

STATEMENTS OF POLICY

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[51 PA. CODE CH. 69]

[M-2019-3012599]

2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code §§ 69.261—69.267

On November 5, 2019, the Pennsylvania Public Utility Commission entered its order adopting amendments to the Customer Assistance Program policy statement. The amendments are intended to improve energy affordability for low-income citizens in this Commonwealth by enhancing the electric distribution company and natural gas distribution company customer assistance programs.

Public Meeting held
September 19, 2019

Commissioners Present: Gladys Brown Dutrieuille, Chairperson; David W. Sweet, Vice Chairperson, statement follows; Norman J. Kennard, statement follows, dissenting; Andrew G. Place, statement follows; John F. Coleman, Jr., statement follows, dissenting

*2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code §§ 69.261—69.267;
M-2019-3012599*

Final Policy Statement and Order

By the Commission:

The Public Utility Commission (Commission) hereby adopts customer assistance program (CAP) policy changes and amends the Commission's existing CAP Policy Statement at 52 Pa. Code §§ 69.261—69.267 as set forth in Annex A to this Order. The Commission identified the bases for changes specified in this Order as part of (1) the Commission's staff report titled Home Energy Affordability for Low-Income Customers in Pennsylvania¹ (Energy Affordability Report) and the supplemental information and comments related to that Report; (2) the Commission's ongoing broader review of the provisions and effectiveness of residential universal service programs and policies; and (3) best practices identified through the Commission's review of electric distribution companies' (EDCs) and natural gas distribution companies' (NGDCs) triennial universal service and energy conservation plans (USECPs).

In a proceeding at Universal Service Rulemaking, Docket No. L-2019-3012600 (Universal Service Rulemaking), the Commission will address universal service regulations, including whether to promulgate any of these CAP policy provisions as regulations. That rulemaking will provide opportunity for additional input from stakeholders. We strongly urge the EDCs and the NGDCs to incorporate the CAP policy amendments in their USECPs as fully and quickly as possible so that all stakeholders will have a basis for meaningful input in the Universal Service Rulemaking.

¹ Released via order entered on January 17, 2019, in Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711 (Energy Affordability proceeding). <http://www.puc.pa.gov/pdocs/1602386.pdf>. See also Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907 (Review proceeding).

Introduction and Overview

This undertaking began nearly two years ago and involved a holistic review of universal service and energy conservation programs,² including a thorough examination of the effects of the Commission's current energy burden thresholds,³ focusing on whether existing CAP pricing is affordable for low-income customers. We want to extend our sincere gratitude to the utilities and all the other stakeholders (collectively, stakeholders⁴) who participated in workgroup meetings and stakeholder meetings and who submitted comments and information in the Review and Energy Affordability proceedings. The stakeholders are engaged in these fundamental issues daily, and we appreciate the time and attention they have given to this process. It is a far richer product for their contributions. The lessons learned and data gathered throughout this process, as well as the many utility-specific USECP reviews and other proceedings that address universal service issues, have ultimately delivered empirically derived results that have informed our decision making and the policies we hereby adopt.

"Energy burden" is the percentage of household income required to pay for household energy usage. "Universal service and energy conservation" is a collective term for the "policies, protections and services that help low-income customers⁵ to maintain service" as mandated by statute.⁶ The four universal service programs are: (1) CAPs, which may provide discounted pricing, arrearage forgiveness, and/or other benefits for enrolled low-income residential customers; (2) Low-Income Usage Reduction Programs (LIURPs),⁷ which provide weatherization and usage reduction services to help customers reduce their energy utility bills; (3) Customer Assistance and Referral Evaluation Services (CARES), which provide information and referral services for low-income, special needs customers; and (4) Hardship Fund programs,⁸ which provide grants to help customers address utility debt, restore service, or stop a service termination. EDCs and NGDCs are required to offer these universal service programs in each distribution territory⁹ and to submit updated USECPs every three years for Commission approval.¹⁰ Independent impact evaluations are due every six years.¹¹ The Commission's CAP Policy Statement provides guidance for utilities in the operation of their CAPs.

² Order entered on May 5, 2017, in the Review proceeding.

³ Order entered on May 10, 2017, in the Energy Affordability proceeding.

⁴ As indicated in Appendix B, there were numerous stakeholders in Review and Energy Affordability proceeding. In addition to the participating EDCs and NGDCs and the Energy Association of Pennsylvania (EAP), other active participants included statutory advocates, low-income advocates, industrial user groups, community-based organizations, other agencies, energy marketers, educational institutions, and others. Our appreciation extends to all who participated actively or by observation.

⁵ A low-income customer is one with a household income at or below 150% of the Federal Poverty Income Guidelines (FPIG).

⁶ Section 2803 of the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. §§ 2801—2816 (1997), and Section 2202 of the Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2201—2212 (1999), (respectively Electric Competition Act and Natural Gas Competition Act; collectively Competition Acts).

⁷ LIURPs are intended to assist low-income customers in conserving energy and reducing residential energy bills. The Commission's LIURP regulations at 52 Pa. Code §§ 58.1—58.18 (promulgated in 1993 and last amended in 1998) require covered energy utilities to establish fair, effective, and efficient energy usage reduction programs for their low-income customers. Chapter 58 was effective January 16, 1993. See 23 Pa.B. 265. Sections 58.2, 58.3, 58.8, and 58.10 were amended effective January 3, 1998. See 28 Pa.B. 25. See 52 Pa. Code § 58.2 for the definition of "covered utility." A utility may spend up to 20% of its annual LIURP budget on customers having an arrearage and whose household income is at or below 200% of FPIG. See 52 Pa. Code §§ 58.1, 58.2, and 58.10.

⁸ CARES and Hardship Funds, unlike CAPs, are not covered by express policy statements. CARES and Hardship Funds, unlike LIURP, do not have extensive regulatory or policy provisions.

⁹ 66 Pa.C.S. §§ 2203(8) and 2804(9).

¹⁰ 52 Pa. Code §§ 54.74 and 62.4.

¹¹ 52 Pa. Code §§ 54.76 (a)-(b) (electric) and 62.6 (a)-(b) (natural gas).

In May 2017, the Commission initiated two separate proceedings, referred to herein as the Review and the Energy Affordability proceedings, to conduct a comprehensive review of the policies, practices, and procedures of Pennsylvania's universal service programs, including CAPs. The intent was to review the impact on energy affordability for low-income customers.¹² Based upon this review and the comments in the Review and the Energy Affordability proceedings and other dockets, the Commission identified several opportunities to improve consistency in CAPs and to enhance the benefits of these programs.

Based upon the justifications described herein, the Commission hereby adopts the following changes to the CAP Policy Statement,¹³ subject to the requisite implementation processes through the amended CAP Policy Statement adopted by this Order and/or utility-specific proceedings. These policy enhancements and changes are consistent with the Public Utility Code and are reflective of numerous comments submitted by various stakeholders in relevant proceedings.

1.a. Establish new maximum tiered CAP energy burdens of 6% for natural gas heating, 4% for electric non-heating, and 10% for electric heating for FPIG tiers 51%—100% and 101%—150%. For FPIG tier 0%—50%, the maximum energy burdens should be 4% for natural gas heating, 2% for electric non-heating, and 6% for electric heating.

b. Minimum CAP payment requirements should be set in USECP proceedings rather than in the CAP Policy Statement. Utilities may propose alternatives to a flat minimum payment for each account type, such as basing them on the household's FPIG level.

2. Utilities should allow CAP households to retain CAP enrollment when they transfer service within the utility's (or an affiliate's) service territory.

3. Utilities should accept income documentation of at least the last 30 days or 12 months, whichever is more beneficial to the household, when determining CAP eligibility at application or recertification. CAP applications and recertification letters should identify acceptable income timeframes and explain how each may benefit the customer.

4. Eliminate the provision in the CAP Policy Statement that low-income customers must be "payment-troubled" to qualify for CAPs. Utilities may, however, impose such a requirement to prioritize CAP enrollments and control CAP costs if determined appropriate by the Commission.

5. Eliminate the provision in the CAP Policy Statement that a customer should designate the Low Income Home Energy Assistance Program (LIHEAP) grant to the utility sponsoring the CAP (Section 69.265(9)(i)) or be penalized for not applying for LIHEAP (Section 69.265(9)(ii) and (iv)). However, all CAP customers should participate in LIHEAP, if eligible. Eliminate the provisions in the CAP Policy Statement that a LIHEAP grant should be applied to reduce the amount of CAP credits (Section 69.265(9)(iii)).

6. Utilities should exempt CAP customers from late payment charges.

7. Utilities should provide CAP customers with (a) pre-program arrearage (PPA) forgiveness for each on-time and in-full monthly CAP payment regardless of in-CAP

arrears and (b) retroactive PPA forgiveness for any month(s) missed once the household pays its in-CAP/in-program balance/debt in full.

8. Utilities may request Social Security numbers (SSNs) but not require them for household members when verifying identity for CAP enrollment. Utilities and entities acting on their behalf should offer and explain the options on CAP applications and other communications with customers.

9. Maximum CAP credit limits should be set in USECP review proceedings rather than in the CAP Policy Statement and should consist of a tiered structure based on the household's FPIG level (i.e., 0—50%, 51—100%, and 101—150%) which should provide lower income households with higher CAP credit limits. Utilities should notify CAP customers when they approach their CAP credit limits, instruct them to contact the utility if they meet any exceptions, and refer them to LIURP (if eligible)

10. Utilities should establish online CAP applications and allow customers to submit documentation electronically.

11. Utilities should use a standardized zero-income form and develop other industry-wide standardized forms.

12. Establish new maximum recertification timeframes for CAPs and strive to minimize disruptions in CAP participation.

- CAP households reporting no income should be required to recertify at least every six (6) months regardless of LIHEAP participation;

- CAP households with income that participate in LIHEAP annually should be required to recertify at least once every three (3) years;

- CAP households whose primary source of income is Social Security, Supplemental Security Income (SSI), or pensions should be required to recertify at least once every three (3) years; and

- All other CAP households should recertify at least once every two (2) years.

13. Utilities should initiate collection activity for CAP accounts when a customer has no more than two (2) in-program payments in arrears. Customers should not be removed or defaulted from CAP as a precursor to termination for non-payment.

14. Utilities should evaluate household CAP bills at least quarterly to determine whether the customer's CAP credit amount or billing method is appropriate.

15. Utilities should work with stakeholders to develop Consumer Education and Outreach Plans.

16. Utilities should use the definition of "household income" in Chapter 14 of the Public Utility Code.¹⁴

17. Utilities should be prepared to address recovery of CAP costs (and other universal service costs) from any ratepayer classes in their individual rate case filing.¹⁵

Background

This Commission and various stakeholders began to formally address low-income policies, practices, and services at least as early as 1984. See Recommendations for Dealing with Payment Troubled Customers, Docket No.

¹² A general timeline of activities in these two proceedings can be found in Appendix A.

¹³ Including housekeeping changes, all seven sections of the CAP Policy Statement will have revisions.

¹⁴ Chapter 14 defines Household Income as "[t]he combined gross income of all adults in a residential household who benefit from the public utility service." 66 Pa.C.S. § 1403 (relating to definitions).

¹⁵ We are not making a final precedential decision regarding cost recovery in this docket.

M-840403.¹⁶ As a result of that proceeding, the energy utilities began filing usage reduction programs and considering how to address arrearages for low-income customers. The summaries below highlight some of the developments in this endeavor.

Customer Assistance Program

The Commission's CAP Policy Statement at 52 Pa. Code §§ 69.261—69.267 (adopted in 1992 and amended in 1999 and 2010) applies to Class A EDCs and NGDCs with gross intrastate annual operating revenue in excess of \$40 million. It provides guidance on affordable payments and arrearages and establishes a process for utilities to work with the Commission's Bureau of Consumer Services (BCS) to develop CAPs. The Commission balances the interests of customers who benefit from CAPs with the interests of the other residential customers who pay for such programs. See Final Investigatory Order on CAPs: Funding Levels and Cost Recovery Mechanisms, Docket No. M-00051923 (Dec. 18, 2006) (Final CAP Investigatory Order), at 6-7.

Competition Acts

The universal service provisions in the Competition Acts tie the affordability of electric service to a customer's ability to maintain utility service. The Competition Acts require the Commonwealth to continue, at a minimum, the policies, practices, and services that were in existence to assist low-income customers in affording utility service, as of the effective dates of the respective Competition Acts. 66 Pa.C.S. § 2802(10) for electric and § 2203(7) for natural gas. Universal service programs, including CAPs, are subject to the administrative oversight of the Commission, which must ensure that the utilities run the programs in a cost-effective manner and that services are appropriately funded and available in each utility distribution territory. 66 Pa.C.S. § 2804(9) for electric and § 2203(8) for natural gas.

Universal Service Reporting Requirements

The utilities have reporting obligations relative to their CAP, LIURP, CARES, and hardship fund programs in their universal service portfolios. The Commission's Universal Service and Energy Conservation Reporting Requirements (Universal Service Reporting Requirements or USRR) for electric utilities at 52 Pa. Code §§ 54.71—54.78 (1998) require each EDC serving more than 60,000 residential accounts to submit an updated USECP every three years to the Commission for approval. 52 Pa. Code § 54.77. Similarly, the Commission's USRR for natural gas utilities at 52 Pa. Code §§ 62.1—62.8 (2000) require each NGDC¹⁷ serving more than 100,000 residential accounts also to submit an updated USECP every three years to the Commission for approval. 52 Pa. Code § 62.7. The Commission has delegated responsibility to BCS for monitoring and evaluating the utilities' universal service programs as part of the Commission's USECP approval process.

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

Energy burdens are addressed in the CAP Policy Statement. On May 5, 2017, the Commission entered an order initiating a study to evaluate residential energy burdens for electric and natural gas service in Pennsylvania and to determine what may constitute an affordable

energy burden for Pennsylvania's low-income households (referred to herein as the Energy Affordability proceeding).¹⁸

By Secretarial Letter dated October 16, 2017, the Commission notified the major jurisdictional energy distribution companies of its intent to conduct an energy affordability study and requested specific information from the eight major NGDCs and seven major EDCs for the years 2012—2016. The EDCs and NGDCs that reported data to the Commission include the following:

EDCs: Duquesne Light Co. (Duquesne), Metropolitan Edison Co. (Met-Ed), PECO Energy Co. (PECO Electric), Pennsylvania Electric Co. (Penelec), Pennsylvania Power Co. (Penn Power), PPL Electric Utilities Corp. (PPL), and West Penn Power Co. (WPP).¹⁹

NGDCs: Columbia Gas of Pennsylvania (Columbia), PECO Energy Co. (PECO Gas), National Fuel Gas Distribution Corp. (NFG), Peoples Natural Gas Co. (Peoples), Peoples-Equitable Division (Peoples Equitable), Philadelphia Gas Works (PGW), UGI Utilities Inc.—Gas (nka UGI South) and UGI Penn Natural Gas (nka UGI North).²⁰

Commission staff analyzed and used the data submitted by the NGDCs and the EDCs, in conjunction with U.S. census data and data provided pursuant to universal service and collections reporting (USR) requirements,²¹ to develop the Energy Affordability Report.

By Order entered on January 17, 2019, (January 2019 Order), the Commission released the Energy Affordability Report, requested additional supplemental information and data from the EDCs and NGDCs, and established a comment/reply comment period. The January 2019 Order also scheduled a stakeholder meeting for February 6, 2019, to address questions and facilitate discussion about the Energy Affordability Report. On March 7, 2019, the Commission issued a Secretarial Letter providing additional clarifications regarding the supplemental information requested from the utilities and establishing new deadlines for comments and reply comments.²²

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

On May 10, 2017, the Commission entered an order initiating a comprehensive review of the Universal Service and Energy Conservation model (referred to herein as the Review proceeding).²³ This Review included a review of CAP policies, CAP programs, and CAP effectiveness. On July 14, 2017, pursuant to the May 10 Order, the Commission published a report developed by the Law Bureau with the assistance of the BCS on the statutory, regulatory, and policy frameworks of existing Universal Service and Energy Conservation Programs. The July 2017 Report also outlined the processes required to initiate any proposed changes to the existing universal service regulatory and policy frameworks.

The May 10 Order invited interested parties to provide input on their priorities, concerns, and suggestions for amending and improving any or all aspects of universal service programs. Approximately 65 parties, separately or

¹⁸ For a more detailed list of activities in Docket No. M-2017-2587711, see Appendix A.

¹⁹ Met-Ed, Penelec, Penn Power, and WPP are collectively referred to as "FirstEnergy" or the "FirstEnergy utilities."

²⁰ Peoples and Peoples-Equitable are collectively referred to as "Peoples." UGI South and UGI North are collectively referred to as "UGI."

²¹ USR Requirements, 52 Pa. Code §§ 62.1—62.8 (natural gas) and 54.71—54.78 (electric).

²² For a full list of stakeholders who filed or participated in Docket No. M-2017-2587711, see Appendix B.

²³ For a more detailed list of activities in Docket No. M-2017-2596907, see Appendix A.

¹⁶ This docket number is also cited as Docket No. M-00840403.

¹⁷ City NGDCs have similar requirements as well. 66 Pa.C.S. § 2212(b).

jointly, filed comments and/or reply comments. In addition, BCS coordinated a stakeholder meeting on September 13-14, 2017, to gather feedback on the previously submitted comments and any other priorities, concerns, or suggested changes pertaining to the universal service programs. Approximately 24 organizations participated in the stakeholder meetings, either in-person or by telephone.²⁴

On March 28, 2018, the Commission issued a Secretarial Letter releasing the Staff Report Summarizing Public Comments, Feedback and Suggestions Regarding Universal Service and Energy Conservation Programs. The Secretarial Letter also established a Universal Service Working Group (USWG) to further explore universal service policies and practices. The USWG has convened four times²⁵ to discuss, inter alia, standardizing zero income forms, revising the USECP filing schedule, and the Energy Affordability for Low-Income Customers proceeding.

Other Open Universal Service Proceedings

Beyond the issues addressed in this Order, the Commission is also evaluating other potential changes to universal service programs, including CAPs, in other open proceedings. They include Initiative to Review and Revise the Existing LIURP Regulations at 52 Pa. Code §§ 58.1—58.18, at Docket No. L-2016-2557886 (LIURP Rulemaking); Staff Review of CAP Final Billing Methods, Docket No. M-2019-3010190; Universal Service Reporting Working Group (USRWG), Docket No. M-2019-3011814; and Universal Service Rulemaking, Docket No. L-2019-3012600.

Additionally, the Commission acts on each utility's proposed USECPs and petitions to amend existing USECPs. Further, the costs of universal service programs, including CAPs are addressed in utility-specific rate proceedings.

Changes to Caps and the Cap Policy Statement

Based on the data and stakeholder proposals received during the Review and Energy Affordability proceedings, as well as best practices identified in Commission reviews of USECPs, as noted and listed above, we identified several areas for improvement in our CAP Policy Statement, as adopted herein.²⁶ Utilities will have the opportunity to implement these CAP policy changes through voluntary compliance with the amended CAP Policy Statement or to address the matters in utility-specific proceedings and/or as promulgated regulations. Any matters that cannot be resolved by voluntary compliance with Commission policy will be addressed in utility-specific proceedings.

The CAP policy provisions hereby amended in or added to the CAP Policy Statement are discussed below.

1.a. Establish new maximum tiered CAP energy burdens of:

- 6% for natural gas heating, 4% for electric non-heating, and 10% for electric heating for FPIG tiers 51%—100% and 101%—150%; and
- 4% for natural gas heating, 2% for electric non-heating, and 6% for electric heating for FPIG tier 0%—50%.

The 1992 CAP Policy Statement recommended that a CAP customer's total electric or combined natural gas and

electric energy burden should not exceed 15% for the highest low-income FPIG group. That maximum was increased to a range of 15—17% in 1999. Table 1 below indicates the energy burden ranges in Section 69.625 of the CAP Policy Statement, as changed in 1999, for the FPIG groups and the nature of energy usage in the household.

Table 1
Existing CAP Policy Statement Maximum Energy Burden Ranges²⁷

<i>Utility Service</i>	<i>0—50% FPIG</i>	<i>51—100% FPIG</i>	<i>101—150% FPIG</i>
Non-Heating Electric	2%—5%	4%—6%	6%—7%
Natural Gas Heating	5%—8%	7%—10%	9%—10%
Electric Heating	7%—13%	11%—16%	15%—17%

Under the Commission's CAP Policy Statement, if a customer's energy burden falls within the established ranges, it is considered an acceptable energy burden for a low-income household.

In an order entered on May 5, 2017, at Docket No. M-2017-2587711, the Commission noted that (1) residents falling below 50% of the FPIG pay an average of 30% of their income on home energy costs alone;²⁸ and (2) national low-income energy burden models suggest establishing energy burdens between 6%²⁹ and 11%^{30,31} of household income. May 5 Order at 2-3. The Commission directed BCS to initiate a study to determine what constitutes an affordable energy burden for Pennsylvania's low-income households and identify what policy changes are needed to bring universal service programs into alignment with any affordability recommendations. May 5 Order at 4 and Ordering Paragraph (OP) # 1.

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

Comments from Parties

During the Review proceedings, several stakeholders recommended the Commission establish a maximum 6% energy burden for electric and natural gas service. Stakeholders supporting this position included the Pennsylvania Service Providers,³² PA Energy Efficiency for All Coalition (PA-EEFA),³³ the Low Income Advocates,³⁴ and the Weatherization and Conservation Collaborative (WCC). Pennsylvania Service Providers Comments at 3; Low Income Advocates Comments at 16—19; PA-EEFA Comments at 6; and WCC Comments at 6.

²⁷ 52 Pa. Code § 69.265(2)(i)(A)—(C).

²⁸ Fisher, Sheehan & Colton, *The Home Energy Affordability Gap 2015: Pennsylvania* (Public Finance and General Economics, 2nd Ser. 2016), at 1.

²⁹ Applied Public Policy Research Institute for Study and Evaluation, *LIHEAP Energy Burden Evaluation Study* (2005). <http://www.appriseinc.org/reports/LIHEAP%20BURDEN.pdf>.

^{30,31} New York State Energy Research Development Authority, *Home Energy Affordability in New York: The Affordability Gap (2008—2010)* (2011). <http://www.fscnline.com/downloads/Papers/2011%2006%20NYSERDA%20AffordGap.pdf>.

³² The Pennsylvania Service Providers are AARP Pennsylvania; ACTION Housing, Inc.; Community Justice Project; Disability Rights Pennsylvania; Health, Education, and Legal Assistance Project; Homeless Advocacy Project; Interim House, Inc.; Just Harvest; Laurel Legal Services; Legal Aid of Southeastern Pennsylvania; MidPenn Legal Services; Neighborhood Legal Services Association; North Penn Legal Services; Pennsylvania Coalition Against Domestic Violence; Pennsylvania Council of Churches; Pennsylvania Institutional Law Project; Pennsylvania Legal Aid Network; Philadelphia Legal Assistance; Regional Housing Services; SeniorLAW; Southwestern Pennsylvania Legal Services, Inc.; The Women's Center, Inc.; The Women's Resource Center; Stephen R. Krone; and Medna D. Makhlof.

³³ PA-EEFA are the Keystone Energy Efficiency Alliance; Housing Alliance of Pennsylvania; Green and Healthy Homes Initiative; National Consumer Law Center; National Housing Trust; and Natural Resources Defense Council.

³⁴ The Low Income Advocates are the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA); Tenant Union Representative Network (TURN); and Action Alliance of Senior Citizens of Philadelphia (Action Alliance).

²⁴ For a full list of stakeholders who filed or participated in Docket No. M-2017-2596907, see Appendix B.

²⁵ The USWG met on May 7, 2018, July 18, 2018, September 27, 2018, and February 6, 2019. A separate working group also met on July 30, 2019, to discuss the USRR at Docket No. M-2019-3011814.

²⁶ We are also making some housekeeping changes to the CAP Policy Statement.

PECO estimates that if a 6% energy burden requirement is implemented, it would increase annual CAP Credit expenditures³⁵ by \$72 million for electric and \$14 million for natural gas. PECO Reply Comments at 4.

FirstEnergy estimates lowering the energy burden to 6% for all CAP participants would result in additional annual CAP costs of approximately \$5.2 million for Met-Ed, \$5.9 million for Penelec, \$1.5 million for Penn Power, and \$9.5 million for West Penn. These projected costs would increase the current level of CAP credit costs for these utilities by 46% annually. FirstEnergy Reply Comments at 10.

EAP points out that the energy assistance programs in New Jersey and Maryland, which have energy burdens closer to 6%, have a much smaller scope and cost than PA's utility-funded programs. It submits that universal service programs are not intended to be a "catch-all" solution for every Pennsylvanian who might struggle to pay energy bills. EAP Reply Comments at 3. PGW also asserts that universal service programs are not government programs to help solve poverty in PA. PGW Reply Comments at 6—8.

The Low Income Advocates maintain the Commission has a legal obligation to ensure that universal service programs provide affordable electricity and natural gas service through appropriately funded, available, and cost-effective programming. Low Income Advocates Reply Comments at 4.

Energy Affordability Report and January 2019 Order, Docket No. M-2017-258771

The Energy Affordability Report noted that CAP customers—despite receiving discounted payments and/or debt forgiveness—had significantly higher energy burdens in comparison to non-CAP residential customers. While non-CAP residential customers had an average combined energy burden of 4% for combined natural gas and electric services during the 2012—2016 study period, the average energy burdens were 7% to 8% for NGDC CAP heating customers, 5% to 6% for EDC non-heating CAP customers (i.e., natural gas heating CAP customers had a combined energy burden of 12% to 14%), and 8% to 10% for EDC CAP heating customers. The study also revealed that CAP households in the 0—50% FPIG level, regardless of heating or non-heating status and energy type, often had energy burdens exceeding the CAP Policy Statement maximum levels of 5% to 13%. Energy Affordability Report at 18—31.

The Energy Affordability Report also noted that Pennsylvania's neighboring states had significantly lower maximum energy burdens for utility low-income program participants. Ohio limits energy burdens to 10% for electric heating program participants,³⁶ and New York³⁷ and New Jersey³⁸ have maximum energy burdens of 6%

³⁵ Decreases to the energy burden level will primarily increase CAP credit expenditures but could also increase PPA forgiveness costs as more customers in debt may participate due to this change. References to "CAP costs" in this document refer to the total costs for the program (i.e., CAP Credits, PPA forgiveness, and administration).

³⁶ The Energy Affordability Report incorrectly identified 10% as the maximum energy burden for all participants in Ohio's CAP (i.e., Percentage of Income Payment Plan Plus (PIPP)). The 10% maximum energy burden applies only to electric heating customers. PIPP customers with natural gas heating can have a maximum energy burden of 12%: 6% for natural gas heating and 6% for electric non-heating. https://www.development.ohio.gov/is/is_pipp.htm.

³⁷ See New York Public Service Commission's Order Adopting Low Income Program Modifications and Directing Utility Filings, Case 14-M-0565 (effective May 20, 2016), at 3. NOTE: New York also limited the budget for each utility's payment assistance program to 2% of revenues for sales to end-use customers. These costs are recovered from all ratepayer classes. NY May 2016 Order at 3-4.

³⁸ New Jersey requires Universal Service Fund (USF) customers to pay energy burdens of 3% for natural gas service, 3% for electric non-heating, and 6% for electric heating. The discount provided to customers is based on the difference between their annual utility bills (after LIHEAP is applied) and required percentage of household income. <https://www.state.nj.us/dca/divisions/dhcr/faq/usf.html#q1>.

for electric and natural gas service. Energy Affordability Report at 84.

