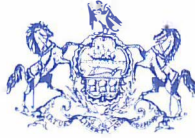



COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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November 20, 2019

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

Re: 2019 Amendments to Policy Statement on  
Customer Assistance Program  
Docket No. M-2019-3012599

Review of Universal Service and Energy  
Conservation Programs  
Docket No. M-2017-2596907

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

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Petition for Reconsideration and/or Clarification in the above-referenced proceedings. The undersigned certifies that this filing contains no averments or denials of fact subject to verification and penalties under 52 Pa. Code Section 1.36.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in blue ink that reads "Christy M. Appleby".

Christy M. Appleby  
Assistant Consumer Advocate  
PA Attorney I.D. # 85824  
E-Mail: [CApplby@paoca.org](mailto:CApplby@paoca.org)

Enclosures:

cc: Office of Administrative Law Judge (OALJ)  
Office of Special Assistants (e-mail only: [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))  
Certificate of Service

\*280925

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

2019 Amendments to Policy Statement On Customer Assistance Programs 52 Pa. Code §§ 69.261- 69.267	:	Docket No.	M-2019-3012599
Energy Affordability For Low-Income Customers	:	Docket No.	M-2017-2587711
Review of Universal Services And Energy Conservation Programs	:	Docket No.	M-2017-2596907

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PETITION OF THE  
OFFICE OF CONSUMER ADVOCATE  
FOR RECONSIDERATION AND/OR CLARIFICATION

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The Office of Consumer Advocate (OCA) hereby submits this Petition pursuant to Sections 5.41 and 5.572 of the Public Utility Commission’s (Commission regulations). 52 Pa. Code §§ 5.41, 5.572. The OCA requests that the Commission reconsider and/or clarify elements of its Order entered November 5, 2019, in the above-referenced dockets. Pursuant to this Petition, the OCA requests that the Commission address the extent to which its proposed maximum CAP energy affordability burdens for customers at or below 50 percent of the Federal Poverty Level would cause Pennsylvania’s electric and natural gas utilities to increase the amount of Low Income Home Energy Assistance Program (LIHEAP) benefits returned to the Commonwealth. The OCA also requests clarification regarding the cost information to be included in the universal service plan compliance filings and clarification that the compliance plans include this cost information for the revised programs.

## I. INTRODUCTION

On November 5, 2019, the Commission entered a Final Opinion and Order at Docket No. M-2019-3012599 (November 5 Order) regarding amendments to the Policy Statement on Customer Assistance Programs. The Final Opinion and Order incorporates issues raised in the proceedings, Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711, and Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907.<sup>1</sup> The Commission's November 5 Order, among other things, established new energy affordability burdens for customers enrolled in the natural gas and electric distribution companies' Customer Assistance Programs (CAP). November 5 Order at 28-34. The Commission's November 5 Order also identified potential costs relating to the proposed energy affordability burden changes. November 5 Order at 24-28. The OCA has identified two issues that it believes require further consideration and clarification. First, in its analysis, the Commission appears to have not considered the impact of the new proposed energy burdens for those customers with income at or below 0-50% of the Federal Poverty Level on the LIHEAP grants, particularly since the LIHEAP grant is applied to the "asked to pay amount" to further reduce the energy burdens. As discussed below, the OCA respectfully requests that the Commission require the EDCs and NGDCs to analyze this issue and present their findings as part of the compliance plan. The OCA also requests clarification be provided regarding the cost information to be included in the universal service plan compliance filings. The OCA submits that information on the cost of the revised programs should be included in the compliance plan to properly evaluate the revised plan.

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<sup>1</sup> The Commission's November 5 Order closes the Energy Affordability for Low-Income Customers docket at Docket No. M-2017-2587711.

## II. STANDARD OF REVIEW

As set forth in Duick v. Pennsylvania Gas and Water Co., 56 Pa. P.U.C. 553 (1985), the standards for granting a petition for reconsideration are as follows:

A petition for reconsideration, under the provisions of 66 Pa. C.S. 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad case, wherein it stated that “[p]arties...cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them...” What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issues was either unwise or in error.

Duick v. Pennsylvania Gas and Water Co., 56 Pa. P.U.C. at 599, (quoting Pennsylvania R.R. Co. v. Pa. P.U.C., 118 Pa. Super. 180 (1935)).

