 31st winter termination rule period.

LIHEAP is also inaccessible to many immigrant customers, either because they are categorically ineligible or because they are fearful of the potential long-term consequences that may result from participating in a federal assistance program.[81] Even those with potentially eligible immigration status may be fearful of the potential consequences if they apply for federal assistance.

LIHEAP eligibility is also predicated on responsibility for home heating costs. For Cash benefits, that means the household must be responsible for paying for its primary fuel type, and for Crisis benefits, the household must be responsible for either its primary or secondary fuel type.[82] This particular limitation is discussed in further detail above.

Finally, and perhaps most important in the context of utility assistance programs, LIHEAP funds are often used to pay for deliverable fuels like oil or propane. As discussed above, many Pennsylvania households heat with deliverable fuels. LIHEAP is often the only assistance program available to help households afford deliverable fuels. As a practical matter, many households use LIHEAP Cash and Crisis grants to fill their fuel tanks for the winter. These same households are also most often electric non-heating customers. If deliverable fuel households are required to direct their LIHEAP grants to their electric company, many will be unable to afford the annual up-front heating cost for deliverable fuel – and will inevitably turn to dangerous, high-cost supplemental heating alternatives such as electric space heaters, portable generators, and electric stoves or ovens. Such a result will not address affordability concerns, and will only serve to further drive up the household's electric bill.

[81] LIHEAP State Plan, Appendix B at B-26.
[82] LIHEAP State Plan, Appendix B, §601.31(2).

iii. What are the advantages or disadvantages of requiring a LIHEAP application in order to receive CAP benefits?

To be sure, the Low Income Advocates support CAP customers applying for LIHEAP and directing their Cash and Crisis grants to the home energy provider from whom they need the most assistance. When that is the regulated utility and the customer is enrolled in CAP, the household's LIHEAP grant reduces energy burdens and allows low income households to stretch their limited resources even further. If DHS and the PUC were able to agree that applicants for LIHEAP would automatically be enrolled in a utility's CAP without additional screening or other documentation requirements, this would facilitate CAP enrollment and lessen administrative burdens. This sort of categorical eligibility for CAP was in place for some utilities in the past, but recently the Commission and the utilities have moved away from this approach. The Low Income Advocates would support further attention to how LIHEAP receipt can facilitate CAP enrollment and how CAP participation can facilitate LIHEAP eligibility. There are of course data and privacy concerns that may be implicated, but we do not believe these concerns are insurmountable.

That said, the Low Income Advocates do not support a *requirement* that LIHEAP application (or receipt) should be a precondition of CAP eligibility. First, as noted above, such a requirement would be administratively complex – LIHEAP is not available year round, and it is unclear how a utility could verify that a household had applied for LIHEAP benefits. Households currently have the choice to direct LIHEAP grants to a non-utility, or to a different regulated utility. Federal LIHEAP rules require that LIHEAP recipient households retain the choice to send grants where they are most needed subject to the rules concerning eligibility. Second, because the pool of households who are eligible for LIHEAP is narrower than the pool of customers eligible for CAP (see Section III.A.ii, above), adding this requirement would *reduce* the number of low income households who are CAP eligible. We question whether such a restriction would be consistent

with the Choice Acts' requirements that universal service programs be available for low income customers as a whole – as opposed to only a subset of those customers. Ultimately, we do not believe that this additional requirement would achieve the goal of getting more CAP customers LIHEAP grants but instead would simply lead to a lower CAP enrollment rate because households may not be able to comply with that requirement. Instead, the Commission should remove barriers to enrollment and consider how to create better communication between the utility and DHS systems rather than adding a new requirement for customers.

B. Energy Burden Models

i. Should a limit on customer assistance spending also be considered? If so, what would be the financial impact of a 2% cap of revenue from sales to end-use customers?

As the Low Income Advocates have discussed elsewhere in these comments and in previous comments to the Commission, the Choice Acts require the Commission to ensure that universal service program offerings are appropriately designed and funded so that low income households can maintain service. Specifically, the Commission must ensure that universal service programs are both "appropriately funded and available" to low income households and "operated in a cost-effective manner",[83] as well as allow utilities to fully recover the costs of the programs.[84] Any limit on spending runs directly counter to the idea that the Commission must ensure that low income households have access to affordable utility service. The Commission already recognizes this obligation by specifically requiring that CAP enrollment remain open to all eligible applicants.[85]