Commission staff developed an energy burden model for the Energy Affordability Report to determine the estimated cost of establishing a 10% maximum energy burden for Pennsylvania's CAPs that parallels Ohio's maximum energy burden for its electric heating customers. Based on 2012 to 2016 average CAP bills and income levels, the Energy Affordability Report estimated the total amount of additional discounts (i.e., CAP credits) needed to establish maximum energy burdens of 6% for natural gas heating, 4% for electric non-heating, and 10% for electric heating to be approximately \$102 million per year, not accounting for inflation. The increase in CAP credits equates to approximately \$32 million for natural gas heating, \$62 million for electric non-heating, and \$9 million for electric heating. The Energy Affordability Report estimated these additional CAP Credits would increase non-CAP residential ratepayers' natural gas and electric bills by an average of \$14.52 annually (\$1.21 monthly). However, average increases would vary among the utilities. Energy Affordability Report at 100—107.

The January 2019 Order directed EDCs and NGDCs to provide cost forecasts based on the 10% maximum energy burden for 2017 through 2021. January 2019 Order at OP # 5(b).³⁹

Comments from Parties

Utility and stakeholder comments on establishing a maximum 10% energy burden focused primarily on whether such a change is warranted, its potential impact on program design, and its potential costs.

Whether to change the maximum energy burden

NFG, EAP, and PPL contend the analysis and data in the Energy Affordability Report do not support making any changes to maximum energy burdens in the CAP Policy Statement. NFG Comments at 2, EAP Comments at 4, and PPL Reply Comments at 4. NFG disputes the Report's implication that factors such as payment behavior, utility debt, and termination rates signal a need for changing the CAP maximum energy burdens. NFG Comments at 4.

NFG and EAP argue the Energy Affordability Report does not consider other variables impacting energy affordability—including cost of energy, cost of living, economic trends, employment statistics, and other expenses. NFG Comments at 5 and EAP Comments at 5.

EAP, Columbia, and Duquesne contend that addressing all factors that may influence energy affordability is primarily the function of government programs and policies. Although CAPs play a part in making electric and natural gas utility service affordable for low-income customers, CAPs should not be used to subsidize the impact of other non-utility costs (e.g., housing costs, etc.). EAP Comments at 5, Columbia Comments at 4, and Duquesne Reply Comments at 4.

NFG, Columbia, and EAP recommend the Commission allow utilities to retain flexibility to tailor its universal service programs to fit the unique needs and characteristics of its service territories. NFG Comments at 5, Columbia Comments at 3, and EAP Reply Comments at 5. Columbia explains utility-specific programs work to the benefit of CAP customers and non-CAP residential ratepayers:

³⁹ The Commission provided further clarifications of these estimates via a Secretarial Letter issued on March 7, 2019. On April 8, 2019, all EDCs and NGDCs filed and served the requested projections.

A utility specific design has multiple benefits. It allows the utility to design a program that best addresses its particular customer base whether rural or urban, elderly or working poor and other outreach considerations. It also allows for utilities to be cognizant of the goal of these programs, and to reduce the overall cost of serving their specific low income customer population using funds provided by non-participating customers. The primary objectives of the program should be to assist those in need to afford their energy bills, specifically their [natural] gas and electric bills, while minimizing the burden on non-participating customers.

Columbia Comments at 4.

OCA maintains that Pennsylvania's CAPs, as currently designed, are working reasonably well. Based on available data, OCA cannot conclude that a maximum 10% energy burden is appropriate for Pennsylvania CAPs. Rather than changing the maximum energy burdens, OCA suggests making other modifications in CAPs to improve affordability, including revising minimum payment requirements for the lowest income customers and using budget billing to ensure that affordable annual energy burdens result in affordable monthly energy burdens. OCA Comments at 6-7, 20-21, Appendix A at 20—22, 110.

The Low Income Advocates argue the Commission should act now to reduce energy burdens, noting that involuntary termination rates are 200% to 450% higher for EDC low-income customers, and 175% to 240% higher for NGDC low-income customers, than residential customers as a whole. Low Income Advocates Comments at 5—7. They recommend establishing a maximum 6% energy burden (3% for electric and 3% for natural gas); however, they assert that a reduction to 10% would help to address energy affordability issues for low-income customers in Pennsylvania. The Low Income Advocates support maintaining tiered maximum energy burden levels, with the lowest income customers (0—50% of the FPIG) limited to 6%. Low Income Advocates Comments at 36—39.

Impact on Program Design

The Low Income Advocates recommend a statewide CAP design that is based on a percent-of-income payment (PIP) or average bill (whichever is less), allows for transitional forgiveness of program arrears accrued through the previous “unaffordable” CAP design, provides arrearage forgiveness for all full tariff bills upon CAP enrollment and re-enrollment, and allows all income-eligible customers to enroll. Low Income Advocates at 22. The Low Income Advocates contend that universal service programs that fail to help customers maintain utility service run contrary to the mandates of the Competition Acts.⁴⁰ Low Income Advocates Comments at 10.

Columbia contends its CAP payment options—which consist of a PIP (7% or 9% of income), average payment, or 50% of the budget bill—is designed to maximize the amount a customer can pay, while keeping payments affordable. Currently, Columbia CAP customers have an average energy burden of 4.2%. A switch to a PIP requiring payments of 6% of income could increase default rates, collection activity, and bad debts. Further, a PIP does not give the customer an incentive to conserve

energy and some customers may pay less than they can afford. Columbia Comments at 5—7. OCA also supports maintaining payment options for CAP customers, rather than establishing a straight PIP for all CAPs. OCA Reply Comments at 8.

PPL maintains that having flexibility to design its own CAP within the guidelines of the CAP Policy Statement better serves the needs of its low-income customers. PPL Comments at 3—5.

Columbia, PGW, and OCA separately recommend that any CAP design should consider the impact of LIHEAP when determining the appropriate energy burden. Columbia Comments at 7, PGW Comments at 3, and OCA Comments at 17-18. OCA asserts that many states—including Ohio, New Jersey, New York, Maryland, Colorado, Nevada, Maine, and Illinois—first apply LIHEAP to reduce the customer's anticipated annual bill before determining the amount of ratepayer assistance needed to attain the target energy burden. OCA Reply Comments at 3.

NFG asserts that CAP design can be influenced by factors such as age and condition of residences, average household size, usage rates, cost of living, quality of appliances, and poverty level in the service territory. NFG Comments at 5. NFG recommends that any potential changes to the CAP maximum energy burdens should also take energy conservation into account. NFG CAP customers receive a discount off their monthly bill but can also save more by reducing energy usage. Further, all NFG CAP customers receive energy education to help them conserve natural gas and are referred to LIURP and other programs, as appropriate. NFG Comments at 6—8.

NFG reports that almost all of its CAP customers had average energy burdens below 6% from 2012 to 2016. Only in 2016 did NFG customers with incomes at or below 50% of the FPIG experience an average energy burden of 7.84%.⁴¹ NFG Comments at 2-3.

The Low Income Advocates recommend that (1) any new energy burden target be a ceiling (maximum) for CAP payments, not a floor (minimum); and (2) the Commission should direct utilities to eliminate CAP cost control design elements—such as CAP Plus charges, PPA co-pays, and minimum payment requirements—which would cause customers to exceed the maximum energy burden. Low Income Advocates Comments at 14—16. Columbia and OCA support maintaining these cost control measures. Columbia Comments at 7-8 and OCA Reply Comments at 8.

EAP argues that elimination of co-pays and minimum payment requirements would harm customers who pay for these programs, particularly those just above the CAP income-eligibility thresholds. EAP Reply Comments at 4-5. EAP also argues the Competition Acts intended universal service programs to help customers pay their electric/natural gas bills, not provide free or near-free utility service. EAP Reply Comments at 4.

PGW contends that PIPs will fail to make energy affordable for customers with incomes at or below 50% of the FPIG generally, and for customers with incomes at or below 25% of the income specifically. Minimum payment requirements will ensure that these customers always have energy burdens exceeding program targets. Customers at these income levels often have a myriad of issues that they are dealing with, including lack of income, that

⁴⁰ 66 Pa.C.S. § 2202 defines natural gas “universal service and energy conservation” as “Policies, practices and services that help residential low-income retail [natural] gas customers and other residential retail [natural] gas customers experiencing temporary emergencies, as defined by the commission, to maintain natural gas supply and distribution services. . . .”

⁶⁶ Pa.C.S. § 2803 defines electric “universal service and energy conservation” as “Policies, protections and services that help low-income customers to maintain electric service. . . .”

⁴¹ NFG notes that customers reporting zero income, who are charged the minimum payment, slightly inflated this average. Excluding zero-income customers reduces the 2016 average energy burden for CAP customers at or below 50% of the FPIG to 6.9%. NFG Comments at 4.

require an integration of social services and other programs to address. PGW Comments at 1-2, Exhibit A. The Low Income Advocates agree with PGW that societal issues contribute to energy unaffordability but maintain that bill assistance is a critical component in helping low-income households. Low Income Advocates Reply Comments at 8.

OCA and Duquesne oppose establishing flat maximum energy burdens for all income tiers. They recommend that the Commission maintain maximum energy burden ranges based on household poverty levels, as exists in the current CAP Policy Statement. These ranges allow for flexibility as energy affordability can differ by service territory and household size. Further, tiered energy burden maximums allow for the lowest income customers to receive the highest amount of assistance. OCA Comments at 6, 13-14, Appendix A at 69–72, 110, and Duquesne Reply Comments at 3.

PECO projects no negative impact to CAP bills if it switched from the tiered energy burden ranges to a flat 10% maximum energy burden. For example, all income

tiers would experience a reduction if non-heating electric bills were limited to 4% of household income. PECO Comments at 10.

Cost Estimates of Implementing a 10% Maximum Energy Burden (4% for electric non-heating, 6% for natural gas heating, and 10% for electric heating)

As noted above, the January 2019 Order and the March 2019 Secretarial Letter requested that the utilities provide estimates of projected costs if they were to implement a 10% maximum energy burden (4% for non-heating electric, 6% for natural gas heating, or 10% for electric heating) using PIP billing. Stakeholders also provided comments. These estimates do not necessarily reflect the CAP costs associated with only reducing the maximum CAP energy burden to 10% and allowing utilities to maintain current CAP payment plans.⁴²

Tables 2 and 3 below reflect the estimated impact (increase/decrease) on actual or projected total CAP costs if EDCs and NGDCs charged CAP customers either the 10% PIP or their average bill, whichever is less.⁴³

Table 2
Charging 4% (for non-heating) and 10% (for heating) of Household Income or Average Bill
Estimated Increase/Decrease on EDC CAP Spending 2016–2021

	2016	2017	2018	2019	2020	2021
Duquesne	\$8,517,888	\$4,986,086	\$4,704,692	\$3,548,757	\$121,957	\$520,094
Met-Ed	(\$2,557,430)	(\$1,884,001)	(\$4,051,910)	(\$4,948,532)	(\$16,131,506)	(\$6,019,088)
PECO-E&NG	\$17,895,406	\$28,719,829	\$34,827,539	\$38,534,186	\$37,438,236	\$37,468,934
Penelec	(\$3,064,101)	(\$2,228,239)	(\$3,157,557)	(\$5,881,713)	(\$8,207,708)	(\$7,635,153)
Penn Power	(\$612,118)	(\$598,054)	(\$714,904)	(\$926,342)	(\$1,440,647)	(\$1,718,785)
PPL	\$6,382,930	\$7,750,910	\$3,553,968	(\$4,377,290)	(\$4,080,746)	(\$3,814,822)
WPP	(\$7,617,110)	(\$3,091,623)	(\$3,512,610)	(\$4,963,130)	(\$6,498,258)	(\$8,483,698)
<i>Totals</i>	\$18,945,465	\$33,654,908	\$31,649,218	\$20,985,936	\$1,201,328	\$10,317,482

Table 3
Charging 6% of Household Income or Average Bill
Estimated Increase/Decrease on NGDC CAP Spending 2016–2021

	2016	2017	2018	2019	2020	2021
Columbia	(\$4,640,392)	(\$4,814,045)	(\$4,418,657)	(\$4,542,764)	(\$4,325,384)	(\$4,477,724)
NFG	\$656,745	\$644,967	\$630,300	\$193,736	\$3,863	(\$134,539)
Peoples Gas	(\$4,858,332)	(\$6,690,097)	(\$6,316,213)	(\$3,311,870)	(\$3,313,457)	(\$3,315,091)
Peoples EQT	(\$2,444,408)	(\$3,857,760)	(\$4,278,314)	(\$867,284)	(\$868,372)	(\$869,492)
PGW	\$23,672,259	\$21,418,115	\$17,920,122	\$18,211,245	\$18,211,245	\$18,211,245
UGI S	\$691,013	\$793,167	\$865,443	\$885,302	\$929,580	\$976,095
UGI N	\$757,295	\$713,289	\$836,679	\$911,566	\$951,807	\$957,137
<i>Totals</i>	\$13,834,180	\$8,207,636	\$5,239,360	\$11,479,931	\$11,589,282	\$11,347,631

FirstEnergy estimated that adopting a maximum 10% energy burden would have minimal total cost impacts and possible administrative advantages. FirstEnergy CAPs currently have maximum energy burden of 3% for electric non-heating accounts and 9% for electric heating accounts; a change to 4% and 10% maximum energy burdens could result in program savings. FirstEnergy Comments at 2-3. PPL estimated that a 10% maximum energy burden would have minimal total cost impacts for its CAP. PPL calculated that CAP customers with incomes between 0% and 50% and between 51% and 100% of the

FPIG would see lower CAP bills (resulting in an increase of \$1.7 million and \$600,000 in CAP credits, respectively) and that CAP customers with incomes between 101% and

⁴² These cost projections for the utilities that use PIP-based CAP payment plans may be the most accurate, based on the supplemental information. This includes PECO, PGW, UGI, Peoples, and FirstEnergy. Peoples' projection may, however, have been low because the projection did not include the projected cost of PPA forgiveness in the estimates.

⁴³ The estimated cost impacts of a 10% maximum energy burden level are the difference between the historical and the projected costs of CAPs based on current models (using the 2016–2018 historical CAP costs and the utility projections for 2019–2021) and the projected costs of a PIP CAP with the 10% maximum energy burden levels (based on the supplemental information filed by utilities on April 8, 2019).

150% of the FPIG would see higher CAP bills (resulting in a reduction of \$6 million in CAP credits annually). Overall, a change to a 10% maximum energy burden could reduce PPL's CAP costs by \$3.7 million per year. PPL Comments at 3–5. PECO estimated that adopting a 10% maximum energy burden would increase its total CAP costs by \$38.5 million annually (from \$59.3 million to \$97.8 million). PECO Comments at 8.

Peoples, Columbia, and NFG reported that their CAP customers, on average, routinely have energy burdens below 6%. Other utilities, such as Duquesne and UGI, estimated CAP cost increases of less than \$1 million per year. Only PECO and PGW projected larger annual CAP

cost increases based on lowered maximum energy burdens, approximately \$38 million and \$18 million, respectively.

EAP observed that CAP costs totaled \$331 million in 2017⁴⁴ and that adding another \$102 million in annual costs⁴⁵ to achieve a 10% maximum energy burden would be a 30% increase. EAP Comments at 10-11.

Residential ratepayers bear the cost of CAP programs. Tables 4 and 5 below reflect the estimated impact (increase/decrease) on monthly universal service charges on residential ratepayer bills if CAP customers were charged either a PIP (4%, 6%, or 10%) or their average bill, whichever is less.

Table 4
Charging 4% (for non-heating) and 10% (for heating) of Household Income or Average Bill
Estimated Increase/Decrease on Monthly EDC Ratepayer Bills 2016–2021

	2016	2017	2018	2019	2020	2021
Duquesne*	\$1.46	\$0.84	\$0.78	\$0.59	\$0.02	\$0.08
Met-Ed	-\$0.43	-\$0.31	-\$0.67	-\$0.82	-\$2.64	-\$0.98
PECO- E& NG ⁴⁶	\$1.02	\$1.62	\$1.94	\$2.13	\$2.05	\$2.04
Penelec	-\$0.51	-\$0.37	-\$0.52	-\$0.98	-\$1.36	-\$1.27
Penn Power	-\$0.36	-\$0.35	-\$0.41	-\$0.53	-\$0.82	-\$0.97
PPL	\$0.43	\$0.53	\$0.24	-\$0.30	-\$0.28	-\$0.26
WPP	-\$1.02	-\$0.41	-\$0.47	-\$0.66	-\$0.86	-\$1.12

*Duquesne recovers CAP costs only from non-CAP residential customers.

Table 5
Charging 6% of Household Income or Average Bill
Estimated Increase/Decrease on Monthly NGDC Ratepayer Bills 2016-2021

	2016	2017	2018	2019	2020	2021
Columbia	-\$1.05	-\$1.08	-\$0.99	-\$1.01	-\$0.95	-\$0.98
NFG	\$0.29	\$0.28	\$0.28	\$0.09	\$0.00	-\$0.06
Peoples Gas	-\$1.30	-\$1.77	-\$1.66	-\$0.87	-\$0.86	-\$0.86
Peoples EQT	-\$0.89	-\$1.37	-\$1.52	-\$0.30	-\$0.30	-\$0.30
PGW*	\$3.13	\$2.82	\$2.35	\$2.37	\$2.36	\$2.35
UGI South	\$0.17	\$0.19	\$0.20	\$0.20	\$0.20	\$0.21
UGI North	\$0.43	\$0.40	\$0.46	\$0.49	\$0.51	\$0.51

*PGW recovers CAP costs from all customer classes. Allocation amounts change annually, but approximately 3/4 of these costs are recovered from residential customers. We have used a recovery allocation of 75% for residential ratepayers for 2016 through 2021.

PPL and UGI's monthly universal service charges on residential ratepayer bills would likely increase by approximately \$0.50 or less. PGW estimated that its residential customers could see average monthly increases of

approximately \$2.55. PECO estimates that such a change would require its residential non-CAP customers to pay an average monthly increase of \$2.21 for CAP costs.⁴⁷ PECO Comments at 8.

⁴⁴ Actual EDC and NGDC annual CAP spending in 2017 totaled \$330,924,928. 2017 Report on Universal Service Program & Collections Performance at 73.

⁴⁵ The Energy Affordability Report estimated a maximum 10% energy burden for CAP customers could increase program costs by approximately \$102,439,768 per year. Report at 107–110.

⁴⁶ PECO's supplemental information did not break down the projected cost impacts of the CAP PIP model by fuel type. Therefore, we have combined the estimated cost impacts for PECO's electric and natural gas CAPs.

⁴⁷ PECO reported current monthly universal service costs recovered from residential ratepayers are \$4.31 for electric and \$3.21 for natural gas. PECO Comments at 4.

Discussion

The Commission agrees with the Low Income Advocates that the current maximum energy burden ranges based on the FPIGs in the CAP Policy Statement do not reflect reasonable or affordable payments for many low-income customers. This would be our conclusion even if the currently specified burdens are considered only presumptively reasonable or affordable.

The Energy Affordability Report noted that many CAP customers—despite receiving discounted payments and/or PPA forgiveness—had significantly higher energy burdens on average in comparison to non-CAP customers. While non-CAP customers had an average combined energy burden of 4%, the average combined energy burden for gas-heating CAP customers was 12% to 14%.⁴⁸

Neighboring states have established low-income energy burden thresholds well below Pennsylvania's ranges. Ohio limits electric heating customer payments to 10% of income, and natural gas heating customers (combined with electric non-heat) pay no more than 12% of income. The maximum energy burden for New York's and New Jersey's payment assistance programs is 6% for combined natural gas and electric service.⁴⁹

We acknowledge the points raised by several stakeholders that there are significant differences in the low-income programs of other states such as program objectives, limiting participation to LIHEAP recipients, incorporating LIHEAP into program discounts, state government administration, recovering costs from all ratepayers, differing electric/natural gas usage, housing costs, and much lower annual budgets and spending. EAP Comments at 18–20; PGW Comments at 12–15, Exhibit B; OCA Comments at 9–11, Appendix A at 5–7, 49–60. Despite these programmatic and policy differences, it is still worth noting that, of the states surveyed, no state except Pennsylvania considers energy burdens exceeding 12% to be appropriate for low-income customers.

Establishing a Recommended Maximum 10% Energy Burden for CAP Participants with Incomes Between 51% and 150% of the FPIG

As early as 2006, the Commission questioned whether the CAP Policy Statement maximum energy burdens may be too high. In the Final CAP Investigatory Order, the Commission stated that “our policy requiring a low-income household to pay 17% of . . . household income for home energy services compared with an average household [that] pays about 5% of [household] income may need to be revised.” Final CAP Investigatory Order at 48.

Further, the Commission has previously described customer energy payments greater than 10% of household income as “unreasonable”:

The highest minimum payment reflects 10% of a typical public assistance grant for a household of three who receives \$403 per month from a Temporary Assistance to Needy Families [TANF] grant. *Considering that an average household in Pennsylvania has an energy burden of 4.8%, it is unreasonable to expect the poorest households to pay more than 10%* (emphasis added).

⁴⁸ Energy Affordability Report at 6.

⁴⁹ Although not a neighboring state, Illinois has an Energy Assistance Program administered by the state's Department of Commerce and Economic Opportunity. The Illinois PIP provides that customers are charged a maximum of 6% of their income for natural gas and electric service. The maximum PIP credit a customer can receive is \$150 per month (\$1,800 annually). Funding is subject to appropriation from the Illinois General Assembly. The Illinois model requires customers to be enrolled in LIHEAP. 305 ILCS 201–20/18. See particularly <http://www.ilga.gov/legislation/ilcs/documents/030500200K18.htm>.

Final CAP Investigatory Order at 59.

The Commission continues to agree with this assessment—particularly now that the average residential energy burden for jurisdictional natural gas and electric service is closer to 4%—and finds that a maximum 10% energy burden for CAP households with incomes between 51% and 150% of the FPIG is reasonable. Specifically, the amended CAP Policy Statement reflects new maximum CAP energy burdens of 6% for natural gas heating, 4% for electric non-heating, and 10% for electric heating for CAP households with incomes between 51% and 150% of the FPIG. These energy burden thresholds should be considered maximum ceilings for CAP payments, not required minimum amounts.

The cost projections provided by EDCs and NGDCs, based on a hypothetical in which each utility would adopt a PIP CAP, suggests that establishing a 10% maximum energy burden for CAP customers with incomes between 51% and 150% of the FPIG will not significantly increase CAP costs for most utilities.

Establishing a Recommended Maximum 6% Energy Burden for CAP Participants with Incomes at or Below 50% of the FPIG

The Energy Affordability Report also illuminated that CAP households with an income at or below 50% of the FPIG, regardless of heating or non-heating status and energy type, often had energy burdens well above the limits established in the CAP Policy Statement—for some utilities, as high as 20%.⁵⁰ To put this into perspective, under existing policies, a customer with an annual household income of \$10,000 can spend anywhere from \$1,200 to \$2,000 a year on electric and gas service combined.⁵¹

This vulnerable subset of customers is at greater risk of defaulting from utility customer assistance programs and faces higher rates of service termination due to late or missed payments, particularly for electric utility service.⁵² In recent years, the Commission has noted this trend in various utility-specific USECP proceedings and subsequently directed utilities to work with interested parties to restructure particular CAPs in order to provide more affordable energy bills, particularly targeting customers in the greatest need of assistance.⁵³

Although the Energy Affordability Report and the Commission's January 2019 Order did not analyze or address the potential cost impact of establishing a maximum 6% CAP energy burden for customers at or below 50% of the FPIG, many parties in the Review proceeding noted this energy burden threshold is used in low-income utility programs of neighboring states and recommended that Pennsylvania follow suit.

For the aforementioned reasons, we are of the opinion that a maximum energy burden threshold of 6% for customers at or below 50% of the FPIG is warranted and agree with the comments of the Low Income Advocates that “[c]ustomers at the lowest tiers of the [FPIG] 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 objec-

⁵⁰ See Energy Affordability Report at 22–25.

⁵¹ Low-income average energy burdens vary from 12% to 20%. When based on an annual household income of \$10,000, this results in \$1,200 to \$2,000 in annual energy costs.

⁵² See 2017 Report on Universal Service Programs & Collections Performance at 53. http://www.puc.state.pa.us/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2017.pdf.

⁵³ For example, see Duquesne 2017–2019 USECP Order, Docket No. M-2016-2534323 (order entered on March 23, 2017) at 28–31, OP # 15.

tives of universal service and continue to lead to disproportionate termination numbers.”⁵⁴

Under a 6% maximum energy burden, a household with an annual income of \$10,000 could potentially save an average of \$1,000 annually on combined electric and natural gas service.⁵⁵ This action would have a meaningful impact for the approximately 95,000 households with income from 0% to 50% of the FPIG enrolled in Pennsylvania utility CAPs,⁵⁶ and on all households that would be income-eligible and in need of energy assistance in the future.

CAP Payment Structures

We agree with OCA, Columbia, and NFG that utilities should be permitted to maintain CAP payment structures that best meet the needs of their service territories. Therefore, we are not requiring that EDCs and NGDCs adopt PIPs. However, each utility CAP payment plan should be designed to ensure a household’s total CAP bill—including any add-ons such as PPA co-payments or CAP Plus charges—will not exceed the Commission’s energy burden threshold.⁵⁷ However, if the minimum CAP payment is higher than the energy burden threshold, the household may be charged the higher minimum CAP payment.⁵⁸

Resolution: Amend Section 69.265(2)—Payment Plan; Section 69.262—Definitions.

Consistent with the discussion above, this Order amends Section 69.265(2) of the CAP Policy Statement as indicated in Annex A. The new maximum CAP energy burdens are:

**Table 2
New Maximum Energy Burden Thresholds**

Utility Service Type	0—50% FPIG	51—100% FPIG	101—150% FPIG
Electric Non-Heat	2%	4%	4%
Gas Heat	4%	6%	6%
Electric Heat	6%	10%	10%

Each CAP payment plan should be designed to ensure the household’s monthly payment—including PPA co-payments and CAP Plus charges—will not exceed this energy burden threshold, except in circumstances in which the household is charged the minimum CAP payment or the household has exceeded the utility’s approved CAP credit limits.

Additionally, this Order amends Section 69.262 of the CAP Policy Statement as indicated in Annex A by adding the definition of “Federal Poverty Income Guidelines (FPIG).”

⁵⁴ Low Income Advocate Comments at 38-39, Docket No. M-2017-2587711.
⁵⁵ Currently, CAP participants with annual household incomes at or below 50% of the FPIG could have an energy burden of 12% to 20% or roughly \$1,200 to \$2,000 annually based on \$10,000 annual household income. Under the new policy, the maximum combined energy burden for the subset of customers with annual household incomes of \$10,000 should be 6% or \$600. This could result in hypothetical annual reductions between \$600 and \$1,400 or an average annual savings of \$1,000.
⁵⁶ In 2017, 95,534 households with household incomes in the 0% to 50% FPIG tier participated in utility CAPs; 57,587 of which were electric CAP participants, and 37,947 were natural gas CAP participants. See 2017 Report on Universal Service Programs & Collections Performance at 52.
⁵⁷ For utilities that do not have a PIP-based payment plan, system safeguards should be established to ensure the customer’s calculated payment does not exceed the maximum energy burden.
⁵⁸ A CAP household’s bill may also exceed the maximum energy burden level if it exceeds the utility’s CAP credit limit, e.g., due to usage.