In this Petition, the OCA raises points not previously heard or considered and which the Commission may have overlooked. The OCA submits that the Commission appears to have not considered the impact of the new proposed energy burdens for those customers with income at or below 0-50% of the Federal Poverty Level on the LIHEAP grants. The OCA also requests clarification regarding the cost information to be included in the universal service plan compliance filings so that the revised programs can be properly evaluated.

### III. RECONSIDERATION AND CLARIFICATION

- A. The Commission appears to have not considered the impact of the new proposed energy burdens on LIHEAP grants.

Pursuant to the Quick standard, the OCA submits that the Commission appears to have overlooked the potential impact of the new proposed energy affordability burdens for those customers on LIHEAP grants.<sup>2</sup> The OCA is concerned that the new maximum energy affordability burdens, particularly for the population of customers at or below 50% of the Federal Poverty Level, may result in significant increases in the dollar amount of LIHEAP grants that will be returned by utilities as unused at the end of the LIHEAP program season. The OCA submits that this could result in the possibility that the “asked to pay amount” for the lowest income tiers may be lower than the LIHEAP grant amount. The failure to properly integrate LIHEAP with CAP would be an inefficient use of scarce resources.

The Commission’s November 5 Order proposes a maximum energy affordability burden of 10 percent for combined electric (4%) and natural gas heating (6%) CAP customers and 10% for electric heating customers. November 5 Order at 33. For customers at or below 50% of the Federal Poverty Level, the November 5 Order proposes a lower maximum energy affordability burden of 2% for electric, 4% for natural gas heating, and 6% for electric heating customers. November 5 Order at 33. In the Commission’s discussion of the benefits of LIHEAP participation, the Commission quantifies the significant impact of the LIHEAP grant on the customer’s energy burden. The Commission’s Order states:

The Commission’s Energy Affordability Report noted that LIHEAP had a measurable impact on energy burdens for CAP customers. CAP customers with incomes at or below 50% of the FPIG experienced an average energy burden decrease of approximately 6 to 8 percentage points for electric non-

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<sup>2</sup> In most of the states that the Commission references as having energy burdens similar to those adopted by the Commission, the LIHEAP grant is used to reach the energy burden level. November 5 Order at 29. The LIHEAP grant is not applied to the “asked to pay amount.”

heating and approximately 7 to 9 percentage points for electric heating. CAP customers with incomes between 51 and 100% of the FPIG experienced an average energy burden decrease of approximately 3 percentage points for electric non-heating and heating. CAP customers with incomes between 101 and 150% of the FPIG experienced an average energy burden decrease of approximately 1 to 2 percentage points for electric non-heating and electric heating. Energy Affordability Report at 30–40.

November 5 Order at 53. For LIHEAP recipients below 50 percent of the Federal Poverty Level, an average energy burden decrease of 6 to 8 percentage points would zero out the CAP customer’s bill when the LIHEAP grant is applied to the “asked to pay amount,” potentially leaving a LIHEAP credit remaining for the customer.

The Commission’s November 5 Order appears to have overlooked that to the extent that a LIHEAP recipient has a bill credit at the end of second LIHEAP program heating season, a Pennsylvania utility is obligated to return those “excess” LIHEAP benefits to the Commonwealth. See, LIHEAP Fiscal Year 2020 Final State Plan at §601.45 (treatment of cash benefits), 601.65 (treatment of crisis benefits). Section 601.45 regarding return of cash benefits states as follows:

LIHEAP funds are available for use during a two-year period that includes the LIHEAP program year of receipt and through June 30th of the LIHEAP program year immediately following. For example: LIHEAP benefits authorized on November 27, 2018, are available for use through June 30, 2020. The vendor shall retain unused LIHEAP funds as a credit balance in the customer's account through June 30th of the following state fiscal year unless the client changes vendors, leaves the area served by the vendor, or deceases.

2020 Final State Plan at §601.45. Similarly, Section 601.65 states the following regarding refund of crisis grants:

Refunds and reissuances of LIHEAP Crisis benefits are treated as follows: (1) Refunds from the vendor. The vendor shall submit all refunds, including any unused LIHEAP funds to DHS's LIHEAP Vendor Unit within 30 days after the basis for the return is known. LIHEAP funds are available for two heating seasons. Any unexpended LIHEAP benefits that remain as a credit on the customer's account as of June 30 of the year following the season (state fiscal year) in which payment was authorized shall be refunded to DHS’s LIHEAP Vendor Unit by July 31.