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[83] 66 Pa. C.S. §2804(9). *See also* 66 Pa. C.S. § 2203(8).
[84] 66 Pa. C.S. §2804(8).
[85] *See* Final Investigatory Order, Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms, PUC Docket No. M-00051923 (Oct. 19, 2006) at 5-6 ("We expect that participation rates will fluctuate based on economic conditions, weather and utility prices. We believe the best way to ensure that programs are available to accommodate fluctuations in enrollments is to eliminate any enrollment ceiling. As a practical matter, by

Furthermore, the costs of CAP are driven by a multitude of factors. CAP costs represent the difference between an undiscounted bill and a discounted bill, and that amount is as much, if not more, directly tied to distribution rates, distribution rate design and the cost of electricity or natural gas supply as it is to the household income and energy usage of the CAP participant. Indeed, just as the undiscounted bills of customers are driven by utility investments and governance, commodity market forces, and legal and policy decisions, the same is true for CAP discounts. Ultimately, it would be inappropriate to limit the reach of statutorily-mandated programs to assist low income customers given the reality that any limit on expenditure would be attributable to a multitude of forces which are not in the CAP customers' control. The Commission should focus on appropriate program design to ensure that programs are cost effective, as the Choice Acts require.

ii. <u>What impact would cost sharing have on all participating rate classes?</u>

Currently, almost all of the EDCs and NGDCs recover the costs of universal service solely from residential ratepayers. As discussed above, in section II.C.ii, the Low Income Advocates continue to strongly encourage the Commission to approve cross-class recovery for universal service program costs. This would allow the cost of public purpose programs to be equitably shared by all ratepayers, and would lessen the burden on residential ratepayers.

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eliminating CAP enrollment ceilings to enroll all applying low income customers that meet eligibility criteria, the statutory requirements related to appropriate funding and availability of universal service have been accomplished. Moreover, any argument in regard to discrimination in rates under 66 Pa. C.S. § 1304 or discrimination in service under 66 Pa. C.S. § 1504 is rendered moot since all applying low income customers meeting CAP eligibility requirements and who have not been otherwise disqualified would be enrolled.").

IV. RESPONSE TO COMMISSIONER PLACE

A. Is a 10% threshold appropriate given the movement of other states to 6%?

As discussed elsewhere in these comments, the Low Income Advocates continue to urge the Commission to adopt a combined 6% energy burden. We submit that the Commission must act soon to address the energy affordability crisis in Pennsylvania. Accordingly, while a 6% combined energy burden is necessary, an interim reduction of the energy burden to 10% would begin to address the repercussions of energy insecurity too many low-income Pennsylvanians currently experience. As a first step, reducing the energy burden to 10% would also allow the Commission to collect data on the cost impacts and benefits of lowering the energy burden, and assess the need to adopt a 6% energy burden.

B. What have the results been for ratepayers or program participants of Ohio's adoption of 10%?

The Low Income Advocates do not have any specific knowledge of the results of Ohio's program. We would note that the Report does not adequately explain its conclusion that Ohio is more comparable to Pennsylvania than New York or New Jersey – or how the data points considered in the analysis were relevant to the overarching inquiry into an appropriate energy burden standard for Pennsylvania. The report indicates that Ohio was "[t]he state most closely resembling Pennsylvania" on factors such as urban/rural population, age distribution, education level, fuel type, household size, poverty status, retirement population, and substandard housing. However, the Report also indicates that several points of data were missing from the analysis for each of the states assessed in its comparison, and explained that none of the states provided a complete data set with which to conduct a full comparison.[86] The Report did not indicate which of the identified factors were used to compare against Pennsylvania – or what data points were

[86] Report at 82-83.

missing from the comparative analysis for each state.[87] Moreover, the ultimate comparative analysis only resulted in a score for Ohio of 14 out of a possible 27.[88] The Report does not share the resulting comparative scores of the other states, or what factors were actually considered in those comparisons. The attempt to draw a conclusion from this comparative data is difficult, and we assert that it should not form the basis of the Commission's conclusion that a 10% energy burden is an appropriate burden for Pennsylvania.