1.b. *Minimum CAP payment requirements should be set in USECP proceedings rather than in the CAP Policy Statement. Utilities may propose alternatives to a flat minimum payment for each account type, such as basing them on the household’s FPIG level.*

The CAP Policy Statement recommends establishing minimum monthly payment requirements of at least \$18—\$25 for gas heating accounts, \$12—\$15 for electric non-heating, and \$30—\$40 for electric heating accounts. Most utilities have minimum CAP payments within these ranges. However, FirstEnergy charge a minimum of \$45 monthly for electric heating accounts, and NFG charges a minimum of \$12 monthly for gas heating. Most NGDCs restrict CAP to residential heating customers only. Table 3 below shows the current minimum payment requirements for each EDC and NGDC.

**Table 3
Current CAP Minimum Payment Requirements**

Utility	Non-Heating	Heating
Duquesne ⁵⁹	\$15	\$40
FirstEnergy ⁶⁰	\$12	\$45
PECO Electric ⁶¹	\$12	\$30
PPL ⁶²	\$12	\$30
Columbia ⁶³	N/A	\$25
PECO Gas ⁶⁴	N/A	\$25
NFG ⁶⁵	N/A	\$12
Peoples ⁶⁶	N/A	\$25
PGW ⁶⁷	N/A	\$25
UGI ⁶⁸	\$15	\$25

During the Review and Energy Affordability proceedings, stakeholders proposed making changes to the CAP minimum payment requirements, including developing a methodology to calculate minimum payments for each utility or eliminating them entirely.

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

Comments from Parties

Duquesne opined that the minimum charge provision in the CAP Policy Statement is outdated as it can be less than the basic service charge; if the utilities could charge both (minimum payment and the basic service charge), it would cover at least a part of the fixed system costs and some percent of energy costs. DLC Comments at 12. Duquesne supports continuation of minimum CAP payments. DLC Reply Comments at 19.

OCA proposed that minimum payments should balance affordability and payment responsibility and be based on

⁵⁹ See Duquesne 2017—2019 USECP, M-2016-2534323 (filed on March 12, 2018), at 5.
⁶⁰ See 2019—2021 USECP (filed on June 24, 2019), at 12, for Met-Ed (M-2017-2636976), Penelec (M2017-2636969), Penn Power (M-2017-2636973), and WPP (M-2017-2636978).
⁶¹ See PECO 2016—2018 USECP at 35.
⁶² See PPL 2017—2019 USECP at 5.
⁶³ See Columbia 2015—2018 USECP, M-2014-2424462 (filed on August 12, 2015), at 18.
⁶⁴ See PECO 2016—2018 USECP at 35.
⁶⁵ See NFG 2017—2020 USECP, M-2016-2573847 (filed on April 2, 2018), at 17.
⁶⁶ See Peoples 2015—2018 USECP, M-2014-2432515 (filed on July 20, 2018), at 6, 7, 12.
⁶⁷ See PGW 2017—2020 USECP at 6.
⁶⁸ Includes UGI North, UGI South, UGI Central, and UGI Utilities, Inc.-Electric Division (UGI Electric). See UGI’s 2014-2017 USECP, M-2013-2371824 (filed on February 17, 2015), at 15.

an objective set of factors. OCA submits it is very important to maintain a customer payment mindset as minimum payments help to control the costs of CAPs. OCA Comments at 13–15. OCA supports the continued use of minimum payments in CAP design. OCA has concerns with the proposal to specifically tie the minimum payment to a particular cost component, such as distribution costs or customer charge. A minimum payment should be tied to CAP customer affordability and to establishing routine payments. OCA Reply Comments at 17. OCA submits that the following principles should help determine a minimum payment:

- It should impose an obligation to make some payment toward utility bills;
- It should not be so high as to materially impede achieving the affordability objectives of CAP;
- It should reflect some empirical reality about utility service territories (i.e., there should be a range for minimum payments);
- It should reflect the affordability ranges otherwise adopted by the Commission;
- It should reflect the income for a three-person household living with income at 25% of the FPIG because the average household sizes in Pennsylvania are between two persons and three persons per household;
- It should reflect the average household size in its service territory, and
- It should reflect the household composition at the time of the triennial filing of the USECP.

OCA Reply Comments at 18.

PPL agrees with OCA that utilities should charge minimum payments and that they be uniform across utilities. PPL Reply Comments at 3.

PGW supports maintaining a minimum bill for low or no-income CAP customers. However, it would be willing to participate in a collaborative stakeholder process to establish new minimum payment amounts. PGW Reply Comments at 6.

FirstEnergy opposes a minimum payment requirement that would limit the CAP credits received by customers each month. FirstEnergy Reply Comments at 10-11.

Energy Affordability Report and January 2019 Order, Docket No. M-2017-2587711

PGW contends that PIPs will fail to make energy affordable for customers with incomes at or below 50% of the FPIG generally and for customers with incomes at or below 25% of the income specifically. Minimum payment requirements will ensure that these customers always have energy burdens exceeding program targets. PGW Comments at 1-2, Exhibit A.

The Low Income Advocates contend minimum bill requirements exacerbate energy unaffordability for low-income customers:

Currently, minimum bills are set at arbitrary amounts, and are not based on what the household could reasonably afford to pay. A minimum bill amount is not rationally justified as a universal service rate unless it represents a basic threshold cost that could or should be equitably recovered from customers with profound inability to pay. Absent a determination that minimum bills are, in fact, affordable, or at the very least are directly justified as representing a bare minimum payment that can be required of a low-income customer, minimum bill

payments simply fail to ensure affordable utility service contrary to the Choice Acts and sound public policy.

Low Income Advocates Reply Comments at 8-9.

OCA and EAP support maintaining minimum payment requirements. OCA Comments at 15-16, EAP Reply Comments at 4-5. EAP argues that elimination of minimum payment requirements would harm customers just above the CAP income-eligibility thresholds who pay for these programs. EAP Reply Comments at 4-5.

Discussion

After considering stakeholder comments, we find that the minimum payment ranges in the CAP Policy Statement may not be appropriate for each EDC's and NGDC's affordability targets or service territory. While the Commission maintains that utility service should never be free (or even almost free) in CAPs, we are open to exploring whether minimum payment requirements could vary by utility and the poverty level of the household. For example, possibly establishing minimum payment requirements based on tiered FPIGs to ensure the lowest-income CAP customers (e.g., < 25% of the FPIG) pay a lower minimum bill. Therefore, we shall remove the minimum payment ranges from the CAP Policy Statement and allow utilities to propose minimum payments requirements in their proposed USECPs.

Resolution: Amend Section 69.265(3)(i)—Minimum Payment Terms.

Based on the reasons cited above, as indicated in Annex A, this Order amends Section 69.265(3)(i) of the CAP Policy Statement to provide that minimum CAP payments should be established in utility-specific USECP proceedings. Utilities are encouraged to consider alternatives to establishing an arbitrary minimum payment amount for each account type such as a tiered minimum payment structure based on the household's FPIG level. Utilities should work with their USACs to develop CAP minimum payment proposals designed for the needs of their low-income customers.

2. *Utilities should allow CAP households to retain CAP enrollment when they transfer service within the utility's (or an affiliate's) service territory.*

The Commission has found that some utilities have required CAP households to re-apply for CAP enrollment when they transfer service to a new location within the utility's service territory. We have directed both PPL and NFG to allow CAP customers to maintain program enrollment when they transfer service during USECP review proceedings. See PPL 2014–2016 USECP Final Order, Docket No. M-2013-2367021 (order entered on September 11, 2014), at 24–28; and NFG 2017-2020 USECP Order, Docket No. M-2016-2573847 (order entered on March 1, 2018), at 22–24.

The issue was not addressed by stakeholders during the Review or Energy Affordability proceedings, but it has been addressed in various utility-specific proceedings.

Discussion

The Commission finds it reasonable to require EDCs and NGDCs to allow customers to remain in CAP when they transfer service to a new location within a utility's service territory. When relocating customers are removed from CAP, however short the removal may be, they are likely to receive unaffordable bills—based on the full-tariff rate—in the interim as they wait for the utility to

re-determine their program eligibility. In addition, these customers also lose the opportunity to reduce PPAs with each monthly payment. While relocation to a new residence may require the utility to re-calculate a household's CAP payment (e.g., if the payment is based on average household usage), it should not require a household to re-verify the source and amount of their income prior to their next CAP recertification date. Requiring a participating household to submit a new CAP application or re-verify income after transferring service is unnecessary and can create financial hardships for low-income households.

Resolution: Add New Section 69.265(10)—Transfer of Service.

This Order amends Section 69.265 of the CAP Policy Statement as indicated in Annex A to address maintaining CAP enrollment after household relocations within a service territory. Utilities that are not willing or prepared to maintain CAP enrollment when a customer participating in CAP relocates to a new residence within the utility's or an affiliate's service territory should be prepared to address the matter in a utility-specific proceeding.

3. *Utilities should accept income documentation of at least the last 30 days or 12 months, whichever is more beneficial to the household, when determining CAP eligibility at application or recertification. CAP applications and recertification letters should identify acceptable income timeframes and explain how each may benefit the customer.*

The CAP Policy Statement defines a low-income customer as having annual household gross income at or below 150% of the FPIG. Section 69.262. All EDCs and NGDCs currently use a household's documented or calculated annual income to determine income-eligibility for the CAP. However, the Policy Statement does not identify on what basis the household's annual income should be determined (i.e., using annual income, monthly income annualized, or both).

The time period used to calculate a household's annual income can impact its eligibility for CAP and, if eligible, the amount of discount (i.e., CAP credits) it would receive

on monthly bills. For example, a household that has recently experienced a loss or decrease in wages may have significantly lower income during the past 30 days than an annual tax return would indicate. On the other hand, using 12 months of income may be more beneficial for a household with inconsistent or seasonal employment, that earns more during certain months than others.

During the Review proceeding, stakeholders generally supported annualizing monthly income for determining CAP eligibility and credits if that would be more beneficial for the household.⁶⁹

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

Comments from Parties

OCA contends relying on only annual income to determine program eligibility is inconsistent with LIHEAP policy. OCA's understanding is that LIHEAP allows households to use an annualized income (i.e., 30-, 60-, or 90-day income) or an annual income, whichever provides the greater benefit. OCA urges that the CAP income eligibility determination be reconciled with the LIHEAP income eligibility determination to the extent feasible. OCA Reply Comments at 5-6.

Duquesne Light recommends use of annualized or annual income, whichever is more beneficial to the customer. Duquesne Light Reply Comments at 18.

EAP agrees with OCA that annualized income is equivalent to annual income for CAPs but maintains that utilities should be permitted to exercise flexibility. EAP Reply Comments at 7.

Discussion

It is our understanding that most—if not all—EDCs and NGDCs accept documentation of at least the last 30 days or 12 months of income to determine the household's annualized income. However, the income documentation timeframes accepted by utilities for CAP eligibility or recertification are often not identified in their USECPs or in their CAP applications. Table 4 below lists the known income time periods accepted for determining CAP eligibility, by utility, and where this information is identified:

Table 4
Income Time Period Used to Determine CAP Eligibility

<i>Utility</i>	<i>Accepted income time-period</i>	<i>Identified in USECP or CAP Application?</i>
Duquesne	Time period not specified	N/A
FirstEnergy	Time period not specified	N/A
PECO Electric/Gas	Last 30 days	CAP Application only
PPL	Time period not specified	N/A
Columbia Gas	Last 30 days, 90 days, or 12 months	CAP Application only
NFG	Time period not specified	N/A
Peoples	Time period not specified	N/A
PGW	Last 30 days or 12 months	USECP only*
UGI ⁷⁰	Last 30 days, 90 days, or 12 months	CAP Application only

*As specified in PGW's 2017—2020 USECP, Docket No. M-2016-2542415 (filed August 31, 2017), at 15.

⁶⁹ This issue was not addressed in the Energy Affordability proceeding.
⁷⁰ Includes UGI North, UGI South, UGI Central, and UGI Electric.

None of the CAP applications reviewed by Commission staff explained how different income timeframes (e.g., 30 days or 12 months) could impact program eligibility or monthly CAP payment amounts.

Establishing this provision will align CAP policy with Section 601.83 of the 2019 LIHEAP State Plan, which also accepts documentation of gross income over the past 30 days or 12 months.

Utilities should give CAP applicants and participants the option of selecting a timeframe which is most representative of their true annual household income. Utilities should use whichever income timeframe is more beneficial to the household to determine annual income for CAP eligibility and credits.⁷¹ Further, utilities should identify acceptable income documentation timeframes in their CAP applications and recertification letters. These documents should explain how providing income based on different time periods could benefit the customer. We recommend utilities work with their USACs on these CAP document revisions.

Resolution: Add New Section 69.265(8)(ii)(B)(I)—Intake and Verification.

Consistent with the discussion above, this Order amends Section 69.265(8) of the CAP Policy Statement to reflect that utilities should accept, at a minimum, income documentation based on the past 30 days or 12 months, as indicated in Annex A.

4. *Eliminate the provision in the CAP Policy Statement that low-income customers must be “payment-troubled” to qualify for CAPs. Utilities may, however, impose such a requirement to prioritize CAP enrollments and control CAP costs if determined appropriate by the Commission.*

The CAP Policy Statement currently recommends restricting CAP eligibility to customers that are both low-income and “payment troubled.” Section 69.265(4)(iii). Section 62.2 defines payment-troubled customers as “[a] household that has failed to maintain one or more payment arrangements in a one-year period.”⁷² The CAP Policy Statement elaborates on these criteria by providing four different scenarios that could qualify a household as payment-troubled:

(A) A household whose housing and utility costs exceed 45% of the household’s total income. Housing and utility costs are defined as rent or mortgage/taxes and [natural] gas, electric, water, oil, telephone and sewage.

(B) A household who [sic] has \$100 or less disposable income after subtracting all household expenses from all household income.

(C) A household who [sic] has an arrearage. The utility may define the amount of the arrearage.

(D) A household who [sic] has received a termination notice or who has failed to maintain one payment arrangement.

Section 69.265(4)(iii)(A)—(D).

Most EDCs and NGDCs do not currently require income-eligible households to be payment-troubled to qualify for their CAPs. The Commission is aware of only four utilities that maintain a payment-troubled eligibility

⁷¹ This policy would not prohibit EDCs and NGDCs from accepting income based on other timeframes (e.g., 60 or 90 days).

⁷² This is similar to the definition of “low-income [payment-troubled] customers” in Section 69.262 of the CAP Policy Statement.

criterion for their CAPs: Columbia Gas,⁷³ NFG,⁷⁴ Peoples Natural Gas, and Peoples-Equitable.^{75,76}

During the Review proceeding, many stakeholders recommended eliminating the payment-troubled criterion and allowing all income-eligible customers to enroll in CAPs.

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

Comments of Parties

The Low Income Advocates maintain that all customers with household incomes less than 150% of the FPIG are payment-troubled. Low Income Advocates Comments at 34. The Advocates opine that allowing all low-income customers to enroll in a CAP before accruing arrears will likely significantly improve payment behaviors—reducing debt management, collections, and uncollectible costs. The Advocates contend that improved affordability significantly improves payment behavior, noting that when a household receives an affordable bill, it is far more likely to pay the bill. Low Income Advocates Reply Comments at 7-8.

OCA recommends that when a confirmed low-income customer misses a monthly utility bill, the utility should initiate a process to enroll that customer in CAP. Utilities should not wait until a customer defaults on a payment agreement. OCA Comments at 9-10.

Duquesne and Peoples contend there is no need for a payment-troubled requirement for CAP eligibility. Duquesne Reply Comments at 17; Peoples Reply Comments at 3.

PPL asserts that a payment-troubled requirement is a barrier to CAP enrollment. It agrees with the Low Income Advocates that all income-qualified customers should be eligible for CAP. PPL Reply Comments at 3.

EAP agrees that CAP eligibility could be redefined to include those who meet the program’s income guidelines in an effort to avoid increasing arrearages. However, it does not support automatically enrolling all low-income customers into a CAP because that assistance may not be needed by all low-income customers and because the increased costs to the program would further burden residential ratepayers. EAP Reply Comments at 5-6.

Columbia proposes that CAPs should be restricted to income-eligible customers who demonstrate they cannot afford their utility bills. Columbia recommends requiring customers to apply for LIHEAP and Hardship Funds before enrolling in CAP. According to Columbia, sometimes, either Hardship Fund grants or LIHEAP grants may resolve a crisis for a low-income customer, making CAP unnecessary. This could help keep CAP costs down. Columbia Comments at 3.

PGW does not currently require customers to be payment-troubled to qualify for its CAP but is willing to consider adding this requirement. PGW Reply Comments at 3.

⁷³ Columbia Gas considers a household to be payment-troubled if it has received a termination notice or has broken a payment agreement within the past 12 months or through a utility referral or credit scoring. Columbia Gas 2015–2018 USECP at 17, Docket No. M 2014-2424462 (filed on August 12, 2015).

⁷⁴ NFG considers a household to be payment-troubled if it has an arrearage on the account or at least one current, canceled, or defaulted arrangement on the account at the time of application. NFG 2017–2020 USECP at 8, Docket No. M-2016-2573847 (filed on April 2, 2018).

⁷⁵ Peoples and Peoples-Equitable consider a household to be payment troubled if it meets any of the criteria listed in 69.265(4)(iii)(A)—(D). Peoples 2015-2018 USECP at 8, Docket No. M-2014-2432515 (filed July 20, 2018).

⁷⁶ Duquesne states that low-income customers must demonstrate or express an inability to pay their electric bills to qualify for its CAP. Duquesne 2017–2019 USECP at 12, Docket No. M-2016-2534323 (filed March 12, 2018). However, this is not a payment-troubled criterion under the CAP Policy Statement.

Energy Affordability Report and January 2019 Order, Docket No. M-2017-2587711

The Energy Affordability Report noted that utilities that restricted CAP enrollment to payment-troubled customers had higher average PPA balances than utilities whose CAPs were not so restricted. Energy Affordability Report at 50. Further, customers who enroll in payment assistance programs with higher PPA balances tend to be less successful than customers who enroll before amassing high PPA balances.⁷⁷

In our January 2019 Order, we expressed concern that low-income customers may develop poor payment habits before they meet a utility's definition of payment-troubled and are finally eligible to enroll in a CAP. Prior to considering eliminating the payment-troubled requirement from the CAP Policy Statement, however, we requested that the EDCs and NGDCs identify the potential impact of this change. January 2019 Order at 15-16.

Comments from Parties

If the payment-troubled requirement were eliminated, Columbia estimates 104,000 customers would be eligible for CAP. Approximately 39,000 of this group have a budget bill that is less than 6% of their reported income and would not benefit from CAP. If the remaining 65,000 low-income customers enrolled in CAP on a staggered basis—based on current minimum payments and co-payment requirements—Columbia estimates that CAP costs would increase up to \$63,131,468 by 2021. Columbia estimates this change would increase costs to non-CAP residential customers up to \$194.25 annually (\$16.19 monthly) by 2021. Columbia Gas Supplemental Information Request No. 3 at 1.

Table 5 below identifies Columbia's estimated increases in CAP costs from 2017—2021 based on the elimination of the payment-troubled criterion:

Table 5
Columbia Gas Estimates
Cost of Removing Payment-Troubled Requirement for CAP Applicants 2017—2021

	2017	2018	2019	2020	2021
<i>Total Current CAP Costs</i>	\$19,668,705	\$22,756,561	\$20,416,320	\$20,416,320	\$20,416,320
<i>Estimates of CAP Costs Based on the Elimination of Payment-Troubled Criterion</i>					
Shortfall	\$22,173,457	\$27,820,114	\$33,466,771	\$39,113,427	\$44,761,084
Arrears	\$7,904,727	\$9,917,732	\$11,930,737	\$13,943,742	\$15,956,747
Administration	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000
<i>Total Estimated CAP Costs</i>	\$51,381,106	\$62,136,825	\$67,464,447	\$75,132,310	\$82,800,173

Discussion

We note that enrolling low-income customers into CAPs as early as possible generally puts them in the best position to maintain good payment habits and avoid accruing utility debt. Waiting until a customer has broken a payment agreement or otherwise fallen into arrears could make it harder for a household to succeed in a CAP.

We have concerns about the assumptions made in Columbia's estimates. First, Columbia assumes that all known low-income customers who may benefit from its CAP will enroll by 2021. This scenario seems unlikely as most NGDCs, including those without a payment-troubled eligibility criterion, had CAP participation rates of approximately 24% to 34% of confirmed low-income customers in 2017.⁷⁸ 2017 Report on Universal Service Programs & Collections Performance at 51. Second, it is unclear why Columbia projects PPA forgiveness will increase by \$6 million dollars from 2017 through 2020 if CAP eligibility were changed to eliminate the payment-troubled criterion. The Commission would not expect non-payment-troubled customers—that is, customers with minimal or no arrearages—to significantly increase the amount of PPAs forgiven in a utility CAP.

Notwithstanding our concerns with Columbia's estimate, the Commission finds that prohibiting utilities from establishing payment-troubled criterion for CAP eligibility may restrict their ability to prioritize CAP applicants and control program costs, when necessary. However, utilities should justify any proposed restrictions based on their individual program needs. Columbia's assertion that eliminating the payment-troubled criterion could increase its annual CAP costs by over \$60 million within four years could be one such justification subject to further clarification and explanation.

We find that encouraging utilities to restrict CAP enrollment based on a household being payment-troubled before enrolling them in CAP is counter-productive and counter-intuitive. However, we also find that prohibiting a utility from establishing or maintaining a payment-troubled criterion for CAPs may limit the utility's ability to prioritize CAP enrollments or control costs if there is a program need. A utility should have the flexibility to propose or maintain a payment-troubled criterion, if appropriate.

Resolution: Amend Section 69.261—General; Section 69.262—Definitions; Section 69.264—Scope of CAPs; Section 69.265(4)-(5)—CAP design elements; Section 69.267—Alternative program designs.

As noted in Annex A, this Order removes "payment-troubled" as a CAP eligibility criterion. As noted in Annex A, "payment troubled" will be retained as a permissive CAP eligibility criterion at this time. New Section 69.265(5) reflects these changes.

⁷⁷ Opinion Dynamics Corp. (March 2013). "Low Income Assistance Program Evaluation" at 4. <http://www.opiniondynamics.com/wp-content/uploads/2013/06/Low-Income-Payment-Assistance-Program-Evaluation.pdf>. Retrieved August 1, 2019. "More customers who have low [PPA] balances have higher than average on-time rates. Customers with less than \$391 in arrearages pay on-time 61% of the time, while customers with more than \$1,514 in arrearages pay on-time 45% of the time."

⁷⁸ PECO Gas reported a CAP participation rate of 75% in 2017, but it is the Commission's understanding that only customers which have applied for PECO's CAP are counted as confirmed low-income.

5. *Eliminate the provisions in the CAP Policy Statement that a customer should direct the LIHEAP grant to the utility sponsoring the CAP (Section 69.265(9)(i)) or be penalized for not applying for LIHEAP (Section 69.265(9)(ii) and (iv)). Eliminate the provisions in the CAP Policy Statement that a LIHEAP grant should be applied to reduce the amount of CAP credits (Section 69.265(9)(iii)). However, all CAP customers should participate in LIHEAP if eligible.*

Customer participation in LIHEAP has been a central component in CAP designs since these programs were first widely implemented during the 1990s.⁷⁹ The CAP Policy Statement currently recommends that customers should complete a LIHEAP application when they apply for CAPs (Section 69.265(6)(v)); a LIHEAP grant should be designated to the utility sponsoring the CAP (Section 69.265(9)(i)); CAP customers should incur a penalty if they do not apply for LIHEAP (Section 69.265(9)(ii) and (iv)); and LIHEAP grants should be applied to CAP credits (Section 69.265(9)(iii)).

In both the Review and Energy Affordability proceedings, stakeholders expressed various opinions about whether LIHEAP participation should remain a requirement for CAP eligibility going forward.

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

Comments from Parties

EAP, Duquesne, and OCA support removing LIHEAP participation as a requirement for CAP eligibility. EAP Reply Comments at 9, Duquesne Reply Comments at 17, and OCA Comments at 32–34, Appendix A at 28.

OCA and PPL also recommend removal of the provision that allows for a customer to be penalized for failure to apply for LIHEAP. OCA Comments at 12-13, and PPL Reply Comments at 3.

The Commission on Economic Opportunity (CEO) opines that CAP customers should be encouraged but not required to apply for LIHEAP or Hardship Funds. CEO Reply Comments at 1.

Energy Affordability Report and January 2019 Order, Docket No. M-2017-2587711

Comments from Parties

FirstEnergy, PPL, PECO, the Low Income Advocates, and OCA oppose mandating LIHEAP participation as a requirement for CAPs. FirstEnergy Comments at 5, PPL Comments at 8, PECO at 11-12, Low Income Advocates Comments at 30, and OCA Comments at 13. Linking CAP and LIHEAP enrollments may unnecessarily complicate CAP requirements. PPL Comments at 9. Further, a LIHEAP cash grant can only be issued to one vendor. If the household directs its grant to another utility or vendor, there is no way to confirm LIHEAP participation and the household could be removed from CAP or denied CAP eligibility. Duquesne at 6-7, FirstEnergy Comments at 5, PECO Comments at 12, EAP Comments at 16, Low

⁷⁹ In the Commonwealth, prior to 2009, utilities could use LIHEAP grants to fund CAPs by subsidizing CAP credits. In 2009, the Pennsylvania Department of Human Services (DHS), then known as the Department of Public Welfare (DPW), informed utilities that they must apply LIHEAP grants directly to a customer's CAP bill or "asked-to-pay" (ATP) amount. At that time, the CAP Policy Statement, Section 69.265(9)(ii) & (iv), provided that a utility could impose a penalty on a CAP participant that was eligible for LIHEAP benefits but failed to apply for LIHEAP, not exceeding the amount of an average LIHEAP benefit. Participants who directed their LIHEAP benefits to another utility or energy provider were exempt from the penalty provision. Section 69.265(9)(iii) provided that LIHEAP grants should be applied to the CAP shortfall. The 2009 LIHEAP directive from DHS conflicted with these aspects of the CAP Policy Statement. Utilities could no longer apply LIHEAP grants to a CAP customer's deferred arrears or to the CAP shortfall. On April 9, 2010, the Commission suspended Section 69.265(9)(ii)-(iii) of the CAP Policy Statement by order entered at Docket No. M-00920345.

Income Advocates Comments at 27, OCA Comments at 13. PGW estimates that enforcing this provision would result in the removal of approximately half of its CAP customers for failing to assign a LIHEAP grant to PGW. PGW Comments at 11.

OCA and PECO note that requiring all CAP customers to participate in LIHEAP may exhaust available LIHEAP funds, which may force DHS to decrease LIHEAP grant amounts or shorten Pennsylvania's LIHEAP season. OCA Comments at 13, PECO Comments at 12.

EAP notes that DHS, utilities, and other stakeholders began talks in 2018 to determine if LIHEAP recipient income and household information can be shared with utilities to facilitate enrollment in CAPs. EAP Comments at 15. Columbia supports information sharing between DHS and the utilities as a way of reducing processing time and administrative costs. Columbia Comments at 9. PGW recommends utilities and DHS establish a dual intake process to allow customers to apply for both programs at the same time. PGW Comments at 9. The Low Income Advocates report that information sharing conversations with DHS are impeded by the varying enrollment requirements and procedures of EDC and NGDC CAPs. Low Income Advocates Comments at 30.