Those dollars, in other words, may not: (1) be rolled over more than one additional heating season; (b) be credited to the customer; or (3) be retained by the utility.

2020 Final State Plan at §601.45.

The excess LIHEAP benefit (*i.e.*, that LIHEAP benefit that would need to be returned to the Commonwealth) is calculated by comparing the LIHEAP benefit to the CAP bill. If LIHEAP exceeds the CAP bill, the excess is calculated by subtracting the CAP bill from the amount of the LIHEAP benefit. If LIHEAP does not exceed the CAP bill, the amount of the excess LIHEAP benefit is \$0. This analysis will need to be performed at the new energy burden levels to assure the proper use of both LIHEAP funds and ratepayer funds.

The Commission's analysis appears to have overlooked the impact of the change to energy affordability burdens for customers at or below 50 percent of the Federal Poverty Level on the amount of LIHEAP dollars that will be returned to DHS at the end of two heating seasons. Under the existing CAP energy affordability burdens, the presence of CAP rarely creates a situation where LIHEAP benefits would exceed the asked-to-pay amount and need to be returned to the Department of Human Services (DHS). In contrast, the CAP burdens in the Policy Statement may now cause an excess of LIHEAP benefits to be created.

The OCA's concern is that it does not benefit Pennsylvania ratepayers to create maximum CAP bills that would cause Pennsylvania's utilities to return substantial amounts of LIHEAP benefits to DHS as being unused, since those benefits would exceed a customer's asked-to-pay amount. The OCA would also note that CAP participants who receive LIHEAP for CAP are not harmed by structuring CAP so as to minimize the amount of excess LIHEAP benefits returned to DHS. Dollars returned to LIHEAP are a direct dollar transfer from Pennsylvania ratepayers to the LIHEAP program.

The OCA requests that the Commission reconsider this issue and require the EDCs and NGDCs to analyze this issue and present their findings as part of the compliance plan. The Commission may also want to provide further guidance regarding how it expects Pennsylvania's utilities to implement the proposed maximum CAP energy affordability burdens such that ratepayer dollars are not being transferred to the State's LIHEAP program in the form of unused LIHEAP benefits.

B. The OCA requests clarification regarding the cost information to be included in the universal service plan compliance filings.

The Commission's Order, while presenting an estimate of increased costs associated with the Policy Statements, identifies that some of the cost elements have not been quantified. November 5 Order at 24. The OCA requests the Commission to clarify the obligations of the utilities when those utilities submit filings indicating how they intend to comply with the Commission's Final Policy Statement and Order (Docket No. M-2019-3012599). In particular, OCA requests that utilities be directed to submit with their compliance filings an estimate of the costs of the revised program. Some changes can be expected to increase costs to the utilities, while other changes can be expected to decrease costs. Not all cost changes will be in the same direction for all utilities. It will be important to have cost information on the revised program to properly evaluate the revisions. Cost information is also important to assess the impact on other residential ratepayers who will continue to bear these costs through the universal service surcharge at least until a utility's next base rate case.

The Commission's November 5 Order does not specifically address many of these cost impacts. The OCA requests that the Commission clarify that the cost impacts for all proposed changes and the revised plan should be included in the Company's compliance filing. The OCA

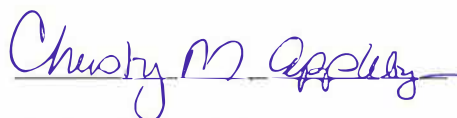


submits that it is important to consider the full cost impacts to the proposed Universal Service and Energy Conservation Plan budgets.

#### IV. CONCLUSION

For these reasons, the OCA respectfully requests that the Commission reconsider and/or clarify its decision as set forth above.

Respectfully Submitted,



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DATE: November 20, 2019

280983

CERTIFICATE OF SERVICE

Re: 2019 Amendments to Policy Statement on Customer Assistance Program : Docket No. M-2019-3012599  
: :  
: :  
Review of Universal Service and Energy Conservation Programs : Docket No. M-2017-2596907  
: :  
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Energy Affordability for Low-Income Customers : Docket No. M-2017-2587711  
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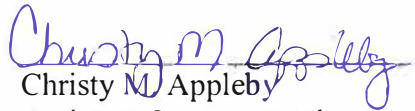
I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Petition for Reconsideration and/or Clarification, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 20<sup>th</sup> day of November 2019.

SERVICE BY E-MAIL AND INTER-OFFICE MAIL

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Dated: November 20, 2019  
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