The Report does go on to compare relative energy burdens of each state, concluding that Ohio has the closest comparable energy burden to Pennsylvania for various poverty categories.[89] The Report then notes that New York and Ohio have a greater number of households with income that is at or below 150% FPL.[90] It is unclear how or why the current energy burden and poverty level in a given state is relevant to the determination of an affordable energy burden. Indeed, the current energy burden and poverty level of a state is an indication of the scope of the problem in a given state – not the basis for the ultimate solution. As the Low Income Advocates have previously explained, the more logical resolution of the ultimate question of what is an *appropriate* energy burden was best explained in New York, which based its conclusion on a reasonable assessment of utility costs as a portion of overall housing costs: "[A] widely accepted principle is that total shelter costs should not exceed 30% of income. For example, this percentage is often used by lenders to determine affordability of mortgage payments. It is further reasonable to expect that

[87] *Id.*
[88] *Id.*
[89] Report at 86-87.
[90] Report at 87.

utility costs should not exceed 20% of shelter costs, leading to the conclusion that an affordable energy burden should be at or below 6% of household income (20% x 30% = 6%)."[91]

As discussed previously, regardless of the ultimate burden chosen, the Commission must ensure that burden is an absolute maximum, inclusive of all extraneous CAP program requirements, such as minimum bills, maximum CAP credits, CAP Plus amounts, and arrearage co-payments.

C. Would a flat percentage be harmful to customers, especially for those at the lowest tiers of the federal poverty levels?

As noted by Commissioner Place in his statement, the current PUC Policy Guidelines have tiered energy burdens, as follows:[92]

Federal Poverty Level Tier	Electric Nonheating Accounts	Gas Heating Accounts	Electric Heating Accounts
0-50%	2% - 5% of income	5% - 8% of income	7% - 13% of income
51-100%	4% - 6% of income	7% - 10% of income	11% - 16% of income
101-150%	6% - 7% of income	9% - 10% of income	15% - 17% of income

The proposed 10% energy burden under consideration by the Commission would operate as a flat percentage, rather than the current tiered system. As the Report demonstrates, and as discussed more thoroughly above, those in the lowest income tier still face incredibly high energy burdens. Thus, if a 10% maximum energy burden is adopted, the PUC should retain a tiered energy burden and should limit the 0-50% income tier to a 6% total energy burden. The energy burden for income tiers above 50% of Federal Poverty Level should be appropriately scaled up to the 10% maximum energy burden for those customers approximating 150% of Federal Poverty Level.

[91] Order Adopting Low Income Program Modifications and Directing Utility Filings, NY Pub. Service Comm'n Docket No. 14-M-0565 (May 20, 2016).
[92] 52 Pa. Code §69.265(2)(i).

Those customers at the lowest tiers of the Federal Poverty Level cannot afford to pay 10% of monthly income for their home energy bills. Such a high energy burden for the lowest income customers will fail to satisfy the statutory objectives of universal service and continue to lead to disproportionate termination numbers.

In addition, and as discussed more thoroughly above, the proposed 10% energy burden – 4% of income for electric non-heating, 6% of income for gas heating, 10% of income for electric heating – **must be a ceiling,** and not the required energy burden or floor. Indeed, all utility CAPs should allow customers to pay an average bill where that average bill is less than the percentage of income plan – and further, utilities that currently target a lower percentage of income in their CAPs should be permitted and encouraged to continue doing so. In short, the Commission's movement to improve current affordability for some CAP customers who currently receive an unaffordable bill should not be at the expense of CAP customers who currently receive an affordable bill through the program.

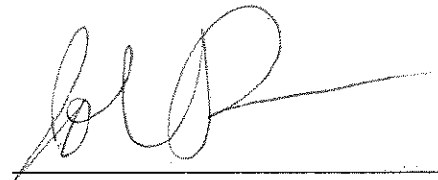
For all of the reasons stated in these comments and elsewhere, the Low Income Advocates continue to urge a 6% maximum energy burden for all income tiers – 3% for electric and 3% for natural gas.

V. CONCLUSION

The Low Income Advocates are grateful for the opportunity to provide comments to the Commission on energy affordability for low income customers in Pennsylvania, and stand ready to fully engage in the next steps of this proceeding. We urge the Commission to take immediate action to lower the energy burden for low income CAP customers. We also strongly encourage the Commission to take the further necessary steps, described more fully in the Low Income Advocates Universal Service Review Comments and Reply Comments, at Docket No. M-2017-2596907, to ensure that universal service programs are well designed, appropriately funded, and available to all low income Pennsylvanians.