The parties cited additional obstacles to customers participating in both CAP and LIHEAP, including:

- CAPs are available and accept applications year-round. LIHEAP is only open during the fall/winter months, so there is no opportunity to enroll customers in both CAP and LIHEAP during the non-LIHEAP season. Duquesne Comments at 6, FirstEnergy Comments at 5, PPL Comments at 7, PECO Comments at 11, EAP Comments at 17, Low Income Advocates Comments at 30-31, OCA Comments at 12.

- CAP customers with non-heating electric may not be responsible for paying for their primary heating source, which is required to qualify for LIHEAP. Low Income Advocates Comments at 26.

- Only certain categories of non-citizens can qualify for LIHEAP. Low Income Advocates Comments at 26, citing the FY 2019 LIHEAP State Plan at B-26. Some immigrant customers may be categorically ineligible, or they may fear the consequences of participating in a federal assistance program. Low Income Advocates Comments at 32.

- Requiring eligible customers to apply for both programs may make the application process more burdensome and may deter households from applying for either program. EAP Comments at 16.

- Customers may have difficulty in understanding the four-page LIHEAP application. Required information and documentation is not always clear. Further, the LIHEAP application is only available in English or Spanish; households with a different native language may struggle with literacy. PGW Comments at 10, Low Income Advocates Comments at 26-27, and OCA Comments at 12.

Discussion

The Commission agrees with the recommendations of stakeholders to eliminate the provisions in the CAP Policy Statement (1) that CAP customers should assign the LIHEAP grant to the CAP-sponsoring utility and (2) that utilities may penalize CAP customers who do not apply for LIHEAP. As low-income customers may participate in more than one CAP—or may use their LIHEAP grant to obtain a deliverable fuel source—these provisions are no longer appropriate as they could require house-

holds to choose between CAPs or between a CAP and a necessary fuel delivery. Further, verifying LIHEAP participation and imposing a monetary penalty on the CAP account could be administratively burdensome on the utilities and could result in creating more utility debt for financially vulnerable households.

To our knowledge, EDCs and NGDCs have not implemented either of these recommended CAP policies. Removing these provisions from the CAP Policy Statement would not require utilities to make any changes to their current CAPs.

Although we are removing qualifications and penalties related to LIHEAP, we oppose eliminating participation in LIHEAP as a CAP customer responsibility.

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-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.

Although some CAP-eligible households may not qualify for LIHEAP and some may experience greater difficulty in applying (e.g., due to language barriers), EDCs and NGDCs should instruct CAP customers at application and recertification that it is their responsibility to apply for LIHEAP annually, if eligible. We are not proposing a provision that utilities should verify LIHEAP participation if the utility does not receive the grant. Nevertheless, given the impact of LIHEAP on customer energy burdens, it is important that LIHEAP-eligible CAP customers participate in LIHEAP to make their energy bills more affordable.

Resolution: Amend Section 69.265(8)(v)—Application for LIHEAP grants; rescind original Section 69.265(9)—Coordination of energy assistance benefits.

Consistent with the discussion above, this Order amends the CAP Policy Statement as indicated in Annex A to rescind the provisions in the CAP Policy Statement requiring CAP customers to assign a LIHEAP grant to a specific utility (Section 69.265(9)(i)) and penalizing the CAP customer for not applying for LIHEAP (Section 69.265(9)(ii) and (iv)). The amended CAP Policy Statement should serve to reinforce a utility's obligation, at a minimum, to inform customers that they must agree to apply for LIHEAP as a condition of CAP enrollment or recertification.

Further, while it was not expressly addressed in the Review and Energy Affordability proceedings, as a house-keeping measure, we shall also rescind Section 69.265(9)(iii) which currently recommends that LIHEAP grants be used to reduce CAP credits.

6. Utilities should exempt CAP customers from late payment charges.

Section 56.22(d) authorizes the Commission to direct utilities to waive late payment charges for customers with incomes at or below 150% of the FPIG. Most EDC and NGDC CAPs currently automatically waive late payment

charges for CAP participants. Only two utilities, PECO and NFG, currently charge a fee if a CAP customer misses a payment due date.

This issue was not addressed by stakeholders in either the Review or Energy Affordability proceedings, but there is authority for the Commission to direct utilities to waive late payment charges for customers with incomes at or below 150% of the FPIG.⁸⁰

Discussion

Although late payment charges are meant to provide an incentive for customers to make timely payments, we are concerned that adding such fees to CAP accounts runs counter to the goals of the program. CAPs should be designed to provide customers with the most affordable payment option and to reduce utility debt. CAP participants are financially vulnerable households. Requiring these customers to pay more after missing a payment due date makes the program less affordable and increases in-program arrears.

Currently, only PECO and NFG charge a fee if a CAP customer misses a payment due date. Pursuant to Section 56.22(d), the Commission can direct PECO and NFG to waive late payment charges and will address this matter in their next USECP proceedings.

Resolution: Add New Section 69.265(6)—Late payment charges.

This Order amends the CAP Policy Statement by adding new subsection 69.265(6) to reflect that utilities should exempt CAP customers from late payment charges or fees.

7. Utilities should provide CAP customers with (a) PPA forgiveness for each on-time and in-full monthly CAP payment regardless of in-CAP arrears and (b) retroactive PPA forgiveness for any month(s) missed once the household pays its in-CAP/in-program balance/debt in full.

Section 69.265(6)(ix) of the CAP Policy Statement recommends that CAPs provide PPA forgiveness over "a 2- to 3-year period contingent upon receipt of regular monthly payments by the CAP participant."⁸¹ In 2014, the Commission began directing utilities in their periodic USECP review proceedings to apply PPA forgiveness for each timely and in-full CAP payment, regardless of existing in-program debt.⁸² Some utilities have voluntarily adopted policies allowing CAP customers to receive PPA forgiveness for any monthly payments missed once the entire CAP balance (i.e., in-program arrears) is paid in full.

During the Review proceeding, OCA expressed support for amending the CAP Policy Statement to allow participants to receive PPA forgiveness for each on-time and in-full monthly payment and retroactively for months missed once the CAP balance is completely paid.⁸³ OCA Comments at 11-12, Docket No. M-2017-2596907.

Discussion

As part of the CAP design, PPA forgiveness acts to both reduce customer PPA debt over time and reward consistent payment habits. CAP customers may be more likely to be consistent with monthly payments—even if they fall behind—if there is a continuing opportunity to reduce PPA debt. We find that granting PPA forgiveness with

⁸⁰ See 66 Pa.C.S. § 1409.

⁸¹ We note that PECO offers PPA forgiveness over a one-year period.

⁸² For example, see PGW 2014—2016 USECP, Docket No. M-2013-2366301 (order entered on August 22, 2014), at 20—26.

⁸³ This issue was not addressed in the Energy Affordability proceeding.

each on-time and in-full monthly payment, regardless of in-program arrears⁸⁴ is appropriate and reasonable. Offering retroactive PPA forgiveness can also provide a strong incentive for customers to catch up on missed payments.

Resolution: Amend Section 69.265(8)(ix)—Pre-program arrearage forgiveness.

Consistent with the discussion above, this Order amends the CAP Policy Statement as indicated in Annex. Specifically, EDCs and NGDCs should allow PPA forgiveness for each on-time and in-full monthly payment, regardless of in-program arrears, and retroactive PPA forgiveness for any months missed once the customer pays the CAP balance in full. Further, to recognize that at least one utility is using a one-year timeframe for PPA forgiveness, we shall change the recommended timeframe from “2 to 3” years to “1 to 3” years.

8. *Utilities may request SSNs but not require them for household members when verifying identity for CAP enrollment. Utilities should offer and explain the options on CAP applications and other communications with customers.*

The Commission’s CAP Policy Statement recommends that EDCs and NGDCs verify the identity of the CAP applicant and the household size/income. Section 69.265(6)(ii). As part of this process, utilities request identification for each household member, often by requesting SSNs. During utility-specific USECP proceedings over the past several years, the Commission has directed utilities to allow customers applying for universal service programs to verify the identity of household members through other means (e.g., State Driver’s License, U.S. Passport, etc.) if they are unable or unwilling to provide an SSN.

During the Review proceeding, stakeholders expressed support for allowing customers to provide alternative identification for household members if they are unable or unwilling to provide SSNs.⁸⁵

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

Comments from Parties

OCA submits that a utility should not require a customer to provide his or her SSN as prerequisite to program participation. Moreover, while the utilities may request such SSNs, before doing so, utilities should notify and educate consumers that the request is not, and may not be, mandatory. Utilities should adopt alternatives to the provision of SSNs for those not likely to have SSNs. Finally, utilities should not provide access to SSNs to anyone not requiring access to determine program eligibility and should not maintain records of the SSN beyond the time required to use the SSN to determine program eligibility. OCA Comments at 19–21.

Duquesne, PGW, FirstEnergy, and Columbia confirm that they currently accept other forms of identification in lieu of SSNs when determining CAP eligibility. DLC Reply Comments at 18, PGW Reply Comments at 4, FirstEnergy Reply Comments at 4, and Columbia Reply Comments at 2-3.

Columbia agrees that SSNs should not be required but customers should be permitted to voluntarily provide SSNs. Columbia suggests that the CAP Policy Statement, if updated, clearly state that utilities cannot require an

SSN for CAP enrollment but can ask for and use one when provided voluntarily. Columbia Reply Comments at 2-3.

Discussion

We are not aware that any EDC or NGDC currently requires customers to provide SSNs for household members as part of its CAP application process. Many utilities specify in their USECPs that household members can verify their identity through federal/state government identification or other documentation. Due to federal requirements⁸⁶ on the use of SSNs and the increased risk of identity theft whenever an SSN is shared, either through documentation or electronically, the Commission concludes that giving customers the option of verifying their identity through alternative means is essential. Further we agree with OCA that all CAP applicants should understand that providing their SSNs is not required and that the option of submitting other identification should be fully explained. Utilities should work with their USACs in developing language to clarify this provision in CAP documents.⁸⁷

Resolution: Amend Section 69.265(8)(ii)(A)—Intake and verification.

This Order amends Section 69.265(8)(ii)(A) of the CAP Policy Statement as indicated in Annex A to address alternatives to SSNs. Consistent with the discussion above, EDCs and NGDCs may request, but not require, SSNs for household members when verifying identity for CAP enrollment. Household members who are unable or unwilling to provide SSNs should be allowed to provide alternative identification. Utilities should also educate customers and their community-based organizations (CBOs) about this policy through explanations on CAP applications and other communications.

9. *Maximum CAP credit limits should be set in USECP review proceedings rather than in the CAP Policy Statement and should consist of a tiered structure based on the household’s FPIG level (i.e., 0–50%, 51–100%, and 101–150%) which should provide lower income households with higher CAP credit limits. Utilities should notify CAP customers when they approach their CAP credit limits, instruct them to contact the utility if they meet any exceptions, and refer them to LIURP (if eligible).*

The CAP Policy Statement recommends limiting the amount of CAP credits applied to customer bills to \$1,400 annually; \$840 for natural gas heating, \$560 for electric non-heating, and \$1,400 for electric heating. Section 69.265(3)(v)(A)—(C). The Commission has since allowed EDCs to set CAP credit limits beyond these 1992 thresholds in utility-specific proceedings.⁸⁸ NGDCs currently have no limits on CAP credit allowances.⁸⁹ The CAP Policy Statement allows utilities to exempt a CAP household from these credit limits if they meet one or more of the following conditions:

A. The household experienced the addition of a family member.

⁸⁶ http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/78/-/legal-requirements-to-provide-your-ssn (link no longer valid).

⁸⁷ See, e.g., NFG 2014–2016 USECP, Docket No. M-2013-2366232 (order entered on May 22, 2014), at 25-26; and PGW 2014–2016 USECP at 14–20.

⁸⁸ For example, see Duquesne’s 2014–2016 USECP, Docket No. M-2013-2350946 (order entered on March 6, 2014), at 10.

⁸⁹ Instead, most NGDCs impose limits on CAP natural gas consumption. If customers exceed these consumption limits, they can be provided with energy conservation education, referred to LIURP (if eligible), and ultimately removed from CAPs if usage reduction services and/or education are unsuccessful. For example, see UGI’s 2014–2017 USECP, Docket No. M-2013-2371824 (filed on February 17, 2015), at 17-18.

⁸⁴ “CAP balance” is sometimes referred to as “in-program arrears.”

⁸⁵ This issue was not addressed in the Energy Affordability proceeding.

B. A member of the household experienced a serious illness.

C. Energy consumption was beyond the household's ability to control.

D. The household is located in housing that is or has been condemned or has housing code violations that negatively affect energy consumption.

E. Energy consumption estimates have been based on consumption of a previous occupant.

Section 69.265(3)(vi)(A)—(E).

Most EDCs have one CAP credit limit for electric non-heating accounts and another limit for electric heating accounts. However, PECO and PPL have recently adopted tiered maximum CAP credit limits, which set different limits based on a CAP customer's FPIG level.⁹⁰ This allows customers with less income to have higher CAP credit limits.

During the Review proceeding, stakeholders proposed changing how CAP credit limits are calculated, allocated, and communicated.⁹¹

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Comments from Parties

The Low Income Advocates assert that limits to CAP credits are unduly punitive. They state that CAP credits need to be different for each income tier. Because the lowest-income customers receive the biggest discounts on CAP discounts, these customers can quickly deplete allowable credits. Low Income Advocates Comments at 6.

The OCA proposes that:

1. Instead of a fixed ceiling on CAP credits, the maximum CAP credits should be indexed to the individual utility's average annual rates, including the default service price (electric) or supplier of last resort price (natural gas), so that the amount of the maximum CAP credit makes sense given the fluctuations in energy costs in the service territory and distribution rate changes.

2. Limitations should be placed on the maximum CAP credits, and they need not be uniform across utilities due to differences in housing stock and participant income.

3. The maximum CAP credit limits should vary by FPIG level so that they do not disproportionately affect the lowest income customers. OCA suggested using the average of all utilities' maximum credit limits.

4. Utilities should notify CAP participants when they are approaching the CAP credit ceiling and automatically evaluate them for LIURP.

5. Utilities should waive maximum limits if customers meet the usage exemptions in the CAP Policy Statement.

OCA Comments at 25—27, as summarized in the Report.

Duquesne agrees with OCA that the maximum CAP credit limit provisions need to be updated or reviewed for inflation and need not be identical among utilities. Duquesne Reply Comments at 20.

EAP generally agrees that if maximum CAP credit limits remain part of the CAP Policy Statement, they should be flexible and not part of a regulation. EAP Reply Comments at 8.

PPL contends that maximum CAP credit limits should be determined in USECPs, not in the CAP Policy Statement. PPL Comments at 11.

Peoples opposes setting an absolute limit on the level of CAP credits available to customers. Any future regulation should continue to permit exceptions to CAP credit limits, such as increased household members, inability to weatherize, and poor housing stock. Peoples Reply Comments at 5.

Discussion

The Commission agrees with stakeholders that establishing a uniform fixed limit for annual CAP credits, whether based on account type (i.e., heating or non-heating) or FPIG level and account type, is not practical given the changing costs of energy and differing energy needs of each service territory. By approving increases in CAP limits that exceed the CAP Policy Statement's recommendations, the Commission has acknowledged that the limits established in 1992 are no longer an adequate mechanism to address energy burdens and affordability. Amending the CAP Policy Statement with specific new limits would only result in the same situation over time. Instead, we find that it is reasonable to allow utilities to establish and propose changes to their CAP credit limits, subject to justification on the record, as part of their USECPs. This will give a utility and stakeholders the flexibility to adapt the limits based on the energy costs and needs in the utility's service territory.

We also find that the tiered CAP credit limit approach adopted by PECO and PPL results in more equitable outcomes. This approach affords customers the opportunity to receive higher or lower maximum credit amounts based on their FPIG level tier (i.e., 0—50%, 51—100%, 101—150%) and their electric heating and electric non-heating status. This method redirects subsidies to the lowest-income customers that need the most aid to pay their electric bills.

Finally, the Commission agrees with OCA that CAP households should be notified when they are approaching their CAP credit limits and should be made aware of the exceptions to the CAP credit limits listed in the CAP Policy Statement. Customers should be instructed to contact the utility if they meet any of the exemptions so that a suspension of these CAP credit limits or consumption limits may be considered. Utilities should also refer these households to LIURP, if eligible. These actions will provide these households with an opportunity to either reduce their energy usage and/or apply for an exception to the CAP credit limits before they exceed their maximum benefit level.

Resolution: Amend Section 69.265(3)(v)—Maximum CAP credits.

Based on the reasons cited above, this Order amends the CAP Policy Statement at Section 69.265(3)(v) as indicated in Annex A to address CAP credit limits. CAP credit limits, if appropriate, should be established in utility-specific USECPs rather than generically. Utilities will be expected to predicate any proposal for CAP credit limits on a tiered structure based on the household's FPIG level (i.e., 0—50%, 51—100%, and 101—150% of FPIG) which will allow lower income households to receive higher CAP credit limits.⁹² Utilities for which CAP credit limits are approved should, at a minimum,

⁹⁰ See PECO 2016—2018 USECP, Docket No. M-2015-2507139 (filed on February 17, 2017), Addendum A at 32; and PPL 2017—2019 USECP, Docket No. M-2016-2554787 (filed on November 3, 2017), at 17.

⁹¹ This issue was not addressed in the Energy Affordability proceeding.

⁹² This provision is not intended to recommend CAP credit limits for utilities that do not currently impose such limits (i.e., NGDCs), but NGDCs are not prohibited from proposing CAP credit limits if they can justify a need for them.

notify customers as they approach these limits, instruct them to contact the utility if they meet any exceptions, and refer them to LIURP (if eligible). Utilities should work with their USACs to develop or enhance this communication.

10. *Utilities should establish online CAP applications and allow customers to submit documentation electronically.*

The CAP Policy Statement does not specify how EDCs and NGDCs should permit low-income customers to apply for CAP. Most utilities allow customers to apply for CAPs via mail, phone, or in-person. Currently, only PECO,⁹³ PGW,⁹⁴ and PPL⁹⁵ have an online application process for CAPs. The Commission recently directed the FirstEnergy utilities to develop an online process for the submission of CAP applications and documentation by December 1, 2020. See FirstEnergy 2019–2021 USECP Order, Docket Nos. M-2017-2636969, M-2017-2636973, M-2017-2636976, and M-2017-2636978 (order entered on May 23, 2019), at 12–14.

This issue was not addressed in the Review or Energy Affordability proceedings, but it has been addressed in several utility-specific proceedings.

Discussion

The Commission finds that electronic submission of CAP applications and documentation, provided as a standard component of each utility's CAP design, would promote and enhance energy affordability, consistent with the goals of universal service. This method may be more convenient for customers who have applied for other benefits online, such as the Supplemental Nutrition Assistance Program (SNAP) and LIHEAP.⁹⁶ Offering an electronic means to apply for low-income programs also produces an electronic trail that leaves no question on whether or not an individual applied for certain programs or provided documentation. This process also makes it less likely that income documentation would be lost and would not necessitate further contact to either request documentation or inquire as to whether it was received. We recognize, however, that there could be considerable back office changes required to implement such systems. Nevertheless, PECO, PGW, and PPL already have such systems in place.

Such systems or platforms should be operational by January 1, 2021. Utilities, their USACs, and the CBOs should work together to determine the appropriate mechanisms and messaging for online application and document submission.

Resolution: Amend Section 69.265(8)(ii)—Intake and verification.

As indicated in Annex A, this Order amends the CAP Policy Statement at Section 69.265(8)(ii) to provide that EDCs and NGDCs should offer online platforms that allow customers to submit CAP applications and documentation electronically.

11. *Utilities should use a standardized zero-income form and develop other industry-wide standardized forms.*

All EDCs and NGDCs allow customers who report no source of income to enroll in CAPs if they provide documentation of how they meet monthly expenses. This

policy is consistent with DHS' LIHEAP income requirements, which require applicant households reporting minimal or no income to explain how they meet their financial obligations and basic living needs. FY 2019 LIHEAP State Plan Section 601.103 at B-21.⁹⁷

Currently, EDCs and NGDCs use different forms and sometimes request different information to verify a CAP household's zero-income status. Standardizing the zero-income documentation and questions was recommended by participants in the Review proceeding.⁹⁸ This issue was not addressed in the Energy Affordability proceeding.

In a Secretarial Letter issued on March 28, 2018, the Commission initiated a Universal Service Working Group (USWG) with a mandate that included standardizing utility zero-income forms. The USWG⁹⁹ met on May 7th and July 18th in 2018 and reached consensus on a zero-income form that contains all required questions if a CAP applicant claims no income.¹⁰⁰

Discussion

The Commission encourages the standardization of all forms related to the eligibility determination for universal service and other energy assistance programs, such as LIHEAP. Standardizing information requested for these programs could help streamline application processing and increase participation. Further, it could also allow utilities to share eligibility information when low-income customers move from one utility service territory to another, allowing their participation in programs like CAP to continue uninterrupted.

We find that the standardized zero-income form proposed by the USWG is a good first step in this endeavor. The form will help bring needed consistency to the types of information requested from CAP applicants/participants reporting no income. However, use of a standardized form should not restrict a utility's ability to request additional information to verify a household's income situation, if necessary.¹⁰¹

Resolution: Add Section 69.265(8)(ii)(B)(II)—Intake and verification; Section 69.265(14)—Industry-standardized forms.

This Order amends the CAP Policy Statement as indicated in Annex A to recommend use of the standardized forms such as the zero-income form in Appendix C and to encourage the development and use of additional standardized forms and procedures.

12. *Establish new maximum recertification timeframes for CAPs:*

- CAP households reporting no income should be required to recertify at least every six (6) months regardless of LIHEAP participation;

- CAP households with income that participate in LIHEAP annually should be required to recertify at least once every three (3) years;

- CAP households whose primary source of income is Social Security, Supplemental Security Income (SSI), or pensions should be required to recertify at least once every three (3) years; and

⁹³ See PECO 2016–2018 USECP, Docket No. M-2015-2507139 (filed on February 17, 2017), at 7.

⁹⁴ See PGW 2017–2020 USECP, Docket No. M-2016-2542415 (filed on August 31, 2017), at 17.

⁹⁵ See PPL 2017–2019 USECP, Docket No. M-2016-2554787 (filed on June 30, 2016), at 15.

⁹⁶ Customers can apply for these benefits online through the Commonwealth's COMPASS website: <https://www.compass.state.pa.us>.

⁹⁷ http://www.dhs.pa.gov/cs/groups/webcontent/documents/document/c_279179.pdf.
⁹⁸ See Staff Report Summarizing Public Comments, Feedback and Suggestions Regarding Universal Service and Energy Conservation Programs at 27.

⁹⁹ The USWG included representatives from the EDCs, NGDCs, Pennsylvania Utility Law Project (PULP), CLS, OCA, United Way, DEF, KEEA, and OSBA.

¹⁰⁰ See Appendix C.

¹⁰¹ For example, if a household completes a zero-income form at CAP application and then again at recertification, a utility may request additional information about how living expenses are being paid.

• All other CAP households should be required to recertify at least once every two (2) years.

The CAP Policy Statement instructs EDCs and NGDCs to reestablish a participant's eligibility for CAP benefits annually. Section 69.265(6)(viii). However, the Commission has approved some CAP recertification timeframes exceeding one year in USECP proceedings. In situations

where the household receives LIHEAP annually or has a fixed income (i.e., Social Security, SSI, or a pension), the Commission has allowed utilities to temporarily use alternate recertification requirements.

Table 6 below reflects the current CAP recertification timeframes for EDCs and NGDCs.

Table 6
CAP Recertification Timeframes for EDCs and NGDCs

<i>Utility</i>	<i>No Income</i>	<i>Receive LIHEAP Annually</i>	<i>Primary Income: SS, SSI, or Pension</i>	<i>All other CAP Participants</i>
Duquesne ¹⁰²	Every 6 months	Every 2 years	Every 2 years	Every 2 years
FirstEnergy ¹⁰³	Every 6 months	Every 3 years	Every 2 years	Annually
PECO ¹⁰⁴	Every 2 years	Every 3 years	Every 2 years	Every 2 years
PPL ¹⁰⁵	Every 9 months	Every 3 years	Every 3 years	(SSI only) Every 18 months
Columbia ¹⁰⁶	Every 3 months	Never (Includes receipt of DEF grants & other US programs)	Every 2 years (Social Security and SSI only)	Annually
NFG ¹⁰⁷	Every 3 months	Upon Request	Every 2 years	Every 2 years
Peoples ¹⁰⁸	Annually	Every 2 years	Every 2 years	Annually
PGW ¹⁰⁹	Every 6 months	Every 3 years	Annually	Annually
UGI ¹¹⁰	Annually	Every 3 years	Annually	Annually

In the Review proceeding, stakeholders offered various proposals for amending the recertification timelines for CAP customers who have fixed incomes, receive LIHEAP annually, or report no income.¹¹¹

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Comments from Parties

The Low Income Advocates prefer coordination of enrollment and recertification with other state and federal assistance programs. They cite a study conducted by the Applied Public Policy Research Institute for Study and Evaluation (APPRISE) which stated that if a household is eligible for food or cash assistance, LIHEAP, or Lifeline,¹¹² it should automatically be screened and/or enrolled in CAP. They note that in New Jersey, households receiving food assistance are automatically screened for CAP. Low Income Advocates Comments at 41.

OCA recommends amending the CAP Policy Statement to allow for a longer recertification period if the customer's income is not likely to change from year to year and waive annual recertification requirements when the customer receives a LIHEAP grant. OCA Comments at 45-46. EAP agrees with OCA that recertification could be streamlined and on a less-than-annual basis when income such as pension or Social Security is unlikely to change. EAP Reply Comments at 7.

Peoples prefers limiting annual recertification to those with no LIHEAP benefit within a year and those with potentially changing income such as employment. Multiple-year recertification is sufficient for those on disability income or Social Security. Peoples Reply Comments at 5. Duquesne does not oppose requiring recertification on a two-year cycle. Duquesne Reply Comments at 21-22.

FirstEnergy opines it would be more appropriate to determine recertification timeframes within utilities' USECPs rather than in the CAP Policy Statement. In general, the CAP Policy Statement should not establish specific funding levels or timing restrictions but should allow utilities to design their plans in a way that appropriately fits their customers' needs. FirstEnergy Reply Comments at 15.

EAP and PPL support recertifying zero-income customers on a more frequent basis. EAP Reply Comments at 7 and PPL Reply Comments at 3.

PGW contends that allowing customers to remain in CAP with no income on a permanent basis encourages and authorizes fraud. PGW Reply Comments at 4. PGW recommends developing the recertification process through a collaborative. PGW Reply Comments at 13.

Discussion

Stakeholders have offered various proposals for amending the policy recommendations regarding recertification timelines for CAP customers. The Commission finds that granting utilities the flexibility to extend their CAP recertification timeframes beyond one year can be reasonable depending on circumstances.

The most common reason customers are removed from CAPs is due to failure to recertify.¹¹³ The more frequent

¹⁰² See Duquesne 2017–2019 USECP at 9.

¹⁰³ See FirstEnergy's 2019–2021 USECP at 16.

¹⁰⁴ See PECO 2016–2018 USECP at 7-8.

¹⁰⁵ See PPL 2017–2019 USECP at 13, 16.

¹⁰⁶ See Columbia 2015–2018 USECP at 23-24.

¹⁰⁷ See NFG 2017–2020 USECP at 16.

¹⁰⁸ See Peoples Natural Gas 2015–2018 USECP at 12.

¹⁰⁹ See PGW 2017–2020 USECP at 17-18.

¹¹⁰ Includes UGI North, UGI South, UGI Central, and UGI Electric. See UGFs 2014–2017 USECP at 19.

¹¹¹ This issue was not addressed in the Energy Affordability proceeding.

¹¹² Lifeline is a federal program that lowers the monthly cost of phone and internet for low-income eligible customers. <https://www.fcc.gov/general/lifeline-program-low-income-consumers>.

¹¹³ For example, see FirstEnergy 2017 APPRISE Universal Service Impact Evaluation at 22. http://www.puc.pa.gov/general/pdf/USP_Evaluation-FirstEnergy.pdf. Of customers removed from FirstEnergy CAPs in 2013–2015, 63% were removed for failing to recertify, and 8% were removed because their income was too high, on average.

the recertification, the more likely it is that households will be removed from the program for failing to send in required documentation. Consistent with Section 69.265(7)(iv), all EDCs and NGDCs currently require CAP participants to report income changes, but a household may not always report the gradual changes in income which could entitle the household to higher or lower CAP credits.

Regarding LIHEAP, while we recognize the benefits of allowing LIHEAP recipients to remain in CAPs without frequent recertification of income, we find that receipt of a LIHEAP grant itself is insufficient income documentation for the purposes of CAP. A LIHEAP grant only establishes that the household has income at or below 150% of the FPIG and is thus income-eligible for CAP. However, knowing that a household has received a LIHEAP grant does not provide the utility with the household-specific information necessary for the proper determination of CAP benefits. This is especially important as some CAP benefits are tied to household income. By recommending that utilities overextend the recertification period for LIHEAP recipients, we could inadvertently run the risk of preventing otherwise eligible households from receiving greater payment assistance from their utilities if, for example, their income were to decline in the interim. Therefore, we find merit in extending the recertification timeframe for CAP households that receive LIHEAP grants for up to two (2) years.

Elderly residents and people with disabilities often rely on income sources which do not increase much from year-to-year, if at all. Annual changes to these income amounts typically have minimal impact on CAP benefit calculations. Therefore, we find merit in extending the recertification timeframe for CAP households that report Social Security, SSI, or pensions as their primary or sole source of household income for up to three (3) years.

With respect to CAP customers who report zero income at the time of enrollment, we agree with EAP, PPL, and PGW that CAP customers reporting no income should recertify more frequently. It does not seem reasonable to presume that a household can maintain housing/living expenses for an extended period of time with no source of income. Therefore, households reporting no income should be required to recertify no less than once every six (6) months.

For CAP households that do not meet any of the above exceptions, the recertification timeframe should be at least once every two (2) years.

While the most common reason customers are removed from a CAP is due to failure to recertify, we acknowledge that frequency of recertification is a significant but not sole determinant of this suboptimal outcome. Another barrier is the process itself. Utilities should endeavor to find more effective ways of communicating their recertification policies and procedures and develop more efficient ways of collecting appropriate income information from customers in order to minimize disruption in CAP participation.

Resolution: Amend Section 69.265(8)(viii)—Recertification.

This Order amends Section 69.265(8)(viii) of the CAP Policy Statement as indicated in Annex A to reflect amended recertification timeframes as follows:

- CAP households reporting no income should be required to recertify at least once every six (6) months regardless of participation in LIHEAP;

- CAP households with income that participate in LIHEAP annually should be required to recertify at least once every three (3) years;

- CAP households whose primary source of income is Social Security, SSI, or pensions should be required to recertify at least once every three (3) years; and

- All other CAP households should be required to recertify at least once every two (2) years.

This Order also amends Section 69.265(8)(viii) of the CAP Policy Statement as indicated in Annex A to minimize disruptions in CAP participation by amending the recertification timeframes. A utility should endeavor to find more effective ways of communicating its recertification practices and procedures and to develop more efficient ways of collecting appropriate income information from customers in order to minimize disruption in CAP participation.

13. *Utilities should initiate collection activity for CAP accounts when a customer has no more than two in-program payments in arrears. Customers should not be removed or defaulted from CAP as a precursor to termination for non-payment.*

The current CAP Policy Statement provides the following guidance related to dismissal from CAP due to non-payment:

Failure to make payments will result in the utility returning the participant to the regular collection cycle and may lead to termination of service. By returning the customer to the regular collection cycle, the utility does not need to enter into a new payment arrangement but may begin the termination process. At a minimum, the utility should inform the participant of the consequences of defaulting from the CAP. To avoid termination of service, the CAP participant must pay the amount set forth in the termination notice prior to the scheduled termination date. This amount should generally be no more than two CAP bills.

52 Pa. Code § 69.265(7)(i).

Commission staff conducted a survey of CAP collections processes and found that EDCs and NGDCs have various default provisions for program non-payment. Results of the survey revealed:

- PECO, NFG, and PGW initiate collection activity after one missed CAP payment. Customers are not removed from CAP prior to termination.

- Columbia and the Peoples utilities initiate collections activity after two missed payments. Customers are not removed from CAP prior to termination.

- Duquesne, the FirstEnergy utilities, and the UGI utilities initiate collections activity after the CAP account exceeds a balance threshold and is overdue for a certain amount of time.¹¹⁴ Customers are not removed from CAP prior to termination.

- PPL initiates collection activity after one missed payment. After two missed payments, the customer is “defaulted” from CAP and billed the full tariff rate.

¹¹⁴ Duquesne reports it initiates collections when a CAP customer has a balance exceeding \$50 and is overdue by at least seven days. The FirstEnergy utilities initiate collections when a CAP customer has a balance exceeding \$100 and the account is six or more days past due—or—when the balance exceeds \$25 and the account is greater than 61 days past due. The UGI utilities initiate collections when the CAP balance exceeds the collections threshold (at least \$200, subject to seasonal changes) and the account is at least 40 days past due.

During the Review proceeding, stakeholders voiced support for a more consistent collections/termination policy across CAPs.¹¹⁵

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Comments from Parties

OCA recommends that utilities place CAP customers into the collection cycle for missed CAP payments, including termination of service. Disconnected CAP participants should pay unpaid CAP bills (not bills at the full-tariff rate) and reconnection fees. OCA Comments at 16.

The Low Income Advocates recommend revising the CAP Policy Statement to prevent inconsistent statewide CAP termination practices leading to high up-front restoration costs for vulnerable households. Low Income Advocates Comments at 32.

Discussion

Relative to non-payment CAP defaults, we find that it is appropriate to recommend that utilities initiate collection activity after no more than two CAP payments in arrears. While Section 1405(c) prohibits the Commission from making a payment agreement for a CAP customer, it does not prohibit the Commission from ensuring that the statutory “policy” at Section 1402(3) of “increasing timely collections” is appropriately applied to CAP accounts. 66 Pa.C.S. § 1402(3). An appropriate default provision is necessary to ensure that a utility is operating its CAP in a cost-effective manner. 66 Pa.C.S. § 2203(8).

The rationale for timely collection for CAP participants is that a low-income CAP participant is more likely to be able to pay a catch-up amount if the utility pursues collections in a prompt manner. For a utility to allow more than two CAP payments in arrears without taking any collection action is counterproductive and inconsistent with the General Assembly’s declaration of policy that utilities are to increase timely collections. Section 1402(3). When a utility fails to take timely collection action, it increases the likelihood that a low-income customer will accrue a balance it cannot pay back or satisfy through available energy assistance grants or donations.

The consequence for nonpayment of CAP bills should be loss of service, not loss of CAP. Loss of CAP merely increases debt. It is illogical, unproductive, and unreasonable for a utility to allow a customer to incur an insurmountable obstacle to restoration of service by failing to pursue timely collection on a CAP account. An appropriate default provision is necessary to ensure that a utility is operating its CAP in a cost-effective manner. Therefore, we recommend that a utility should initiate collection procedures after a customer has a maximum of two CAP payments in arrears.

Resolution: Add Section 69.265(11)—Collection activity; amend 69.265(9)(i) to remove certain default provisions.

Consistent with the discussion above, this Order amends Section 69.265 of the CAP Policy Statement as indicated in Annex A to address CAP collection and termination procedures. Except in circumstances where medical certificate¹¹⁶ and winter termination¹¹⁷ procedures apply, utilities should, at a minimum, initiate their overdue CAP account collection and termination processes when a customer is behind two CAP payments. Utilities

should not, however, remove or default customers from CAPs as a precursor or alternative to termination for non-payment.

14. *Utilities should evaluate household CAP bills at least quarterly to determine whether the customer’s CAP credit amount or billing method is appropriate.*

The CAP Policy Statement does not provide guidance on how often EDCs and NGDCs should evaluate customer bills to ensure they are paying the most affordable CAP billing method. Many CAPs determine the amount of a household’s monthly CAP credits or payment method¹¹⁸ based on their usage history, which can fluctuate over time. Although all utilities adjust CAP bills when household income is recertified, many utilities also evaluate and adjust customer CAP bills on a more frequent basis. For example:

- Peoples reviews CAP customer bills monthly to determine whether PIP or budget billing is more affordable,¹¹⁹

- PECO¹²⁰ and the FirstEnergy utilities¹²¹ review customer CAP bills every quarter to recalculate CAP credit allotments. PECO and FE calculate the amount of CAP credits a customer should receive annually. They re-calculate this amount every month based on new usage information.

This issue was not addressed in the Review or Energy Affordability proceedings. The Commission recently directed UGI to evaluate customer CAP bills at least once per quarter to ensure participants are being billed the most affordable option (i.e., PIP or average annual bill). See UGI 2018—2020 USECP Order, Docket Nos. M-2017-2598190, M-2017-2637094, M-2017-2637095, and M-2017-2637098 (order entered on August 8, 2019), at 50—52.

Discussion

We find that evaluating CAP bills at least once per quarter, as opposed to a longer interval, is more likely to result in the customers receiving the most beneficial discount amount and/or billing option. As energy usage may increase due to temperature extremes during winter and summer months, utilities should evaluate CAP bills regularly to ensure the household is receiving the appropriate amount of CAP credits to keep the monthly payment as affordable as possible. If energy usage decreases due to energy conservation or moderate temperatures, the CAP customer could benefit by being switched to a different CAP payment option (e.g., switched from PIP to average bill). Such a procedure may also help to improve customer payment behavior, reduce debt, and reward energy conservation.

Resolution: Amend Section 69.265(8)(vii)—Account monitoring.

Consistent with the discussion above, this Order amends Section 69.265 of the CAP Policy Statement as indicated in Annex A to encourage at least quarterly review of CAP bills.

15. *Utilities should work with stakeholders to develop Consumer Education and Outreach Plans.*

The current CAP Policy Statement provides guidance on consumer education and outreach. Section 69.265(6)(vi) currently provides that education programs should include information on the benefits and responsibilities of CAP participation, the importance of energy conservation, and referrals to other appropriate support services. Sec-

¹¹⁵ This issue was not addressed in the Energy Affordability proceeding.

¹¹⁶ 52 Pa. Code § 56.113; 52 Pa. Code § 56.353.

¹¹⁷ 66 Pa.C.S. § 1406(e); 52 Pa. Code § 56.100; 52 Pa. Code § 56.340.

¹¹⁸ For example, charging customer a PIP or average bill, whichever is less.

¹¹⁹ Peoples 2015—2018 USECP at 10.

¹²⁰ PECO 2016—2018 USECP, Docket No. M-2015-2507139, at 33-34.

¹²¹ FirstEnergy 2019—2021 USECP at 10.

tion 69.265(6)(i) currently provides that outreach may be conducted by CBOs and should be targeted to low-income, payment-troubled customers and that utility should make automatic referrals to CAP when a low-income customer calls to make payment arrangements.

This issue was not addressed in the Review or Energy Affordability proceedings, but issues related to consumer education and outreach efforts have been addressed in several utility-specific proceedings.

Discussion

As part of its USECP filing requirements, each EDC and NGDC submits a needs assessment, which uses census information and other available sources to identify the number of estimated low-income individuals in each service territory. These data are then overlaid with the number of customers enrolled in a utility's CAP to identify the gap or the potential need in the service territory for low-income programming. While there is no specific regulatory mandate that each utility must enroll a certain percentage of low-income households in CAP, the near uniform disparity between the total number of potential income-qualified households and those actually receiving assistance calls into question the overall adequacy of consumer education and outreach. Consumer Education and Outreach Plans are paramount to customer awareness of, and enrollment in, universal service programs. Therefore, we are expanding the current CAP Policy Statement in order to provide more guidance on this central matter.

Historically, within Pennsylvania, only 30% of eligible households have been enrolled in their utility's CAP—regardless of likely correlates such as economic performance, unseasonably hotter summers, or unemployment rates.¹²² This fact pattern does not convince us that needs are being met, but rather it illuminates the need for increased awareness. We have noted in various USECP proceedings the necessity for utilities to develop more robust efforts to reach customers, particularly the very marginal, for enrollment in universal service programs.¹²³

Utilities should develop enhanced Consumer Education and Outreach Plans with input from stakeholders and submit them as part of their addendums initially and their proposed USECP filings going forward. While utilities have flexibility as to the contents of their plans, the plans should reflect focused consumer education and outreach efforts, tailored to the demographics of their individual service territories, spanning the duration of the universal service plan period. In particular, these plans should identify efforts to educate and enroll eligible and interested customers at or below 50% of the FPIG. The Consumer Education and Outreach Plans will be reviewed by BCS and by the Commission's Office of Communications.

Additionally, the education and outreach plans should identify resources and make available translation services and translated materials for those customers who are of Limited English Proficiency (LEP). This would also apply to the services, materials, and technical assistance provided by partners or CBOs involved in the enrollment or service delivery associated with universal service programs.

¹²² See, e.g., 2017 Report on Universal Service Programs & Collections Performance at 51.

¹²³ Duquesne 2017—2019 USECP, Docket No. M-2016-2534323 (order entered on March 23, 2017); see also Statement of Vice Chairman David W. Sweet, Columbia 2019—2021 USECP, Docket No. M-2018-2645401 (order entered on August 8, 2019); and Statement of Commissioner David W. Sweet, PGW 2017—2019 USECP, Docket No. M-2016-2542415 (tentative order entered on January 26, 2017).

Resolution: Amend Section 69.265(8)(i) & (vi)—Consumer Education and Outreach.

Consistent with the discussion above, this Order amends Section 69.265(8)(i) & (vi) to add enhanced guidance regarding consumer education and outreach.

16. *Utilities should use the definition of “household income” in Chapter 14 of the Public Utility Code.*

Participation in a utility's CAP is dependent on a customer's income. The eligibility criteria in the Commission's CAP Policy Statement identifies that households must, inter alia, have incomes at or below 150% of the FPIG to qualify for CAP. Section 69.265(4)(ii). However, the CAP Policy Statement does not define “household income.”

During the Review proceeding, stakeholders recommended standardizing how household income is defined and documented when determining CAP eligibility and benefits.

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

The Low Income Advocates advised the Commission to adopt flexible and consistent income documentation standards as many utility USECPs do not disclose how the utility calculates income and/or what documentation the utility requests from CAP applicants. They noted the lack of clear guidelines for income documentation is particularly problematic for low-income persons who often work “odd jobs,” receive inconsistent support from family or friends, or otherwise earn income through non-traditional employment. Low Income Advocate Comments at 36-37.

OCA recommended the Commission look to the income documentation requirements imposed by Pennsylvania's LIHEAP for guidance. If the income documentation is sufficient to establish income eligibility to receive LIHEAP assistance, OCA opined that the same documentation should be sufficient to establish income eligibility for CAP assistance. OCA Reply Comments at 10.

Both the Low Income Advocates and OCA supported referring income documentation issues to a working group consisting of Commission staff and interested stakeholders, which could explore the issue more thoroughly and develop recommendations to the Commission in furtherance of a consistent and fair policy for the Commission's adoption. Low Income Advocate Comments at 37 and OCA Reply Comments at 10.

Discussion

To standardize the definition and documentation of household income, we are adopting the definition of income as prescribed in Chapter 14 of the Public Utility Code.¹²⁴ Chapter 14 defines “household income” as “[t]he combined gross income of all adults in a residential household who benefit from the public utility service.” The Chapter 14 definition of household income excludes earned and unearned income of minors. This is the definition that guides the Commission on how household income is calculated for the purposes of payment arrangement requests, and arguably this should inform the utility calculation of household income as well.

Adopting the Chapter 14 definition will provide a single definition to be used by both the Commission and the energy utilities and should facilitate greater consistency among utilities in determining and documenting household income. This should work towards eliminating dispa-

¹²⁴ 66 Pa.C.S. § 1403 (relating to definitions).

rate parameters of CAP qualifications among the EDCs and NGDCs with the goal of fostering more uniformity in program implementation.

Resolution: Amend Section 69.262—Definitions.

Consistent with the discussion above, this Order amends Section 69.262 to add the Chapter 14 definition of “household income.”

17. *Utilities should be prepared to address recovery of CAP costs (and other universal service costs) from any ratepayer classes in their individual rate case filing.*¹²⁵

The Competition Acts,¹²⁶ Commission regulations (i.e., Chapters 54, 58,¹²⁷ and 62), and the CAP Policy Statement¹²⁸ do not expressly restrict the recovery of CAP costs (or other universal service costs) to residential ratepayers. The CAP Policy Statement was amended in 1999 to include a universal service funding mechanism based on the following discussion¹²⁹:

CAP program funding. The Commission is amending program funding to include a universal service funding mechanism for EDCs. This revision is consistent with section 2804(8) of the [Electric Competition] act that requires the Commission establish for each electric utility an appropriate cost recovery mechanism which is designed to fully recover the EDC’s universal service and energy conservation costs over the life of these programs.

Currently, CAP costs are allocated to the residential class, with a few exceptions.^{130,131} The Commission received numerous comments from stakeholders in both the Review and the Energy Affordability proceedings regarding whether EDCs and NGDCs should recover universal service costs from all ratepayer classes. In this Order, we shall discuss policy related to the recovery of CAP costs in particular and as a large subset of overall universal service costs.

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

Comments from Parties

Industrial Customers support the current policy of recovering universal service costs from the only rate class that benefit from these programs—residential ratepayers. Large commercial and industrial organizations neither benefit from nor are they eligible for these programs. Principles of cost causation dictate that costs should be attributed to the customers causing costs to be incurred. Joint Comments of Industrial Customers at 2.

The Pennsylvania Departments of Aging, Department of Community and Economic Development (DCED), Department of Environmental Protection (DEP), Department of Health (DOH), and DHS jointly recommend that

¹²⁵ We are not making a final precedential decision regarding cost recovery in this docket.

¹²⁶ The Competition Acts require EDCs and NGDCs to establish “an appropriate nonbypassable, competitively neutral cost-recovery mechanism” which is designed to fully recover the costs of universal service programs. Sections 2203(6) (natural gas) and 2804(9) (electric).

¹²⁷ The LIURP regulations state that program expenses “shall be allotted among ratepayers.” Section 58.4(e)(1).

¹²⁸ The CAP Policy Statement recommends program funding come from (1) payments from CAP participants; (2) LIHEAP grants; (3) operations and maintenance expense reductions; and (4) universal service funding mechanisms. Section 69.265(1).

¹²⁹ Customer Assistance Program, Docket No. M-991232 (order entered April 9, 1999). 29 Pa.B. 2495 (May 8, 1999); <https://www.pabulletin.com/secure/data/vol29/29-19/753.html>. This docket number may also be cited as Docket No. M-00991232.

¹³⁰ “PGW’s cost allocation was determined prior to the Commission’s oversight of the [utility]. Dominion Peoples and PG Energy agreed to a cost allocation among more than residential customers through settlement agreements, which did not constitute legal precedent.” Final CAP Investigatory Order at FN 25.

¹³¹ The Commission has previously allocated the costs of a universal service program to all customer classes. Annual funding for LIURP was initially recovered from all ratepayers. Most utilities now recover LIURP costs from residential ratepayers via a universal service rider.

the Commission expand recovery of universal service costs to other rate classes to allow for increased efficacy of the programs while avoiding the need for rate increases within a single rate class. Other states authorize cross-class cost recovery, including Ohio, New Jersey, Maryland, and New York. Universal Service programs legally establish an obligation on public utilities. All utility customers should owe support, and non-residential classes do benefit as a whole. Joint Comments of PA Departments of Aging, DCED, DEP, DOH, and DHS at 3.

OCA asserts that universal service programs are a public good in Pennsylvania that should be funded by all classes of ratepayers. The literal interpretation of the cost causation argument (i.e., only ratepayers that benefit should pay for the program) would have only low-income customers support the cost of these universal service programs since they are the only customers that can participate. OCA maintains societal poverty causes the cost, not all or only residential customers. Other states fund low income energy programs through a system benefits charge that is passed to all ratepayers. The whole community benefits from universal service programs because providing affordable home energy addresses public health and safety costs that are borne by all taxpayers (e.g., homelessness). Businesses benefit from these programs because the programs provide help to low-wage employees and low-income customers. Small businesses require low-wage employees to survive, but low wages also create a situation where the employees may need help to afford utility service. OCA Comments at 36–40, Appendix A at 11–20.

The Industrial Customers assert that utility service is not a “public good.” They maintain that social policy ratemaking is a faulty approach that will erode time-tested, objective methods of utility ratemaking. A total assistance burden of \$360 million is an enormous one to add to the non-residential classes who are ineligible to participate in CAPs in Pennsylvania. Joint Reply Comments of Industrial Customers at 14, 16, 17-18.

The Low Income Advocates state that, to their knowledge, Pennsylvania is the only state to establish a policy generally limiting cost recovery of universal service programs to the residential class. They note the Commission has ample authority to approve cross-class recovery in its specific mandate to ensure that universal service programs are appropriately funded. Noting the public purpose goals of the Competition Acts, the toll of poverty, and the consequences of unaffordable utility service, the Low Income Advocates state the safety of the community at large is improved by affordable utility service. They maintain that these programs are the responsibility of all individuals and entities which benefit—either directly or indirectly—from the provision of universal service. Low Income Advocates Comments at 52, 55, 59.

The Low Income Advocates further note the Competition Acts mandate that full and nonbypassable cost recovery be required to ensure universal service programs are appropriately funded and cost-effective across the Commonwealth. 66 Pa.C.S. §§ 2203(6), 2802(17), 2804(9). Given the statutory authority of the Commission over public utilities, the Low Income Advocates maintain there is no merit to the suggestion that the Commission’s obligations concerning utility affordability may be referred to another governmental body, left to the General Assembly or Federal Government, or suspended in the hopes that charities will step in to assist in effectuating the statutory promise of universal service. The Low Income Advocates assert the Commission is fully and

completely capable of requiring public utilities to implement new programs, establish lower energy burdens, and coordinate practices more effectively to ensure that low-income customers can maintain essential utility service. Low Income Advocates Reply Comments at 11-12.

The Industrial Customers assert that underlying facts have not changed to justify a reversal of the 25-year Commission precedent of allocating universal service program costs solely to the residential class. They further note that in 2004, the Commission concluded that universal service costs should be allocated to only residential customers¹³² and that in 2006, the Commission reaffirmed that position in the Final CAP Investigatory Order. If the Commission makes this policy change, it should identify its reasons for doing so, including what facts or laws have changed to require a departure from established precedent. Joint Reply Comments of Industrial Customers at 4-5, 11.

UGI contends that universal service program funding should remain with the class that directly benefits. It cautions against cross-class subsidization as customer choice is not limited to residential customers. UGI asserts that if universal service costs are passed on to commercial and industrial ratepayers, they can choose to procure energy services elsewhere. UGI Reply Comments at 7.

The Low Income Advocates maintain that there is insufficient information or data to support UGI's claim that universal service costs would be a driving factor in the choice of energy service providers. The Low Income Advocates assert universal service costs have not caused residential customers to switch away from natural gas. Low Income Advocates Reply Comments at 10-11.

The Pennsylvania Chamber of Business and Industry (Chamber) asserts that the increase in natural gas production volume is commensurate with decreasing PJM¹³³ prices. Prolific natural gas production has resulted in significant price decreases for natural gas utility customers. The Chamber contests the notion that low-income ratepayer assistance programs are in need of expanded investment financed by other rate classes. It strongly opposes proposals to expand cost recovery for these programs to all rate classes, as it would disadvantage the commercial and industrial sector. The Chamber's membership is more than 8,500 businesses of all sizes and industrial and commercial sectors. Its members require affordable, reliable, and competitively priced energy to sustain ongoing operations in the state. The Chamber contends a rider on industrial user bills to finance universal service programs would diminish Pennsylvania's competitiveness to attract new investment in this sector, which would clearly run contrary to the Governor Wolf's "plain desire" to attract and promote new investment in manufacturing in Pennsylvania. The Chamber contends more economic growth and continued support for competitive energy markets will expand economic opportunity and continue to drive down energy costs. Chamber Reply Comments at 1—3.

The Low Income Advocates recommend the Commission institute a uniform system benefit charge across utilities and customer classes. The system benefit charge could provide the greatest flexibility in terms of contracting for services and delivering benefits across utility service territories. It would also provide a consistent and understandable mechanism to recover program costs. Alter-

nately, if the Commission continues to allow recovery through universal service riders, the Low Income Advocates urge the Commission to set forth guidance regarding an appropriate allocation of costs among rate classes. Low Income Advocates Comments at 51-52, 60-61.

The Industrial Customers state that if the Commission does reverse precedent, the only conceivable allocation that could be used is a customer or meter allocation and recovery mechanism as opposed to a per-kWh or per-Mcf basis. Joint Reply Comments of Industrial Customers at 20, FN 41.

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

Comments from Parties

Penn State University (PSU), PPL, Columbia, OSBA, and the Industrial Customers oppose recovering universal service costs from non-residential ratepayers; maintaining that only the customer class that benefits from these programs should pay for them (i.e., the residential class). PSU Comments at 1, PPL Comments at 11, Columbia Comments at 9, OSBA Comments at 8, Joint Reply Comments of Industrial Customers at 10-11.

The Low Income Advocates and OCA support recovering universal service costs from all ratepayers. Low Income Advocates Comments at 17 and OCA Comments at 14. The Low Income Advocates contend that Commission regulations and the Commonwealth Court support the Commission's authority to do so. They note that low-income programs are identified as "public purpose" costs in the Gas Competition Act. Low Income Advocates Reply Comments at 14, citing Section 2802(17). The Low Income Advocates also cite the Commonwealth Court decision in *Met-Ed Industrial Users Group (MEIUG) v. PA PUC*, in which the court found that funding from special programs is not limited to those who benefit. Low Income Advocates Reply Comments at 14, citing *MEIUG v. Pa. PUC*, 960 A.2d 189, 201 (Pa. Cmwlth. 2008).

OSBA, PSU, and the Industrial Customers separately assert that the Commonwealth Court has rejected the argument that the Competition Acts' designation of universal service costs as "nonbypassable" means that recovery should come from all customer classes. They claim that the Commonwealth Court held that the nonbypassable provision referred to maintaining universal service recovery after a residential customer shops for a generation supplier. OSBA Comments at 10, citing *MEIUG v. Pa. PUC*, 960 A.2d 189 (Pa. Cmwlth. 2008); PSU Reply Comments at 3-4 and Joint Reply Comments of Industrial Customers at 7, citing *MEIUG v. PA PUC*.

OSBA maintains the Competition Acts mandate continuing the universal service programs and policies in place, which includes recovering universal service costs solely from residential customers. OSBA Comments at 8-9, citing Sections 2802(17) and 2203(7).