Respectfully submitted,

Community Legal Services
On Behalf of TURN and Action Alliance



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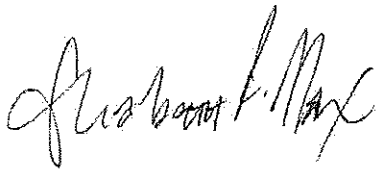
On Behalf of CAUSE-PA



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Dated: May 8, 2019

Energy Assistance Summary Report for 9/22/2018 – 5/2/2019

Energy Assistance Summary (EASUM)

9/22/2018 - 5/2/2019

STATE WIDE

Cash Demographic Report (LIH660-R01)

	ITEM	COUNT	AMOUNT	%	AVG
HOUSING	Owner	120,382	$31,866,619	37	$265
	Renter	153,412	$43,480,159	47	$283
	RenterWithHeat	4,571	$630,206	1	$138
	SubsidizedWithHeat	23	$6,424	0	$279
	SubsidizedNoHeat	44,157	$12,868,606	14	$291
	Roomer	208	$40,451	0	$194
	Other	4,310	$1,463,853	1	$340
RACE	AmericanIndian	592	$178,955	0	$302
	Other	26,765	$7,296,792	8	$273
	NativeHawaiian	242	$76,993	0	$318
	Black	84,944	$23,942,648	26	$282
	White	205,690	$56,495,244	63	$275
	Asian	5,669	$1,450,038	2	$256
	Unknown	3,161	$915,648	1	$290
DISABLED	YES	154,889	$34,939,039	47	$226
	NO	172,174	$55,417,279	53	$322
AGE 60 & ABV	YES	124,305	$28,457,895	38	$229
	NO	202,758	$61,898,423	62	$305
AGE 5 & BLW	YES	62,401	$18,347,265	19	$294
	NO	264,662	$72,009,053	81	$272
PAY_TYPE	DIRECT	6,305	$1,335,717	2	$212
	PROVIDER	400,427	$97,146,230	98	$243
REFUNDS		10,563	$1,272,989		$121

AVERAGE HOUSEHOLD SIZE: 2.30

* Counts, Amounts ($), % and AVG from HOUSING, RACE, DISABLED, OVER-60 and INCOME RANGE category are from Regular payments only

** Counts, Amounts ($), % and AVG from PAY_TYPE category are from All Payment Types (Regular, Reissue, Secondpay, Underpay and Extraordinary)

*** Counts, Amounts ($), % and AVG from PAYMENT_SENT category are from All Payment Types (Regular, Reissue, Secondpay, Underpay and Extraordinary)

	ITEM	COUNT	AMOUNT	%	AVG
PAYMENT SENT	Electric	93,796	$26,035,204	29	$278
	FuelOil	53,092	$15,814,049	16	$298
	Coal	1,971	$481,958	1	$245
	NaturalGas	161,352	$43,131,177	49	$267
	Kerosene	4,408	$1,407,790	1	$319
	Propane	10,263	$2,809,333	3	$274
	WoodOrOther	1,209	$374,028	0	$309
	BlendedFuel	972	$302,779	0	$312
INCOME RANGE	0 - 999	17,402	$14,914,425	5	$857
	1000 - 1999	3,326	$2,642,965	1	$795
	2000 - 2999	3,372	$2,495,691	1	$740
	3000 - 3999	4,258	$2,534,310	1	$595
	4000 - 4999	4,652	$2,472,832	1	$532
	5000 - 5999	4,638	$1,978,941	1	$427
	6000 - 6999	5,784	$2,156,889	2	$373
	7000 - 7999	6,988	$2,273,731	2	$325
	8000 - 8999	9,961	$2,824,956	3	$284
	9000 - 9999	54,981	$13,377,328	17	$243
	10000 - 10999	15,841	$3,510,664	5	$222
	11000 - 11999	18,087	$3,751,963	6	$207
	12000 - 12999	17,273	$3,483,519	5	$202
	13000 - 13999	19,410	$3,862,557	6	$199
	14000 - 14999	18,168	$3,606,224	6	$198
	15000 - 15999	17,129	$3,400,106	5	$198
	16000 - 16999	15,117	$3,001,417	5	$199
	17000 - 17999	12,099	$2,406,465	4	$199
	18000 - 18999	12,065	$2,399,800	4	$199
	19000 - 19999	9,246	$1,837,900	3	$199
	> 19999	57,250	$11,416,596	18	$199
PAYMENT TYPE	Regular	327,063	$90,356,318		$276
	Reissue	451	$63,458		$141
	Secondpay	2,077	$324,338		$156
	Underpay	166	$38,151		$230
	Extraordinary	76,975	$7,699,683		$100
TOTAL PMT		406,732	$98,481,948		$242
RECOUPMENTS		572	$95,078		$166
NET PAID			$98,386,870		
PMT SUB TYPE	APD	0	$0		$0
	STD	406,732	$98,481,948		$242

Energy Assistance Summary (EASUM)

9/22/2018 - 5/2/2019

STATE WIDE

Crisis Demographic Report By Household (LIH660-R03)

	ITEM	COUNT	AMOUNT	%	AVG
HOUSING	Owner	46,437	$18,448,644	44	$397
	Renter	50,691	$19,474,427	48	$384
	RenterWithHeat	245	$86,120	0	$352
	SubsidizedWithHeat	345	$98,252	0	$285
	SubsidizedNoHeat	6,927	$2,539,292	6	$367
	Roomer	3	$1,799	0	$600
	Other	1,922	$777,751	2	$405
RACE	AmericanIndian	200	$79,828	0	$399
	Other	5,658	$2,208,960	5	$390
	NativeHawaiian	52	$19,942	0	$384
	Black	19,371	$7,574,580	18	$391
	White	80,246	$31,142,130	75	$388
	Asian	323	$125,350	0	$388
	Unknown	720	$275,495	1	$383
DISABLED	YES	50,372	$19,293,426	47	$383
	NO	56,198	$22,132,859	53	$394
AGE 60 & ABV	YES	36,037	$13,981,742	34	$388
	NO	70,533	$27,444,544	66	$389
AGE 5 & BLW	YES	22,995	$9,072,937	22	$395
	NO	83,575	$32,353,348	78	$387
PAY_TYPE	DIRECT	292	$99,380	0	$340
	PROVIDER	147,722	$54,876,256	100	$371
REFUNDS		477	$98,185		$206

AVERAGE HOUSEHOLD SIZE: 2.65

* Counts, Amounts ($), % and AVG from HOUSING, RACE, DISABLED, OVER-60 and INCOME RANGE category are from Regular payments only

** Counts, Amounts ($), % and AVG from PAY_TYPE category are from All Payment Types (Regular, Reissue, Secondpay, Underpay and Extraordinary)

*** Counts, Amounts ($), % and AVG from PAYMENT_SENT category are from All Payment Types (Regular, Reissue, Secondpay, Underpay and Extraordinary)

	ITEM	COUNT	AMOUNT	%	AVG
PAYMENT SENT	Electric	18,571	$6,908,865	17	$372
	FuelOil	52,710	$21,540,067	49	$409
	Coal	1,575	$783,083	1	$497
	NaturalGas	18,043	$6,546,112	17	$363
	Kerosene	4,190	$1,778,084	4	$424
	Propane	9,430	$2,941,342	9	$312
	WoodOrOther	978	$494,258	1	$505
	BlendedFuel	1,073	$434,474	1	$405
INCOME RANGE	0 - 999	3,434	$1,404,715	3	$409
	1000 - 1999	510	$200,105	0	$392
	2000 - 2999	606	$243,870	1	$402
	3000 - 3999	790	$312,142	1	$395
	4000 - 4999	930	$371,913	1	$400
	5000 - 5999	943	$379,736	1	$403
	6000 - 6999	1,353	$538,653	1	$398
	7000 - 7999	1,575	$626,607	1	$398
	8000 - 8999	2,436	$949,771	2	$390
	9000 - 9999	13,803	$5,234,941	13	$379
	10000 - 10999	4,276	$1,638,351	4	$383
	11000 - 11999	5,117	$1,948,137	5	$381
	12000 - 12999	5,042	$1,911,280	5	$379
	13000 - 13999	5,477	$2,119,419	5	$387
	14000 - 14999	5,835	$2,246,421	5	$385
	15000 - 15999	5,597	$2,143,037	5	$383
	16000 - 16999	5,027	$1,936,406	5	$385
	17000 - 17999	4,299	$1,664,417	4	$387
	18000 - 18999	4,228	$1,606,310	4	$380
	19000 - 19999	3,259	$1,287,598	3	$395
	> 19999	31,994	$12,649,550	30	$395
	Not Reported	0	$0	0	$0
PAYMENT TYPE	Regular	106,570	$41,426,286		$389
	Reissue	21	$6,786		$323
	Secondpay	35	$10,640		$304
	Underpay	0	$0		$0
	Extraordinary	41,388	$13,531,924		$327
TOTAL PMT		148,014	$54,975,636		$371
RECOUPMENTS		33	$9,942		$301
NET PAID			$54,965,694		