PSU further argues that the Competition Acts make clear that the General Assembly intended to limit universal service benefits and costs to the residential class. PSU asserts that Sections 2804(7) (electric) and 2203(5) (natural gas) prohibit discriminating "against one customer class to the benefit of the other." PSU relies on Section 2202 which defines universal service and energy conservation plans as policies and practices meant to help low-income residential customers. PSU maintains it is the General Assembly's role, not the Commission's, to determine the source of funding for CAPs. PSU Comments at 6—8.

¹³² *Pa. PUC, et al. v. PPL*, Docket Nos. R-00049255, et al. (order entered on December 22, 2004).

¹³³ PJM is the regional transmission organization that coordinates the movement of wholesale electricity in all or parts of 13 states, including Pennsylvania, New Jersey, Maryland, and the District of Columbia. <https://pjm.com>.

PSU, PPL, and the Industrial Customers separately maintain that recovering universal service costs from commercial and industrial customers is not consistent with the cost-causation principles established in *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006). These parties argue that residential customers are the “cost causers” of universal service programs because they are the only class who may benefit from these programs. PSU Comments at 5-6, PPL Comments at 11-12, and Joint Reply Comments of Industrial Customers at 11. PSU contends there is no support for OCA’s argument that non-residential ratepayers contribute to the cost of CAPs. PSU Reply Comments at 8-9.

OCA contends that the cost causation principle established in *Lloyd v. Pa. PUC* is not applicable in this situation, as this would require only low-income customers to pay for CAPs. OCA also notes the Commission has previously acknowledged that the cost causation principle does not preclude consideration of other factors. OCA Reply Comments at 5, citing *Pa. PUC v. City of DuBois*, Docket No. R-2016-2554150 (order entered on May 18, 2017), at 26.

PSU rejects the argument that cost-causation, if taken to the extreme, would require only low-income customers pay for universal service programs since they are the only ones eligible to receive the benefits. PSU notes that all residential customers could benefit from these programs if they experienced financial hardship; while commercial and industrial customers will never have access to these programs, regardless of their financial situation. PSU Reply Comments at 8.

The Low Income Advocates contend the true cost causers of universal service programs are poverty and income inequality, which result from social and economic forces that cannot be attributed to the residential class alone. Low Income Advocates Reply Comments at 15.

PSU, OSBA, and the Industrial Customers note the Commission has consistently upheld the policy of restricting recovery of universal service costs to residential customers. The Commission last considered cost allocation modifications for universal service programs in the 2005 CAP Funding Levels and Cost Recovery Mechanisms proceeding at Docket No. M-00051923 and determined that no changes were needed. These parties argue the Commission should maintain this long-standing policy. PSU Comments at 4, OSBA Reply Comments at 9, and Joint Reply Comments of Industrial Customers at 8-9, citing the Final CAP Investigatory Order at 31-32.

OCA and the Low Income Advocates note the Competition Acts identify universal service costs as nonypassable, which supports the designation of universal service costs as a public good that should be paid by all ratepayers. OCA Comments at 14-15, Appendix A at 72-81; and Low Income Advocates Reply Comments at 15. OCA notes that other states collect utility assistance program costs from all ratepayers, including New Jersey, Ohio, Illinois, Maine, and New Hampshire. OCA Comments at 15, Appendix A at 91-92.

OSBA, PSU, and the Industrial Customers argue that universal services should not be considered a public good. OSBA Comments at 5-8, PSU Reply Comments at 6, and Joint Reply Comments of Industrial Customers at 5-7. OSBA and PSU aver that true public goods are non-excludable and non-rivalrous; which means that customers cannot be excluded from the good or service and that there is marginal cost associated with additional consumption (e.g., a bridge, television signal, or police protec-

tion). OSBA and PSU maintain that regular utility service and CAPs meet neither criterion. OSBA Comment at 6 and PSU Reply Comments at 6.

The Industrial Customers submit that simply because a good or service is important and may provide some indirect benefit to other individuals does not make it a “public good.” The Industrial Customers argue this logic could be used to treat all goods and services as public goods, such as childcare, food, shelter, and employment.¹³⁴ Joint Reply Comments of Industrial Customers at 5-7.

OSBA avers that cost recovery in universal services should follow the legislative guidelines provided in the Act 129 Energy Efficiency and Conservation (EE&C)¹³⁵ programs. The General Assembly required the costs of the EE&C programs be recovered from the same customer class that receives the benefit. OSBA notes the General Assembly did not assign cost recovery from all rate classes based on the societal benefits of reduced energy consumption. OSBA Comments at 7-8, citing Section 2806.1(a)(11).

The Industrials reject the argument that residential ratepayers indirectly subsidize employers by funding universal service programs, which allows low-wage employees to maintain utility service. The Industrials contend this position is inconsistent with market-based economic competition:

[E]mployers must necessarily compete with one another for labor. As a result, employers must pay wages that are necessary to attract workers with the requisite skills and knowledge for the position, while balancing these wages with a business’ operating costs and revenues. The concept that an employer will make a conscious decision to reduce the compensation of a particular employee or class of employees because these employees may be eligible for assistance under a [universal service program] demonstrates a fundamental misunderstanding of how businesses set employee wages.

Joint Reply Comments of Industrial Customers at 9-10.

OSBA submits that shifting universal service costs to other rate classes could have a detrimental effect on small businesses across the Commonwealth. OSBA notes that small business owners already pay for these programs through their household electric/ natural gas accounts; it argues they should not have to pay for these programs again through their business accounts. OSBA suggests that increased costs to electric and natural gas service for businesses could result in higher prices for customers or delays in pay raises or hiring. OSBA Comments at 11-12.

Columbia opines that charging non-residential ratepayers for universal service costs could place a utility at a competitive disadvantage. Industrial and large commercial class customers could switch to a deliverable fuel vendor that does not have this extra charge. Columbia Comments at 9-10. PSU agrees with Columbia’s Comments. PSU Reply Comments at 2.

Discussion

As noted by multiple parties, the Commission has in the past approved and defended the practice of recovering

¹³⁴ The Industrial Customers further argue that approving cost recovery based on the “public good” argument would require the Commission to redefine interclass cost allocation to include “indirect costs.” Industrial Customer Comments at 4. Staff notes that a precise definition of “indirect costs” was not provided.

¹³⁵ 66 Pa.C.S. § 2806.1. Act 129 requires EDCs with more than 100,000 customers to adopt energy efficiency and conservation (EE&C) plans, subject to approval by the Commission, to reduce electric consumption.

universal service costs, including CAP costs, from only residential ratepayers based on the “narrowly tailored” nature of these programs¹³⁶ and the potential detrimental economic impact to Pennsylvania’s business climate if these costs were recovered from all ratepayer classes.¹³⁷ However, our review of Pennsylvania’s current universal service model in the Review and Energy Affordability proceedings has provided reasons to reconsider this position.

The current cost-recovery method for universal services, including CAP costs, is putting a significant burden on residential customer bills. All EDCs except Duquesne include CAP participants in their cost-recovery methods for universal services. Only two NGDCs, PECO and PGW, include CAP participants in their cost-recovery methods for universal services. Tables 7 and 8 below reflect average annual universal service expenditures and costs per residential customer in 2017.

Table 7¹³⁸
2017—EDC Universal Service Costs Recovered from Residential Customers

<i>Utility</i>	<i>Universal Service Costs</i>	<i>Average # Residential Customers Being Billed US Costs</i>	<i>Average Annual Cost per Residential Customer</i>
Duquesne*	\$24,407,415	494,608	\$49.35
Met-Ed	\$19,425,828	499,192	\$38.91
PECO Electric	\$78,354,961	1,463,266	\$53.55
Penelec	\$24,068,245	501,533	\$47.99
Penn Power	\$6,701,617	144,286	\$46.45
PPL	\$90,908,486	1,223,076	\$74.33
WPP	\$31,938,200	624,914	\$51.18

*Duquesne recovers universal costs only from non-CAP residential customers.

EDC residential customers paid an additional \$39 to \$74 per year, over and above the cost of their electricity usage, to fund universal service programs in 2017. Duquesne, which does not recover universal service costs from CAP participants, was in the middle of this range.

Table 8¹³⁹
2017—NGDC Universal Service Costs Recovered from Residential Customers

<i>Utility</i>	<i>Universal Service Costs</i>	<i>Average # Residential Customers Paying US Costs</i>	<i>Average Annual Cost per Residential Customer</i>
Columbia	\$24,558,499	370,489	\$66.29
NFG	\$2,250,979	188,936	\$11.91
PECO-Gas*	\$4,885,302	480,586	\$10.17
Peoples	\$9,464,197	315,567	\$29.99
Peoples-Equitable	\$6,209,416	234,921	\$26.43
PGW**	\$54,670,340	474,960	\$81.26
UGI South	\$4,474,618	344,394	\$12.99

¹³⁶ Pa. PUC, et al. v. PPL at 97-98.
¹³⁷ Final CAP Investigatory Order at 31.
¹³⁸ See 2017 Report on Universal Service Programs & Collections Performance at 6, 60, and 73, as adjusted.
¹³⁹ See 2017 Report on Universal Service Programs & Collections Performance at 6, 60, and 73, as adjusted.

<i>Utility</i>	<i>Universal Service Costs</i>	<i>Average # Residential Customers Paying US Costs</i>	<i>Average Annual Cost per Residential Customer</i>
UGI North	\$3,055,613	148,653	\$20.56

*PECO-Gas and PGW recover universal costs from all residential customers, including CAP participants.
 **In 2017, PGW residential customers paid 70.6% of universal service costs, commercial customers paid 24.0%, industrial customers paid 2.0%, municipal service customers paid 2.1%, and Philadelphia Housing Authority (PHA) paid 1.3%.

NGDC annual universal service costs ranged from \$10 to \$81 per residential customer, over and above the cost of natural gas usage. In Philadelphia, natural gas heating residential customers, including CAP participants, paid approximately a combined average of \$135 in 2017 (\$11.25 monthly) to fund the universal service programs of PECO Electric (\$53.55) and PGW (\$81.26).¹⁴⁰

While it is true that universal service spending for natural gas utilities has decreased by 40%¹⁴¹ from 2006 to 2017, universal service spending for electric programs has increased by 99%¹⁴² over the same time period. The Energy Affordability Report observed that NGDC and EDC CAP costs are projected to increase annually through 2021 despite the natural gas industry drop in CAP expenditures from 2012—2016. The overall average costs recovered from each residential customer are also projected to increase through 2021, varying among the utilities and with CAP enrollment levels. Annual EDC universal service costs recovered from residential customers are projected to increase by an additional \$20 from 2017 to 2021. Energy Affordability Report at 9, 94—108.

Given the significant past increase in EDC universal service spending—and the anticipated increases in both EDC and NGDC universal spending through 2021—the Commission is concerned that recovering CAP costs (as well as other universal service costs) from only residential ratepayers will continue to make electric and/or natural gas bills increasingly unaffordable for non-CAP customers, especially those with incomes between 151—200% of the FPIG.

Cogent arguments are articulated by the various stakeholders regarding the aspects of this issue. The Industrial Customers, PSU, and PPL, for example, argue that the principle of cost-causation dictates that residential customers should fund these programs because that class is the only class that “benefits” from them. On the other hand, OCA and the Low Income Advocates contend that the true “cost-causers” of universal service programs are the socio-economic conditions that create poverty, not residential ratepayers.

In its 1992 Final Report on The Investigation of Uncollectible Balances¹⁴³ at Docket No. I-00900002, BCS

¹⁴⁰ Service territories with larger percentages of low-income populations will tend to have higher per capita universal service costs. Philadelphia’s higher universal service costs can be attributed in part to the greater number of low-income households in that service territory. However, residential ratepayers across the Commonwealth are charged significant universal service costs annually. For example, in 2017, average combined universal service costs for PPL residential customers that heat with natural gas from UGI South (formerly UGI Gas) were approximately \$87 (\$7.25 monthly); WPP residential customers that heat with natural gas from Columbia paid approximately \$117 (\$9.75 monthly); and Duquesne non-CAP residential customers that heat with natural gas from Peoples paid approximately \$79 (\$6.58 monthly).
¹⁴¹ NGDC universal service spending was \$182.4 million in 2006 and \$109.6 million in 2017.
¹⁴² EDC universal service spending was \$138.9 million in 2006 and \$275.9 million in 2017.
¹⁴³ <http://www.puc.pa.gov/pedocs/1524987.pdf>. This docket number is sometimes cited as Docket No. I-900002.

also opined that the origins and impacts of energy unaffordability are not limited to residential ratepayers:

The problem of the inability of some low income [*sic*] customers to pay their entire home energy bills is caused primarily by societal economic conditions that are unrelated to any one rate class. Until such time as sufficient public revenues are available to address the poverty/energy problem, the costs for [CAPs] should be viewed as a cost of operating as a public utility for which all ratepayers must share the cost. [BCS] does not find any logic to the argument that because the larger societal economic conditions are negatively affecting the ability of some [low-income] residential customers to pay their bills, that the problem is somehow caused by the residential class and should therefore be paid for by that class.

Final Report on The Investigation of Uncollectible Balances at 157-158.

The Commission agrees that poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just “residential class” problems. Further, helping low-income families maintain utility service and remain in their homes is also a benefit to the economic climate of a community. In approving PGW’s practice of recovering such costs across all ratepayer classes, we noted that “all firm customers, including commercial and industrial customers, benefit indirectly from PGW’s extensive low-income assistance programs.”¹⁴⁴ *Pa. PUC, et al. v. PGW*, Docket No. R-2017-2586783 (order entered on November 8, 2017), at 75. Clearly, there is a persuasive argument to be made that home heating and energy assistance for low-income households serves a public good whose responsibility is not merely other residential ratepayers.

While there are strong arguments to be made that non-residential classes do benefit from universal services, there are also strong arguments to be made in favor of multi-class allocation even if one discounts any non-residential benefits. The cost of federal LIHEAP funding for home heating and energy assistance to low-income households is not funded only from individual taxpayer dollars but also from businesses and other entities.

PSU has asserted that it is the role of the General Assembly to determine funding for CAPs. OSBA argues that universal service cost recovery should follow the Act 129 model which mandates matching class costs to class benefits and discounts societal benefits. We conclude, instead, that the General Assembly has specifically assigned the role of allocating CAP costs in particular and universal service costs in general to this Commission. Rate cases are the purview of this Commission, subject to appellate review. Further, the Act 129 restrictions clearly indicate that the General Assembly can and will mandate class restrictions when it determines that such restrictions are warranted.¹⁴⁵ In fact, there is specific justification for the class restrictions in the Act 129 arena. Act 129 programs are evaluated using a benefit/cost ratio pursuant to the Commonwealth’s Total Resource Cost (TRC) Test.¹⁴⁶ Also, societal benefits, specifically includ-

ing universal service program costs, are expressly excluded from the TRC Test calculation. There are no such test requirements or exclusions for CAPs or other universal service benefits.

OSBA and the Industrial Customers have argued that recovering costs of universal service programs from industrial and commercial customers may negatively impact businesses in the Commonwealth. However, we have not seen evidence that the economic climate in Philadelphia has been negatively impacted as a result of universal service costs charged by PGW. Further, as noted by multiple parties in the Review proceeding, many states recover the cost of utility low-income programs from all ratepayer classes, including New York, New Jersey, Ohio, Illinois, Maine, and New Hampshire.¹⁴⁷ We are not aware that this practice has negatively impacted the business climate of any these states.

We note there is no statutory or appellate prohibition that limits the recovery of CAP costs, whether specifically calculated or as part of total universal service costs, to funding from the residential class.¹⁴⁸ Universal service funding from non-residential classes, while not mandatory, is permissible:

Thus, under *Lloyd*, there is no statutory requirement that the funding for special programs come only from those who benefit from the programs. However, the lack of such a requirement does not mean that funding for special programs must come from those who do not benefit.

MEIUG v. Pa. PUC, 960 A.2d 189, 202 (2008), citing *Lloyd v. Pa. PUC*, 904 A.2d 1010 (Pa. Cmwlth. 2006).

Consistent with the comments of the Low Income Advocates and OCA, the Commission concludes that the General Assembly clearly identified the public purpose of these programs in the Competition Acts by requiring that their costs be nonbypassable¹⁴⁹ when a customer switches energy providers.

Resolution: Amend Section 69.265(1)—Program funding; add Section 69.266(b)—Cost recovery.

This Order amends the CAP Policy Statement as indicated in Annex A to address recovery of CAP costs. Consistent with the discussion above, the Commission finds it appropriate to consider recovery of the costs of CAP costs from all ratepayer classes.¹⁵⁰ Utilities and stakeholders are advised to be prepared to address CAP cost recovery in utility-specific rate cases consistent with the understanding that the Commission will no longer routinely exempt non-residential classes from universal service obligations.¹⁵¹

¹⁴⁷ New York, for example, determines the specific distribution of this cost recovery in rate cases, where the total impacts of all revenue requirement changes can be considered. See Order Adopting Low Income Program Modifications and Directing Utility Filings, New York Public Service Commission, Case 14-M-0565 (Issued and Effective May 20, 2016), at 4.

¹⁴⁸ In PGW’s 2017 rate case, the Commission noted that recovering universal service costs from all ratepayers does not appear to be a violation of Title 66 or Commission regulations. *Pa. PUC, et al. v. PGW* at 74.

¹⁴⁹ Some documents use the term “non-bypassable.”

¹⁵⁰ We are not making a final precedential decision regarding cost recovery in this docket. We are merely providing that the recovery of CAP costs in particular can be fully explored in utility rate cases henceforth. Decisions regarding cost recovery will remain the province of utility-specific proceedings.

¹⁵¹ A rate case is the appropriate forum to determine the cost allocation for each ratepayer class. In its 1992 Report, BCS recommended the cost allocations for CAP across ratepayers should depend on a number of factors, including the amount of CAP funding needed, the relative ability of each class (residential, commercial, and industrial) to bear additional costs, the size (number of customers or volume of sales) of the rate classes, and the price sensitivity of industrial customers to minimize anti-competitive impacts. Final Report on The Investigation of Uncollectible Balances at 158.

¹⁴⁴ In that 2017 rate case proceeding, PGW argued that all non-residential customers indirectly benefit from universal service programs by keeping low income customers in their homes and allowing them to contribute to Philadelphia’s economic activity. PGW contended “the portion of universal service costs paid by non-residential customers is offset by the substantial positive economic impact in Philadelphia on those non-residential customers created by PGW’s universal service programs.” *Pa. PUC, et al. v. PGW* at 63.

¹⁴⁵ See, e.g., Act 129 Phase III Implementation Order, Docket No. M-2014-2424864 (June 19, 2015). <http://www.puc.state.pa.us/pdocs/1367313.doc>.

¹⁴⁶ See, e.g., 2016 TRC Test Order, Docket No. M-2015-2468992 (order adopted on June 22, 2015). <http://www.puc.pa.gov/pdocs/1367195.docx>.

Further, while it was not expressly addressed in the Review and Energy Affordability proceedings, as a housekeeping measure, we shall also amend Section 69.265(1) to reflect that other sources may be used to fund CAPs.

Other Cap Changes For Possible Future Consideration

There are several other changes to CAPs that the Commission has considered but which are not part of this Order. At this time, we are not persuaded that these changes would benefit the universal service programs, its participants, or other ratepayers. Nevertheless, the Commission may further explore the following policies in future utility-specific or other Commission proceedings. This list is not exhaustive:

1. Establishing standard payment requirements for CAP re-enrollment.
2. Excluding recipients of energy bill subsidies from receiving CAP credits.

Housekeeping

We are also making several housekeeping revisions to the CAP Policy Statement including:

1. Clarifying 69.261: Specifying that CAP customers make regular monthly payments, which may be for an amount that is less than the current tariff bill for utility service including pre-CAP arrearages, in exchange for continued provision of the service.
2. Updating Section 69.262 and throughout: Adding the definition of “NGDC—natural gas distribution company” and incorporating NGDC regulatory references throughout the CAP Policy Statement; adding the definition of “CBO—community-based organization” and updating the references throughout the CAP Policy Statement; adding the definition of “USAC—universal service advisory committee” to reflect the use of such stakeholder groups; adding the definition of “USECP—universal service and energy conservation plan.”
3. Updating Sections 69.263—69.267: Incorporating the current USECP review processes since we are past the initial USECP development stage.
4. Updating Section 69.265(1): Eliminating the provisions that LIHEAP grants provide CAP program funding and that they should be applied to reduce the amount of CAP credits. If the current DHS policy is revised to reflect pre-2009 use of LIHEAP grants, this provision can be reinstated.
5. Updating Section 69.265(2)(i)(B) and (C): Referring to “natural gas” rather than “gas.”
6. Updating Section 69.265(3)(vi): Referring to exemptions as “maximum CAP credit or consumption limits” rather than “CAP control feature.”
7. Updating Section 69.261 and Section 69.265(2)(i), (3)(vii), (8)(ii)(C), and (9)(iii): Reflecting usage of “household” instead of “family.”

Conclusion

The Commission reviewed and addressed comments relating to the CAP Policy Statement as part of its Review proceeding at Docket No. M-2017-2596907 and its Energy Affordability proceeding at Docket No. M-2017-2587711.

As noted above, we appreciate the input from the utilities and the many other stakeholders¹⁵² who participated in workgroup meetings and stakeholder meetings and who submitted comments and information in the Review and Energy Affordability proceedings as well as the various utility-specific USECP dockets. The stakeholders are engaged in these fundamental universal service issues daily. Their input has ultimately delivered empirically derived results that have informed our decision making and the CAP policies we hereby adopt.

Because interested parties have been given an opportunity to comment in the Review and Energy Affordability proceedings, as well as the various utility-specific USECP proceedings, we are directing that the amendments to the CAP Policy Statement as noted in Annex A to this Order shall become effective upon publication in the *Pennsylvania Bulletin*. We are making these policy changes to enhance CAPs, foster consistency among CAPs, and address energy affordability in the Commonwealth.

Further, in the Universal Service Rulemaking proceeding, the Commission will be addressing universal service regulations, including whether to promulgate any of these CAP policy provisions as regulations. The Universal Service Rulemaking, along with the LIURP Rulemaking, the CAP Final Bill proceeding, the USRRWG proceeding, and various utility-specific proceedings, will provide further opportunity for additional input from stakeholders prior to our consideration of promulgating CAP regulations.

We strongly urge the EDCs and the NGDCs to incorporate these CAP Policy Statement amendments in their USECPs as fully and quickly as possible so that all stakeholders will have a basis for meaningful input in the Universal Service Rulemaking. We suggest that the first 16 CAP Policy Statement amendments should be operational by or before January 1, 2021. Utilities, their USACs, and the CBOs should work together to determine the appropriate mechanisms and messaging for online application and document submission.

The EDCs and NGDCs shall file and serve addendums to their existing or proposed (if applicable) USECPs, at their respective USECP dockets, reflecting anticipated timeframes for implementing changes to their USECPs predicated on the amended CAP Policy Statement. The EDCs and NGDCs should indicate in their cover letters to their addendums any provisions with which they are already compliant. We invite EDCs and NGDCs to submit their USECP addendums to BCS and the Office of Communications for a compliance review prior to filing.

The following CAP policy changes are adopted by this Order:

1.a. Establish new maximum tiered CAP energy burdens of 6% for natural gas heating, 4% for electric non-heating, and 10% for electric heating for FPIG tiers 51%—100% and 101%—150%. For FPIG tier 0%—50%, the maximum energy burdens should be 4% for natural gas heating, 2% for electric non-heating, and 6% for electric heating.

1.b. Minimum CAP payment requirements should be set in USECP proceedings rather than in the CAP Policy Statement. Utilities may propose alternatives to a flat

¹⁵² As noted above and in Appendix B, there were numerous stakeholders in Review and Energy Affordability proceedings. In addition to the participating EDCs, NGDCs, EAP, other active participants included statutory advocates, low-income advocates, industrial user groups, CBOs, other agencies, energy marketers, educational institutions, and others. Our appreciation extends to all who participated actively or by observation in those proceedings as well as in the many utility-specific USECP proceedings over the years.

minimum payment for each account type, such as basing them on the household's FPIG level.

2. Utilities should allow CAP households to retain CAP enrollment when they transfer service within the utility's (or an affiliate's) service territory.

3. Utilities should accept income documentation of at least the last 30 days or 12 months, whichever is more beneficial to the household, when determining CAP eligibility at application or recertification. CAP applications and recertification letters should identify acceptable income timeframes and explain how each may benefit the customer.

4. Eliminate the provision in the CAP Policy Statement that low-income customers must be "payment-troubled" to qualify for CAPs. Utilities may, however, impose such a requirement to prioritize CAP enrollments and control CAP costs if determined appropriate by the Commission.

5. Eliminate the provision in the CAP Policy Statement that a customer should direct the LIHEAP grant to the utility sponsoring the CAP (Section 69.265(9)(i)), be penalized for not applying for LIHEAP (Section 69.265(9)(ii) and (iv)), and that a LIHEAP grant should be applied to reduce the amount of CAP credits (Section 69.265(9)(iii)). However, all CAP customers should participate in LIHEAP, if eligible.

6. Utilities should exempt CAP customers from late payment charges.

7. Utilities should provide CAP customers with (a) PPA forgiveness for each on-time and in-full monthly CAP payment regardless of in-CAP arrears and (b) retroactive PPA forgiveness for any month(s) missed once the household pays its in-CAP/in-program balance/debt in full.

8. Utilities may request, but not require, SSNs of household members when verifying identity for CAP enrollment and should accept and explain alternatives to SSNs.

9. Maximum CAP credit limits should be set in USECP review proceedings and should consist of a tiered structure based on the household's FPIG level (i.e., 0—50%, 51—100%, and 101—150%) which should provide lower income households with higher CAP credit limits. Utilities should notify CAP customers when they approach their CAP credit limits, instruct them to contact the utility if they meet any exceptions, and refer them to LIURP (if eligible).

10. Utilities should establish online CAP applications and allow customers to submit documentation electronically.

11. Utilities should use a standardized zero-income form and develop other industry-wide standardized forms.

12. Establish new maximum recertification timeframes for CAPs:

- CAP households reporting no income should be required to recertify at least every six (6) months regardless of LIHEAP participation;

- CAP households with income that participate in LIHEAP annually should be required to recertify at least once every three (3) years;

- CAP households whose primary source of income is Social Security, Supplemental Security Income (SSI), or pensions should be required to recertify at least once every three (3) years; and

- All other CAP households should recertify at least once every two (2) years.

13. Utilities should initiate collection activity for CAP accounts when a customer has no more than two (2) in-program payments in arrears. Customers should not be removed or defaulted from CAP as a precursor to termination for non-payment.

14. Utilities should evaluate household CAP bills at least quarterly to determine whether the customer's CAP credit amount or billing method is appropriate.

15. Utilities should work with stakeholders to develop Consumer Education and Outreach Plans.

16. Utilities should use the definition of "household income" in Chapter 14 of the Public Utility Code.

17. Utilities should be prepared to address recovery of CAP costs (and other universal service costs) from any ratepayer classes in their individual rate case filing.¹⁵³

Having addressed the CAP-related aspects of the Review proceeding at Docket No. M-2017-2596907 and the Energy Affordability proceeding at Docket No. M-2017-2587711 and the comments, reply comments, and informational filings on the record, we note that any issue, comment, or reply comment requesting a further change to CAPs or objecting to a possible change, but which we may not have specifically delineated herein, shall be deemed to have been duly considered and denied at this time without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); see also, generally, *U. of PA v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

Accordingly, the Commission hereby amends the CAP Policy Statement at 52 Pa. Code §§ 69.261—69.267; *Therefore*,

It Is Ordered That:

1. The Final Policy Statement as set forth in Annex A is adopted.

2. The Law Bureau shall submit this Order and Annex A to the Governor's Budget Office for review of its fiscal impact.

3. The Law Bureau shall deposit this Order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. The Final Policy Statement shall become effective upon publication in the *Pennsylvania Bulletin*.

5. A copy of this Order, together with Annex A, be served on the following entities:

a. Natural Gas Distribution Companies: Columbia Gas of Pennsylvania, PECO Energy Co., National Fuel Gas Distribution Corp., Peoples Natural Gas Co., Peoples-Equitable Division, Philadelphia Gas Works, and UGI Utilities, Inc.

b. Electric Distribution Companies: Duquesne Light Co., Metropolitan Edison Co., PECO Energy Co., Pennsylvania Electric Co., Pennsylvania Power Co., PPL Electric Utilities Inc., and West Penn Power Co.

c. Other Parties: The Commission's Bureau of Investigation and Enforcement; Office of Consumer Advocate; Office of Small Business Advocate; Industrial Energy Consumers of Pennsylvania; Met-Ed Industrial Users Group; Penelec Industrial Customer Alliance; Penn Power Users Group; Philadelphia Area Industrial Users Group;

¹⁵³ We are not making a final precedential decision regarding cost recovery in this docket. Decisions regarding cost recovery will remain the province of utility-specific proceedings.

PP&L Industrial Customer Alliance; West Penn Power Industrial Intervenors; Pennsylvania Utility Law Project; the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania; Energy Association of Pennsylvania; Dollar Energy Fund; Community Legal Services; Community Action Association of Pennsylvania; Tenant Union Representative Network; Commission on Economic Opportunity; Action Alliance of Senior Citizens of Greater Philadelphia; Pennsylvania Department of Community and Economic Development; Utility Emergency Service Fund; Philadelphia Housing Authority; the Pennsylvania Department of Human Services; and any parties to 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, not listed above.

6. The Electric Distribution Companies and Natural Gas Distribution Companies listed in Ordering Paragraph No. 5 shall file and serve addendums to their existing or proposed (if applicable) Universal Service and Energy Conservation Plans, at their respective dockets, in response to this Order, within 60 days of entry date of this Order. The addendums are to indicate how the Electric Distribution Companies and Natural Gas Distribution Companies intend to implement the policy changes specified in the amended CAP Policy Statement, numbered as in the discussion herein, by or before January 1, 2021. The Electric Distribution Companies and Natural Gas Distribution Companies should indicate in the cover letter to their addendums any provisions with which they are already compliant.

7. The addendums to the universal service and energy conservation plans shall be filed in both clean and redline copies and served on the parties at the utilities' respective existing or pending USECP dockets.

8. The addendums to the universal service and energy conservation plans shall be provided electronically in Word®-compatible format to Joseph Magee, Bureau of Consumer Services, jmagee@pa.gov; Jennifer Johnson, Bureau of Consumer Services, jennifjohn@pa.gov; Christina Chase-Pettis, Office of Communications, cchasepett@pa.gov; Shari A. Williams, Office of Communications, shariwilli@pa.gov; and Louise Fink Smith, Law Bureau, finksmith@pa.gov.

9. The electric distribution companies and natural gas distribution companies listed in Ordering Paragraph No. 5 be prepared to address recovery of customer assistance program costs (and other universal service costs) in their next individual rate case proceedings, recognizing that non-residential classes need not be routinely considered exempt from universal service obligations.

10. This Order be filed in the record at 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, and that Docket No. M-2017-2587711 be marked closed.

11. The contact person regarding policy and technical issues for this proceeding is Joseph Magee, Bureau of Consumer Services, jmagee@pa.gov. The contact person regarding legal issues for this proceeding is Assistant Counsel Louise Fink Smith, Law Bureau, finksmith@pa.gov.

ROSEMARY CHIAVETTA,
Secretary

Fiscal Note: Fiscal Note 57-327 remains valid for the final adoption of the subject regulations.

Appendix A

Timeline

Universal Service Review and Energy Affordability Proceedings Timeline

In M-2017-2587711 & M-2017-2596907
(5/2017 to 5/2019)

5/5/17—Opinion and Order entered entitled Energy Affordability for Low Income Customers (Docket No. M-2017-2587711) initiating a study regarding home energy burdens in Pennsylvania

5/10/17—Opinion and Order entered entitled Review of Universal Service and Energy Conservation Programs (Docket No. M-2017-2596907) initiating a comprehensive review of the entire Universal Service and Energy Conservation model

7/14/17—Law Bureau staff report issued in compliance with the May 10, 2017 Order (with assistance from BCS) discussing the history of universal service programs and the processes required to initiate changes

8/8/17—Stakeholder comment period closed for Review of Universal Service and Energy Conservation Programs (Docket No. M-2017-2596907)

9/13/17-9/14/17—BCS held stakeholder meetings to gather feedback on previously submitted comments/priorities/concerns/suggested changes pertaining to the universal service programs

10/16/17—Stakeholder reply comment period closed for Docket No. M-2017-2596907

10/16/17—Secretary Letter issued notifying the major jurisdictional energy distribution utilities of the intent to conduct an energy affordability study and requesting data from 2012-2016

10/31/17—Secretary Letter issued granting an extension for providing requested energy affordability data from 11/17/17 to 12/1/17

12/1/17—Secretary Letter issued granting an extension for providing requested energy affordability data from 12/1/17 to 12/8/17

2/12/18—Secretary Letter issued extending data request clarification/validation process for three utilities by 2/13/18 and extending due date for BCS to submit the Energy Affordability Report (originally May 5, 2018)

3/28/18—Sec Letter issued releasing the Staff Report Summarizing Public Comments, Feedback and Suggestions Regarding Universal Service and Energy Conservation Programs and establishing a Universal Service Working Group to further explore universal service policies and practices (press release issued)

5/7/18—Universal Service Working Group Meeting held to discuss zero-income forms

7/18/18—Universal Service Working Group Meeting held to discuss zero-income forms and possible revisions to the USECP filing schedule

9/27/18—Universal Service Working Group meeting held to discuss possible revisions to the USECP filing schedule

1/17/19—Order approved at Public Meeting releasing the Energy Affordability Report and requesting supplemental information from utilities (press release issued)

2/2/19—PA Bulletin announcement publicizing release of Energy Affordability Report and announcing 2/6/19 Universal Service Working Group meeting

2/6/19—Universal Service Working Group meeting held to discuss Energy Affordability Report and requested supplemental information

3/7/19—Secretary Letter issued providing clarifications to requested supplemental information and establishing a 30-day comment period and 15-day reply comment period

4/8/19—Energy Affordability supplemental information filed by utilities

5/8/19—Energy Affordability comment period closed

5/23/19—Energy Affordability reply comment period closed

Appendix B

Participants

List of Participants

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

On or before August 8, 2017, comments were filed at this docket by the following organizations:

- Blair County Community Action Agency;
- Commission on Economic Opportunity of Luzerne County (CEO Luzerne);
- Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Tenant Union Representative Network (TURN), and Action Alliance of Senior Citizens of Philadelphia (Action Alliance) (collectively Low Income Advocates or Advocates);
- Columbia Gas of Pennsylvania, Inc. (Columbia);
- Duquesne Light Company (Duquesne);
- Energy Association of Pennsylvania (EAP);
- Indiana County Community Action Program (ICCAP);
- Keystone Energy Efficiency Alliance, Housing Alliance of Pennsylvania, Green and Healthy Homes Initiative, National Consumer Law Center, National Housing Trust, and Natural Resources Defense Council (collectively PA Energy Efficiency for All Coalition [PA-EEFA]);
- Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors (collectively Industrial Customers or Industrials);
- Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), and West Penn Power Company (West Penn) (collectively FirstEnergy or FirstEnergy utilities);
- National Fuel Gas Distribution Corporation (NFG);
- Office of Consumer Advocate (OCA);
- PECO Energy Company (PECO);
- Pennsylvania Energy Marketers Coalition (PEMC);
- Peoples Natural Gas and Peoples-Equitable Gas Company (collectively Peoples);
- AARP Pennsylvania; ACTION Housing, Inc.; Community Justice Project; Disability Rights Pennsylvania; Health, Education, and Legal Assistance Project: A Medical-Legal Partnership; Homeless Advocacy Project; Interim House, Inc.; Just Harvest; Laurel Legal Services; Legal Aid of Southeastern Pennsylvania; MidPenn Legal Services; Neighborhood Legal Services Association; North

Penn Legal Services; Pennsylvania Coalition Against Domestic Violence; Pennsylvania Council of Churches; Pennsylvania Institutional Law Project; Pennsylvania Legal Aid Network; Philadelphia Legal Assistance; Regional Housing Services; SeniorLAW; Southwestern Pennsylvania Legal Services, Inc.; The Women's Center, Inc.; The Women's Resource Center; Stephen R. Krone; and Medna D. Makhlof (collectively Pennsylvania Service Providers);

- PA Departments of Aging (Aging), Community and Economic Development (DCEd), Environmental Protection (DEP), and Health and Human Services (HHS);
- PA Energy Marketers Coalition (PEMC);
- PA Weatherization Providers Taskforce;
- Philadelphia Department of Human Services (PDHS);
- Philadelphia Gas Works (PGW);
- PPL Electric Utilities Corporation (PPL);
- UGI Utilities, Inc.—Gas Division (UGI-GD), UGI Utilities, Inc.—Electric Division (UGI-ED), UGI Penn Natural Gas, Inc. (UGI-PNG), and UGI Central Penn Gas, Inc. (UGI-CPG) (collectively UGI or UGI utilities);
- United Way of Pennsylvania (United Way); and
- Weatherization and Conservation Collaborative (WCC);

On October 16, 2017, reply comments in this proceeding were filed at this docket by the following organizations:

- Commission on Economic Opportunity of Hazelton, PA (CEO Hazelton);
- Commission on Economic Opportunity of Wyoming County (CEO Wyoming);
- CEO Luzerne;
- Low Income Advocates;
- Columbia;
- DLC;
- Industrial Customers;
- FirstEnergy;
- Housing Authority of the County of Beaver;
- Housing Development Corporation of NEPA (HDC);
- NFG;
- OCA;
- Office of Small Business Advocate (OSBA);
- PA Chamber of Business and Industry;
- PA Weatherization Providers Taskforce;
- PECO;
- PEMC;
- Peoples;
- PDHS;
- PGW;
- PPL;
- Scranton-Lackawanna Human Development Agency, Inc. (SLHDA);
- UGI;
- United Way; and
- WCC.

The following organizations attended the Commission's Stakeholder meeting, in person or via teleconference, on September 13 and 14, 2017:

- Burke Vullo Reilly Roberts (representing CEO Luzerne);
- CMC Energy;
- Columbia;
- Community Legal Services (CLS) (representing TURN);
- Department of Human Services;
- Dollar Energy Fund (DEF);
- DLC;
- EAP;
- Energy Coordinating Agency (ECA);
- FirstEnergy;
- Keystone Energy Efficiency Alliance;
- McNees, Wallace, & Nurick LLC (representing Industrial Customers);
- NFG;
- OCA;
- OSBA;
- PECO;
- Pennsylvania Utility Law Project (PULP) (representing CAUSE-PA);
- Peoples;
- P.R. Quinlan;
- PGW;
- PPL;
- SFE Energy;
- UGI; and
- United Way.

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

On April 8, 2019, supplemental information in this proceeding were filed at this docket by the following organizations:

- Columbia;
- Duquesne;
- FirstEnergy;
- NFG;
- PECO;
- Peoples;
- PGW;
- PPL; and
- UGI.

On May 8, 2019, comments were filed at this docket by the following organizations:

- Columbia;
- Duquesne;
- EAP;
- FirstEnergy;
- Low Income Advocates;
- NFG;
- OCA;
- PECO;
- Peoples;
- PGW;
- PPL; and
- The Pennsylvania State University (PSU).

On May 23, 2019, reply comments in this proceeding were filed at this docket by the following organizations:

- Duquesne;
- EAP;
- Industrial Customers;
- Low Income Advocates;
- OCA;
- OSBA;
- PECO;
- PPL; and
- PSU.

Appendix C

Zero Income Claim Form

[] (Company Name and Logo)

Customer Information:

Name: []

Service Address []

Household Zero Income Claim:

I, [] (print name) state that no adult member of my household is currently receiving income from any source.

Household Expenses:

Identify how you and your household meet monthly living expenses, such as those expenses for housing (mortgage or rent), food, and utilities (electric, gas, water, and/or phone bill). Check all that apply:

- I am using money from savings.
I receive financial support from friends/family/community.
Other. Please explain below:

[]

Affidavit:

I certify that the information presented in this application is true and accurate to the best of my knowledge. I understand that providing false information in this application is grounds for denial and dismissal of my application. I acknowledge that I am responsible for notifying [] (utility) if my household or income information changes.

Signature: [] Date: []

Please send this form to [] (utility) by FAX, email or U.S. Mail:

FAX: []
E-Mail: []
Mail: []

Statement of Vice Chairperson David W. Sweet

I would like to once again acknowledge and personally thank the parties and Commission staff that have worked extensively on what has culminated in a final action today to approve an amended CAP Policy Statement. It needs to be stated that Pennsylvania universal service programs are among the most robust in the nation. Of this we can be proud, but more needs to be done.

Since joining the Commission in 2016, my analysis of universal service programs was: (1) that low-income customers, particularly those living at or below 50% of the Federal Poverty Income Guideline (FPIG), consistently pay an extremely high percentage of their income on electric and gas service; (2) that overall participation in customer assistance programs (CAPs) was considerably low, stagnant around 30%;¹⁵⁴ (3) that the Commission was not adequately monitoring utility compliance with the 1992 CAP Policy Statement; and (4) that CAP costs were disproportionately varied across utility service territories, which unfortunately meant that residential ratepayers in certain parts of the state paid more for energy assistance than others. My fundamental goal throughout both the Energy Affordability and Comprehensive Review of Universal Service and Energy Conservation proceedings was to confront these matters holistically, and to find policy and regulatory solutions that would correct what I saw as major deficiencies in what is an important, beneficial service available to the nearly 2 million low-income customers living in Pennsylvania.¹⁵⁵

I believe the revised Policy Statement will significantly address the majority of my concerns given the reduction in the maximum, combined CAP energy burden from 17% to 6% for the lowest income households, as well as the establishment of consumer education and outreach plan criteria as a way to improve upon stagnant participation levels in CAP. Given the renewed attention to these important matters, I have no doubt that the Commission will be committed to ensuring compliance with these goals.

Regarding costs, The Energy Affordability Study, published by Commission staff and released in January 2019, provided a rough estimate of what these policy changes could cost non-CAP, residential ratepayers. Staff estimated that on average, CAP costs would increase annually by \$15, or \$1.25 per month¹⁵⁶—a perceptibly nominal difference to what is a tremendous savings for customers who otherwise struggle to pay for a basic household necessity.

However, admittedly several important variables were not considered in this estimate; and so, the cost of our final proposed policy changes cannot yet be precisely identified. The onus will be on each electric distribution company (EDC) and natural gas distribution company (NGDC) to either adopt these policies in Universal Service and Energy Conservation Plan (USECP) proceedings, or fully demonstrate why adoption cannot be met, especially considering the policy amendment that CAP costs can be recovered from all rate classes—not just from residential customers.

Yet, none of this solves the unequal nature of how customers in different utility service territories are charged varying universal service costs. This becomes

particularly apparent for the roughly 500,000 customers receiving natural gas distribution service from Philadelphia Gas Works (PGW). The average non-CAP PGW ratepayer pays \$81.26 annually to support these programs—nearly seven times the amount of a National Fuel Gas customer.¹⁵⁷ This anomaly occurs because CAP and other universal service programs¹⁵⁸ are not funded through a statewide pool, but rather utility by utility based on service area.

Philadelphia is home to a much larger number of citizens in poverty than any other jurisdiction, and these residents would benefit the most from the proposed reductions to the energy burden thresholds. However, understanding that our action today will likely further increase costs to PGW's non-CAP ratepayers, I encourage the utility to speak to this dilemma in its next USECP filing, noting that any attempt to forgo inclusion of the proposed CAP policies for rate impact reasons, while reasonable, also denies Philadelphia's poor from fully benefiting from greater CAP benefits.

PGW's unique situation goes beyond matters of universal service. The Company annually pays \$18 million to the City of Philadelphia, and nearly \$1 million to the Philadelphia Gas Commission¹⁵⁹—ironically roughly the same estimated value if a 6% energy burden was adopted.^{160,161} I urge the City to forgo these payments and devote the money instead to a full-scale effort by PGW to significantly reduce the heating bills of its low-income residents. Moreover, the General Assembly should consider developing a statewide pool to support energy assistance in areas of high poverty, urban and rural.

Today, the Commission took the necessary steps to improve upon utility-sponsored energy assistance programs, and it is my expectation that as a result, utilities will heed Commission guidance on these issues. For the remainder of my term, I will be paying close attention to utility adherence to these policies both in USCEP proceedings and rate case filings, and encourage my colleagues to do so, as well.

DAVID W. SWEET,
Vice Chairperson

Statement of Commissioner Norman J. Kennard

Before the Pennsylvania Public Utility Commission (Commission or PUC) for consideration and disposition is a Final Policy Statement Order (Final Policy Statement) amending the Commission's existing customer assistance program (CAP) Policy Statement (Existing Policy Statement). These changes are largely based on the Commission's staff report titled Home Energy Affordability for Low-Income Customers in Pennsylvania (Energy Affordability Report).¹⁶²

Maximum Energy Burdens

Under the Commission's Existing Policy Statement, the combined electric and natural gas expenses (also known

¹⁵⁷ See 2017 Reports on Universal Service Programs and Collections Performance, page 73.

¹⁵⁸ The Low-Income Usage Reduction Program, Customer Assistance and Referral Evaluation Services, and Hardship Fund.

¹⁵⁹ See Philadelphia Gas Works, Management Efficiency Investigation Evaluating the Implementation of Selected Recommendations from the 2015 Stratified Management and Operations Audit Report, Docket No. D-2017-262752, page 38.

¹⁶⁰ See Home Energy Affordability for Low-Income Customers in Pennsylvania, Docket No. M-2017-2587711, page 106.

¹⁶¹ The amended, final CAP Policy Statement proposes the following tiered energy burden thresholds: for customers within 0%–50% of the FPIG, the maximum energy burden is 4% for natural gas heating, 2% for electric non-heating, and 6% for electric heating. For customers within 51%–100% and 101%–150% of the FPIG, the maximum energy burden is 6% for natural gas heating, 4% for electric non-heating, and 10% for electric heating.

¹⁶² Released via order entered on January 17, 2019, in Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711; available at <http://www.puc.pa.gov/pddocs/1602386.pdf>. See also Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907.

¹⁵⁴ See 2011–2017 Reports on Universal Service Programs & Collections Performance.

¹⁵⁵ See 2017 Reports on Universal Service Programs & Collections Performance, pages 7-8.

¹⁵⁶ See Home Energy Affordability for Low-Income Customers in Pennsylvania, Docket No. M-2017-2587711, page 108.

as the “energy burden”) of a customer are not to exceed 15–17% of household income where the household income is at or below 150% of the Federal Poverty Income Guidelines (FPIG). The CAP program provides discounted bills to qualifying low-income customers. The electric distribution companies (EDCs) and natural gas distribution companies (NGDCs) currently collect over \$330 million per year from other customers (residential non-CAP) to fund these low-income CAP programs.

The Final Policy Statement presented by the Staff before us today would reduce the current energy burden down to a maximum of 10%. The Joint Motion proposes to go even further by creating a “tiered” energy burden structure with a maximum energy burden level of 6% for customers within 0–50% of the FPIG, 10% for customers within 51–100% of the FPIG, and 10% for customers within 101–150% of the FPIG.

The Energy Affordability Report estimated that a combined 10% energy burden for electric and natural gas would cost non-CAP ratepayers an additional \$102 million per year, not accounting for inflation. This represents an approximate 30% increase from the current over \$330 million ratepayer CAP spending. The Energy Affordability Report did not analyze or address the cost impact of establishing a 6% energy burden as proposed in the Joint Motion. Accordingly, we do not know what the additional cost impact of further reducing the energy burden will be for Pennsylvania ratepayers.

I disagree with both the Staff recommendation and the Joint Motion for several reasons. But first, let me say that I have always supported our efforts to make energy affordable for those less fortunate. However, we cannot simply open the ratepayers’ checkbooks to pay for others’ bills. Our efforts should be supplemental to the social service programs devised by the General Assembly and the Governor’s Administration. There is nothing in the Public Utility Code that gives us a significant role in fighting poverty. While we should help, we cannot solve the difficulty of low-income families in meeting their household budgets. Programs should be designed to meet a specifically demonstrated need and parameters should be put in place to avoid excess spending.

We already maintain one of the most generous programs in the nation. It is true that other states¹⁶³ have maximum energy burdens that are lower than in Pennsylvania, but there are significant program differences in those states as compared to Pennsylvania. For example, other states limit participation to Low-Income Home Energy Assistance Program (LIHEAP) recipients, incorporate LIHEAP grants into program discounts, have differing electric and natural gas usage, lower housing costs, and lower annual budgets and spending.¹⁶⁴ As we do not limit our programs to LIHEAP recipients, the participating population in CAPs is larger in the Commonwealth.

Much is made of the comparison to New York that uses a 6% energy burden. However, New York limits the total budget for each utility’s universal service programs at 2% of total electric or natural gas revenues.¹⁶⁵ As a point of reference, in 2017, Pennsylvania’s EDCs spent an average of 2.5% of gross income on universal service programs and the NGDCs an average of 2.2% of gross revenue. So

we already exceed New York’s spending. Based on the robust universal service programs offered in the Commonwealth, I do not believe that it is appropriate to reduce our maximum energy burden levels at this time.

Nor do I see a demonstrated need for expanded CAP contributions at a time when the nation’s economy is thriving with unemployment levels at an all-time low. The total estimated \$430 million CAP spending resulting from the energy burden redesign is based upon today’s income levels and energy costs. Should the country go into a recession and the labor market deteriorate or should energy prices rise, CAP spending costs will be larger than estimated and uncontained. Neither the Staff recommendation nor the Joint Motion agree to place a limit on overall spending like New York does.

For this reason, among others, I do not agree with the tiered energy burden levels proposed by the Joint Motion. Moving forward without any data regarding the potential cost impact of a 6% energy burden for the lowest low-income customers is not only reckless, but also exposes Pennsylvania ratepayers to unknown, increased costs that could be significant. This exposure could result in pressuring low-income, non-CAP customers into no longer being able to afford their utility bills and lead to an even higher percentage of uncollectibles than we currently have.

We are blindly changing the CAPs with no idea of the cost, no metric to evaluate the effectiveness of the programs, and no cap on program budgets. Although the CAPs have some cost containment features such as minimum bill requirements and individual CAP credit limits, we currently do not have, nor do we have a proposal to implement, any test or metric to evaluate if these programs are effective and accomplishing their goals. We also have no spending threshold for the budget of the CAPs and therefore, no limit to the costs that non-CAP ratepayers will bear. I struggle to see any of the principles of ratemaking that have stood the test of time in providing fair, nondiscriminatory, and just rates included in the reasoning for the changes to the CAPs.

One of the fundamental principles of ratemaking is cost causation—the cost to serve each customer should be reflected in the price of the product they are purchasing. Although there are times when we make exceptions, the exceptions should not be designed to provide a permanent discounted rate based on the income of a household or on any other metric other than the cost of serving that customer.

The original CAPs were designed to reduce the number of payment-troubled customers by serving as an alternative to traditional collection methods. It was anticipated that the major cost for a CAP would be administrative costs since the programs were to be cost-effective and designed so that if “properly implemented, many of the problems associated with other CAP programs should be diminished or entirely eliminated.”¹⁶⁶ We have strayed far from the original goal of temporarily assisting customers in an efficient manner that does not create a burden on non-CAP customers.

Nor do we have any evidence that reducing energy burdens levels will decrease utility uncollectibles. In fact, since the establishment of CAPs in Pennsylvania, uncollectibles have increased. When CAPs were implemented state-wide in 1992, the Commission found that uncollectibles in the electric industry averaged between about

¹⁶³ New York and New Jersey established a maximum energy burden of 6% for low-income customers.

¹⁶⁴ EAP Comments to PUC Secretarial Letter issued October, 16, 2017, Docket No. M-2017-258771 at 18–20; PGW Comments at 12–15, Exhibit B; OCA Comments at 9–11, Appendix A at 5–7, 49–60.

¹⁶⁵ Order Adopting Low Income Program Modifications and Directing Utility Filings, Case No. 14-M–0565 (Issued by New York Public Service Commission and Effective on May 20, 2016).

¹⁶⁶ Investigation of Uncollectible Balances, Final Report to the Pennsylvania Public Utility Commission, February 1992, pp. 116–117.

1% to 1.5% between 1987 and 1990. In 2000, the electric industry's gross write-off ratio grew to an average of 2.17% and most recently, 2017 averaged a gross write-off ratio of 2.2%. These uncollectible costs are borne by all ratepayers and are felt the most by non-CAP low-income. This illustrates that there may be other factors at play beyond discounted utility bills when determining affordability.

CAPs were not meant to solve poverty, but, rather, were established at a time when inflation in utility bills was growing much faster than customers' incomes causing a disparity that was particularly acute for low-income customers. LIHEAP grants did not grow at the same pace as the increasing proportional cost of energy and the CAPs were created because the utilities were carrying out collections for a stable number of customers who were falling further and further behind in paying bills. The CAPs were created to decrease uncollectibles and to assist low-income customers in maintaining their utility service.

Overall, I agree with the OCA's comments which maintained that Pennsylvania CAPs, as currently designed, are working reasonably well. Based on the data that is available, the OCA stated that it cannot conclude that a 10% maximum energy burden is appropriate for the Commonwealth. Rather than changing the maximum energy burdens, the OCA suggests making other modifications to CAPs, including revising minimum payment requirements and pursuing budget billing.¹⁶⁷ While I agree with many of the changes set forth in the Final Policy Statement, I agree with the OCA and question whether changing our maximum energy burdens levels is appropriate at this time.

As a last point, I believe due process mandates that, if such changes are to be made, we must issue the revised policy statement as a proposal with a 30-day comment period and not as a final order. This would allow us to receive data from the EDCs and NGDCs regarding the cost impact of reducing the energy burden to 6% for the lowest low-income customers. Additionally, stakeholders will have the opportunity, for the first time, to comment on the comprehensive set of changes before us. Prior to the Final Policy Statement, stakeholders have only had the opportunity to comment on various piecemeal parts of the changes to the Existing CAP Policy Statement. To alleviate all due process concerns, stakeholders should be provided the opportunity to comment on the "entire package" of changes, many of which are so intricately intertwined.

Cost Recovery

Currently, almost all universal service costs are recovered from the residential rate classes, because this is a program that benefits residential customers exclusively.¹⁶⁸ However, the Final Policy Statement provides that utilities may address recovery of CAP costs and other universal service costs from any ratepayer class in their individual rate case filing. While we are not making a final decision regarding cost recovery in this matter, the Final Policy Statement expressly authorizes utilities to propose cross-class subsidization in their next rate case filing.

I strongly oppose the expansion of CAP and universal service cost recovery to commercial and industrial rate classes. Large commercial and industrial entities neither benefit from nor are they eligible for these programs.

Again, principals of cost causation dictate that costs should be attributed to the customers causing the costs to be incurred.¹⁶⁹ Additionally, Sections 2804(7) and 2203(5) of the electric and natural gas competition acts prohibit discriminating "against one customer class to the benefit of the other."¹⁷⁰

To restate a point made earlier, we are wandering into the arena of tax policy where general taxes, like personal income or corporate net income taxes, are used for the general public good. We are not the General Assembly and do not have the discretion to impose a tax for the public benefit.

Further, passing universal service costs onto commercial and industrial ratepayers can force these ratepayers to procure energy services elsewhere with negative effects on the utilities and customers. Commercial and industrial ratepayers of NGDCs are often sensitive to changes in rates as energy costs are a large expense of their businesses and price increases can push them to find alternatives to natural gas. In some locations, customers have the ability to bypass the distribution system and connect directly to the interstate pipeline system.

The loss of industrial and commercial customers not only weakens the revenue base of the utility but also has the potential to harm all ratepayers. Although in rate cases, the goal is to move each rate class towards its cost of service, for many utilities the residential rate class pays less than its cost of service and is subsidized by the other classes, including commercial and industrial. Since many of the costs of providing service are fixed and do not vary with the loss or addition of a few customers, the loss of revenue from commercial and industrial customers will mean other rate classes, including residential customers, would see rate increases.

Although I oppose permitting utilities to cross-subsidize CAP and universal service costs among rate classes, I recognize that there are credible legal arguments on both sides of the issue. With that in mind, it is very likely that any future utility rate case filing proposing to pass CAP and/or universal service costs onto commercial and industrial customers will be challenged in court. I caution that should cross-class subsidization be prohibited by the courts, all the increased CAP costs related to a reduced energy burden will be borne by non-CAP residential customers. This is particularly of issue because we do not know the cost impacts of using a 6% maximum energy burden for the lowest low-income customers. Once again, we are exposing non-CAP residential customers to unknown increased costs which could be significant. Unfortunately adding these increased costs to non-CAP residential bills could result in unaffordable utility bills for non-CAP low-income customers.

Conclusion

I agree with many of the changes set forth in the Final Policy Statement and believe that cleaning up our CAP processes is a great idea and a step forward in assisting low-income customers in maintaining their utility service. However, I do not see a need to: (1) decrease the maximum CAP energy burdens levels or (2) authorize drastic cost recovery mechanisms for the significant increases in CAP spending that will result. Therefore, I respectfully dissent.

NORMAN J. KENNARD,
Commissioner

¹⁶⁷ OCA Comments to PUC Secretarial Letter issued October 16, 2017, Docket No. M-2017-258771 at 6-7, 20-21, Appendix A at 20-22, 110.

¹⁶⁸ Philadelphia Gas Works and Peoples Natural Gas Company, LLC apply their Universal Service Riders to more than just the residential customer class.

¹⁶⁹ See *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006).

¹⁷⁰ 66 Pa.C.S. §§ 2203(5), 2804(7).

Statement of Commissioner Andrew G. Place

In addition to the Joint Motion on this matter, I would like to comment on two issues—consideration of households above 150% of Federal Poverty Income Guidelines (FPIG) and cost recovery. While the Commission's action today does not include households above 150% of FPIG nor requires cost recovery for USECPs from all rate classes, I would encourage utilities to consider these options.

In undertaking any review of Universal Service Programs in their entirety, the Commission must continue to balance the costs¹⁷¹ and benefits of these programs, as the changes just approved will inevitably impact program delivery and the costs of that delivery. In my review of the cost issue I note that most restructured states provide for a competitively neutral funding mechanism for low-income programs—assessed on all energy customers. Currently, in Pennsylvania, only residential ratepayers fund the current Universal Service Programs with the exception of customers of Philadelphia Gas Works (PGW).

Pursuant to its Commission-approved Tariff, PGW recovers all costs associated with its Customer Responsibility Program (CRP), including general discounts and arrearage forgiveness, the Senior Citizen Discount and the costs of the Home Comfort Program through a Universal Service and Energy Conservation Surcharge.¹⁷² All customers pay this volumetric Universal Service and Energy Conservation Surcharge—currently \$0.13014/Ccf.¹⁷³

I would encourage utilities to propose a similarly constructed volumetric charge assessed to all rate classes for funding universal service programs as energy poverty is a societal issue, not solely weighted on a single rate class. This position is echoed by the Pennsylvania Departments of Aging, Community Development, Environmental Protection, Health and Human Services, in which they argue that expanding recovery of universal service costs to other rate classes would allow for increased efficacy of programming.¹⁷⁴ This position was further bolstered by the Office of Consumer Advocate and the Low Income Advocates in their comments at these dockets. Of particular note, the Low Income Advocates highlighted that all ratepayers benefit whether directly or indirectly from these programs and, as such, it is proper to recover the costs from all ratepayers.¹⁷⁵ I echo this reasoning and encourage utilities to broaden recovery of USECP costs beyond residential ratepayers.

While the Commission was studying energy affordability, the United Way was also examining these topics from the broader vantage point of financial stability for Pennsylvania households. During 2018 and 2019 the United Way of Pennsylvania conducted a Financial Hardship Study for Pennsylvania¹⁷⁶ to raise awareness of the challenges faced by, what they refer to as, ALICE¹⁷⁷ households (Asset Limited, Income Constrained, Em-

ployed), the working poor, and to mobilize support strategies and policies that move ALICE households toward financial stability. ALICE represents a growing number of households in Pennsylvania that are above the poverty line, but do not earn enough to afford the basic necessities such as housing, childcare, food, transportation health care, and technology.

The United Way ALICE report argues that the absolute basic cost of living, a “survival budget,” in Pennsylvania, is \$59,340 for a family of four and \$20,760 for a single adult.¹⁷⁸ This family of four survival budget is more than double the Federal Poverty Level of \$24,600 per year for a family of that size and yet still leaves families financially vulnerable and unable to cover basic costs.¹⁷⁹ In 2017, of Pennsylvania's approximately 5 million households, 640,349 earned below the federal poverty level (13 percent) and another 1.2 million (24 percent) were ALICE households¹⁸⁰—a combined 37% of Pennsylvania households struggling financially.

Commission regulations at 52 Pa. Code § 54.72 define a low-income customer as, “[a] residential utility customer whose household income is at or below 150 percent of the Federal poverty guidelines.” While I am not recommending a change to the definition of low-income customer, I am encouraging utilities to increase their universal service offerings to those just above the low-income threshold to include ALICE households who may need assistance to maintain essential utility services.

This suggestion is not novel as other states and the Commission's own LIURP regulations allow for some households up to 200% of FPIG to qualify for these assistance programs. I would further encourage utilities to consider the inclusion of ALICE households in Customer Assistance Programs as appropriate. At this juncture, select utilities have extended CAP (eCAP) programs for which this group of customers qualifies. Some eCAPs offer extended but limited benefits such as arrearage forgiveness. These customers may well pay full tariff rates but receive the benefit of arrearage forgiveness with each in-full and on-time payment. Although the survival budget in Pennsylvania is above the Federal Poverty Line, assistance for these households would be impactful.

ANDREW G. PLACE,
Commissioner

Statement of Commissioner John F. Coleman, Jr.

Before us today are revisions to the Commission's existing customer assistance program (CAP) policy statement.¹⁸¹ I would like to thank the stakeholders for their comments, responses to requests for information, and participation in stakeholder meetings. I would also like to thank staff in the Bureau of Consumer Services (BCS) and the Law Bureau for their work on this assignment.

Two years ago, I voted for a joint motion to undertake a comprehensive review of Pennsylvania's universal service programs.¹⁸² I did so because the Commission has an important obligation to monitor, evaluate and, when necessary, make changes to universal service programs. In general, I am pleased with the information we collected and the conclusions I was able to draw from it. To summarize, I think the data shows that the Commission and public utilities are meeting their respective obligations regarding universal service and that the programs

¹⁷¹ While total gross CAP costs for EDCs has increased by approximately 400% between 2001 and 2015, from \$63.25 million to \$253 million, and total gross CAP costs for NGDCs have increased by approximately 486% from 2002 to 2015, from \$22.6 million to \$110.2 million. During the same timeframe, the number of estimated low-income electric and natural gas customers has increased by 80% and 104% respectively. PUC Reports on Universal Service Programs & Collections Performance, Years 2001 through 2015.

¹⁷² www.pgworks.com/uploads/pdfs/PGW_GAS_SERVICE_TARIFF_THROUGH_SUPP_123.pdf.

¹⁷³ Id. at 81.

¹⁷⁴ Joint Comments of PA Departments of Aging, DCED, DEP, DOH and DHS at 3 submitted to Energy Affordability for Low Income Customers (Affordability Order), Docket No. M-2017-2587711.

¹⁷⁵ Low Income Advocate Comments submitted to Affordability Order, at 52, 55, 59.

¹⁷⁶ United Way of Pennsylvania, Asset Limited Income Constrained Employed (ALICE) in Pennsylvania: A Financial Hardship Study 2019. www.uwp.org/ALICE.

¹⁷⁷ “This body of research provides a framework, language, and tools to measure and understand the struggles of a population called ALICE—an acronym for Asset Limited, Income Constrained, Employed.” Id. at iii.

¹⁷⁸ Ibid.

¹⁷⁹ Id. at 25.

¹⁸⁰ Id. at 3.

¹⁸¹ 52 Pa. Code §§ 69.261—69.267.

¹⁸² Review of Energy Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907 (Order entered May 10, 2017).

are adequately funded. While there is no underlying crisis with respect to universal service, I do recognize that there is room for improvement, and our staff and stakeholders have provided many good suggestions for us to consider.

Overview

Pennsylvania has a very robust universal service program, and according to comments we received, was second among states in the total assistance provided as recently as a few years ago.¹⁸³ Unlike other states, Pennsylvania does not limit the amount spent on energy assistance programs or the number of participants, nor do we require participants to enroll in other state or federal programs, such as the Low Income Home Energy Assistance Program (LIHEAP).¹⁸⁴ In 2017, Pennsylvania's low-income, payment-troubled customers received almost half a billion dollars in financial and other assistance to help with their energy bills. This amount includes almost \$94 million in LIHEAP grants and approximately \$385 million in universal service program assistance. Of the \$385 million spent on universal service programs, over \$330 million was spent on CAPs.¹⁸⁵

Pennsylvania's CAPs, as currently designed, are working to help customers maintain their service. CAP customers pay most of their discounted energy utility bills. In 2017, CAP customers paid 82.8% of their electric bills and 72.5% of their natural gas bills. For many customers, CAPs have ended the cycle of non-payment and disconnection by moving these customers to more regular bill payment.¹⁸⁶

It is also important to note that low-income customers do not necessarily need or want to participate in CAPs. There are other components to universal service which may meet a customer's needs, and most low-income customers do not require any financial assistance to pay their energy utility bills. In 2017, approximately 89% of confirmed low-income electric customers in Pennsylvania were not payment-troubled, while approximately 84% of confirmed low-income natural gas customers in Pennsylvania were not payment-troubled.¹⁸⁷

For this reason, enrollment or budget levels cannot be the metric of success or failure for CAPs. CAP enrollments and budgets will rise and fall in response to changes in utility rates and underlying economic conditions. For example, over the last ten years, CAP enrollments for natural gas distribution companies (NGDCs) have declined significantly, most likely in response to persistently low natural gas prices, steady economic growth and good employment opportunities. In 2009, approximately 192,000 customers were enrolled in NGDC CAPs. By 2017, enrollment had decreased to 146,000 customers. NGDC CAP spending shows a corresponding decrease from \$198 million in 2009 to \$91 million in 2017. I think it is good news that more natural gas customers, than ten years ago, are able to pay their own bills without requiring other customers, many of whom are also low-income, to subsidize their service.

Opportunities for Improvement

I am open to improving the design and operation of CAPs. I agree with many of the recommendations pro-

¹⁸³ Office of Consumer Advocate Comments to Opinion and Order, Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907, Appendix B.

¹⁸⁴ Energy Association of Pennsylvania Comments to Opinion and Order, Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711, p. 4.

¹⁸⁵ Bureau of Consumer Services 2017 Universal Service and Collections Report, p. 73, App. 5.

¹⁸⁶ OCA Comments to Opinion and Order, Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711, pp. 4-5.

¹⁸⁷ Bureau of Consumer Services 2017 Universal Service and Collections Report, pp. 7-9.

posed by staff which clarify and simplify CAPs. I generally support: (1) allowing CAP households to retain CAP enrollment when they transfer service within the utility's service territory, (2) directing utilities to accept income documentation of at least the last 30 days or 12 months, (3) eliminating the provision that a customer should designate a LIHEAP grant to the utility sponsoring the CAP or be penalized, (4) exempting CAP customers from late payment charges, (5) providing CAP customers with retroactive pre-program arrearage forgiveness, (6) allowing utilities to request but not require social security numbers, (7) setting minimum CAP payment requirements and maximum CAP credit limits in universal service plan proceedings, (8) establishing online CAP applications with electronic submission of documents, (9) directing utilities to use a standardized zero-income form and to develop industry-wide standardized forms, (10) initiating collection activity for CAP accounts after no more than two missed payments, and (11) evaluating household CAP bills quarterly. I also agree with the Joint Motion's directive related to consumer education and outreach plans.

Procedural and Substantive Concerns

But, as I stated two years ago, the design, budgeting, and administration of universal service programs are a complex undertaking for our public utilities. By moving forward today with a final Revised CAP Policy Statement, the Commission disregards this complexity. The final Revised CAP Policy Statement includes a combination of energy burdens (6%-10%-10%) and other changes which have not been put forth for comment.¹⁸⁸ I am disappointed that we are skipping the important step of presenting all of our recommendations to the stakeholders for their review. We normally have a public comment period when we revise our regulations and policy statements. No pressing legal or practical reason has been identified for deviating from our standard practice.

I agree with the comments of the Office of Consumer Advocate (OCA) in that,

[a]ny changes to the energy burdens would need to be thoroughly analyzed to determine the costs that would have [to] be borne by any non-participant ratepayers as well as the impact on any payments by CAP customers.

* * * * *

...an analysis of energy affordability burdens must also consider the impact on residential ratepayers that pay the costs of the program. Changes to the energy affordability burdens can have a significant impact on the total costs of the CAP program."¹⁸⁹

Without further information from the stakeholders, I cannot conclude that the final Revised CAP Policy Statement balances the interests of the residential customers who benefit from CAPs and the residential customers who pay for CAPs. I am particularly concerned with the cost impact on customers between 151-250% of the Federal Poverty Income Guidelines, those households with low or moderate incomes who are just beyond the eligibility requirements for CAP. Again, I highlight the comments of the OCA, that "[t]he Commission must consider the impact that paying for the programs will have on non-

¹⁸⁸ Now pending before the Commission is a Petition for Reconsideration on an issue that the Commission is adopting a final policy position on without the benefit of public comment. See Columbia Gas of Pennsylvania, Inc. Universal Service and Energy Conservation Plan for 2019-2021, Docket No. M-2018-2645401.

¹⁸⁹ Office of Consumer Advocate Reply Comments to Opinion and Order, Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907, p. 25-26.

participants. The impact of the program costs disproportionately affects low-income customers who do not participate in the program and the near-poor whose incomes are too high to qualify for CAP, but who may also have trouble making their bill payments.”¹⁹⁰

The Commission must ensure that universal service programs are operated in a cost-effective manner.¹⁹¹ The final Revised CAP Policy Statement maintains certain cost control measures but also expands the benefits associated with CAP. This expansion will impact both the size and cost of the programs in ways which have not been sufficiently quantified. I would have preferred to receive feedback from the stakeholders on the combined effect of these program changes. Without this feedback, I cannot support: (1) reducing the CAP energy burdens, (2) eliminating the payment-troubled qualification for CAPs, (3) establishing new recertification timeframes, (4) allowing customers to remain in CAP despite non-payment, (5) directing utilities to be prepared to address recovery of CAP costs from any ratepayer classes, and (6) the Joint Motion’s adoption of the definition of income contained in Chapter 14 of the Public Utility Code.¹⁹² CAP was designed as an alternative to traditional collection methods for low income, payment-troubled customers. We must not lose sight of this objective.

Additionally, I am troubled by the declaration in the Joint Motion that public utility service must be “universally affordable.” While that is an admirable sentiment, it is not an accurate statement of the law. The Public Utility Code provides that rates must be “just and reasonable,” and importantly, that no person be given an “unreasonable preference or advantage in rates.”¹⁹³ The Electric and Gas Competition Acts required that the universal service programs in existence at the time of their respective enactments be continued, and that they be “appropriately funded and available” in each territory.¹⁹⁴ The General Assembly further provided that such programs are intended to “assist low-income” retail customers in maintaining their electric and gas service. Universal service programs were further defined as programs intended to “help” electric and gas customers maintain service.¹⁹⁵ There is a significant difference between making reasonable efforts to assist customers, as opposed to guaranteeing that customers with zero or little income be maintained in their service at the expense of other customers. CAPs can assist but cannot guarantee that every customer will be able to afford service at every location in all circumstances. It is beyond the scope of the Commission’s jurisdiction and authority to implement or otherwise convert public utility service into an entitlement program.

For the reasons stated above, I cannot support the Joint Motion. While I agree with many of the recommendations put forth today, I am troubled by the absence of public comment. Without these comments, it is not clear that the final Revised Policy Statement does enough to balance the interests of participating versus non-participating customers.

JOHN F. COLEMAN, Jr.,
Commissioner

¹⁹⁰ OCA Comments to Opinion and Order, Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711, pp. 15-16.

¹⁹¹ 66 Pa.C.S. §§ 2203(8) and 2804(9).
¹⁹² The Chapter 14 definition of household income is still being refined through practice and case precedent. If there is a need for a standard definition of household income, it may be more prudent to adopt LIHEAP’s carefully crafted definition of income, which would also further align these energy assistance programs.

¹⁹³ 66 Pa.C.S. §§ 1301, 1304.
¹⁹⁴ 66 Pa.C.S. §§ 2203(8) and 2804(9).
¹⁹⁵ 66 Pa.C.S. §§ 2202, 2803.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

POLICY STATEMENT ON CUSTOMER ASSISTANCE PROGRAMS

§ 69.261. General.

CAPs are designed as alternatives to traditional collection methods for low-income customers. Customers participating in CAPs agree to make monthly payments based on household size and gross household income. CAP customers make regular monthly payments, which may be for an amount that is less than the current tariff bill for utility service including pre-CAP arrearages, in exchange for continued provision of the service. Class A electric utilities and natural gas utilities with gross intrastate annual operating revenue in excess of \$40 million should adopt the guidelines in §§ 69.263—69.265 (relating to CAP development; scope of CAPs; and CAP design elements) implementing residential CAPs.

§ 69.262. Definitions.

The following words and terms, when used in §§ 69.261, 69.263—69.267 and this section, have the following meanings, unless the context clearly indicates otherwise:

Alternative program designs—Program designs which include traditional utility collection methods, alternative collection approaches that do not include a CAP and CAP designs which substantially deviate from this chapter.

CAP—Customer Assistance Program.

CBO—Community-based organization.

EDC—*Electric distribution company*—An electric distribution company as defined in 66 Pa.C.S. § 2803 (relating to definitions).

FPIG—*Federal Poverty Income Guidelines*—The income levels published annually in the *Federal Register* by the United States Department of Health and Human Services.

Household income—The combined gross income of all adults in a residential household who benefit from the public utility service, as defined in 66 Pa.C.S. § 1403 (relating to definitions).

LIHEAP—*Low Income Home Energy Assistance Program*—A Federally funded program, administered in this Commonwealth by the Department of Human Services, which provides financial assistance grants to low-income households for home energy bills.

Low-income customers—A residential utility customer whose annual gross household income is at or below 150% of the FPIG.

Low-income payment-troubled customers—Low-income customers who have arrears or failed to maintain one or more payment arrangements.

NGDC—*Natural gas distribution company*—A natural gas distribution company as defined in 66 Pa.C.S. § 2202 (relating to definitions).

USAC—*Universal Service Advisory Committee*—A group of interested stakeholders who meet at least semi-

annually, receive universal service program updates and provide feedback on proposed utility initiatives.

USECP—Universal Service and Energy Conservation Plan—A plan that contains the utility's universal service programs as approved by the Commission.

§ 69.263. CAP development.

(a) A utility should develop and strive to improve its CAP consistent with the guidelines provided in §§ 69.261, 69.262, 69.264—69.267 and this section.

(b) The Bureau of Consumer Services will work with the utility in CAP development. USACs and other interested stakeholders may assist the utility.

(c) Before implementing, revising or expanding a CAP, a utility should file its CAP proposal with the Commission and serve copies on the Bureau of Consumer Services and on stakeholders from the utility's most recent USECP proceeding. This will allow for staff review, comments, discovery and revisions prior to Commission approval of design elements. This review is not for ratemaking purposes, and the rate consequences of any CAP will be addressed within the context of subsequent Commission rate proceedings as described in § 69.266 (relating to cost recovery).

§ 69.264. Scope of CAPs.

CAPs should be targeted to low-income customers. The participation limit for CAP should reflect a needs assessment, consideration of the estimated number of low-income households in the utility's service territory, the number of participants currently enrolled in the CAP, participation rates for assistance programs and the resources available to meet the needs of the targeted population. A utility may use payment-troubled status to prioritize CAP enrollments and to control CAP costs if necessary and only if approved to do so by the Commission.

§ 69.265. CAP design elements.

The following design elements should be included in a CAP:

(1) *Program funding.* Program funding should be derived from the following sources:

- (i) Payments from CAP participants.
- (ii) Operations and maintenance expense reductions.
- (iii) Universal service funding mechanism for EDCs and NGDCs.
- (iv) Other sources as may be approved by the Commission.

(2) *Payment plan.* Generally, CAP payments for jurisdictional home energy should not exceed the percentages of CAP participants' annual income specified in the schedule in subsection (i). Payment plans should be based on one or a combination of the following:

(i) *Percentage of income plan (PIP).* Total payment for total electric and natural gas home energy under a percentage of income plan is determined based upon a scheduled percentage of the participant's annual gross income. The participating household's gross income and size place the household at a particular poverty level based on the FPIG.

(A) Generally, maximum payments for electric nonheating service should not exceed the following maximums:

(I) Household income between 0—50% of FPIG at 2% of income.

(II) Household income between 51—100% of FPIG at 4% of income.

(III) Household income between 101—150% of FPIG at 4% of income.

(B) Generally, maximum payments for natural gas heating should not exceed the following maximums:

(I) Household income between 0—50% of FPIG at 4% of income.

(II) Household income between 51—100% of FPIG at 6% of income.

(III) Household income between 101—150% of FPIG at 6% of income.

(C) Generally, maximum payments for electric heating or for natural gas heating and electric nonheating combined should not exceed the following maximums:

(I) Household income between 0—50% of FPIG at 6% of income.

(II) Household income between 51—100% of FPIG at 10% of income.

(III) Household income between 101—150% of FPIG at 10% of income.

(ii) *Percentage of bill plan.* The participant's household payment is calculated as a percentage of income payment and converted to a percentage of the annual bill. When a utility determines subsequent CAP payment amounts, a participant will continue to pay the same percentage of the total bill even if annual usage has changed.

(iii) *Rate discount.* The participant's energy usage is billed at a reduced rate.

(iv) *Minimum monthly payment.* The participant's payment contribution is calculated by taking the participant's estimated monthly budget billing amount and subtracting the maximum, monthly CAP credit (previously called billing deficiency).

(v) *Annualized, average payment.* The participant's payment contribution is calculated by determining the total amount the participant paid over the last 12 months and dividing by 12 months to determine a monthly budget.

(vi) *An alternative payment formula.* An alternative payment formula must be reviewed by the Bureau of Consumer Services and approved by the Commission.

(3) *Control features.* The utility should include the following control features to limit program costs:

(i) *Minimum payment terms.* Minimum payments should be set in utility-specific USECP proceedings. A utility may propose alternatives to a flat minimum payment for each account type.

(ii) *Nonbasic services.* A CAP participant may not subscribe to nonbasic services that would cause an increase in monthly billing and would not contribute to bill reduction. Nonbasic services that help to reduce bills may be allowable. CAP credits should not be used to pay for nonbasic services.

(iii) *Consumption limits.* Limits on consumption should be set at a percentage of a participant's historical average usage. A level of 110% is recommended. Adjustments in consumption should be made for extreme weather conditions through the use of weather normalization techniques.

(iv) *High usage treatment.* Utilities should target for special treatment those participants who historically use high amounts of energy.

(v) *Maximum CAP credits.* These will be established in individual utility USECP proceedings, if deemed appropriate. If applied, CAP credit limits should consist of a tiered structure based on the household's FPIG level such that lower income households receive higher CAP credit limits.

(vi) *Exemptions.* A utility may exempt a household from maximum CAP credit or consumption limits if one or more of the following conditions exist:

(A) The household experienced the addition of a household member.

(B) A member of the household experienced a serious illness.

(C) Energy consumption was beyond the household's ability to control.

(D) The household is located in housing that is or has been condemned or has housing code violations that negatively affect energy consumption.

(E) Energy consumption estimates have been based on consumption of a previous occupant.

(4) *Eligibility criteria.* The CAP applicant should meet the following criteria for eligibility:

(i) Status as a utility ratepayer or new applicant for service is verified.

(ii) Household income is verified at or below 150% of the FPIG.

(5) *Payment-Troubled Criterion.* If appropriate, a utility may prioritize CAP enrollments or control CAP costs using a payment-troubled criterion. When determining if a CAP applicant is payment-troubled, a utility should apply one of the following criteria:

(i) A household that has a pre-program arrearage. The utility may define the amount of the pre-program arrearage.

(ii) A household that has received a termination notice or has failed to maintain a payment arrangement.

(6) *Late Payment Charges.* CAP customers should be exempt from late payment charges.

(7) *Appeal process.* The utility should establish the following appeal process for program denial:

(i) If the CAP applicant is not satisfied with the utility's initial eligibility determination, the utility should use utility company dispute procedures in §§ 56.151 and 56.152 (relating to general rule; and contents of the public utility company report).

(ii) The CAP applicant may appeal the denial of eligibility to the Bureau of Consumer Services in accordance with §§ 56.161—56.165 (relating to informal complaint procedures).

(8) *Administration.* If feasible, the utility should include nonprofit CBOs in the operation of the CAP. The provisions of § 69.265(8) apply to CAP services whether they are provided by the utility or by a third-party on behalf of the utility. The utility should incorporate the following components into the CAP administration:

(i) *Outreach.* A utility should develop and incorporate a Consumer Education and Outreach Plan as part of its USECP. Education and outreach may be conducted by nonprofit CBOs and should be targeted to low-income customers. The utility should make automatic referrals to CAP when a low-income customer calls to make payment arrangements.

(ii) *Intake and verification.* The utility should accept applications for CAP through mail, telephone, electronically or in-person. The utility should also offer online platforms that allow customers to submit CAP applications and documentation electronically. Intake and verification may be conducted by nonprofit CBOs on behalf of the utilities. Intake should include verification of the following:

(A) *Identification of the CAP applicant and household members.* The utility may request, but not require, Social Security numbers (SSNs) to verify identity. Household members should be permitted to provide alternative identification in lieu of SSNs. The utility should clearly explain the identification options on CAP applications and other communications.

(B) The annual household income.

(I) The utility should accept income documentation of at least the last 30 days or 12 months, whichever is more beneficial to the household. CAP applications and recertification letters should identify acceptable income timeframes and explain how each may benefit the customer.

(II) A household reporting zero income should complete the standardized zero-income form and provide additional verification, if necessary.

(C) The household size.

(D) The ratepayer status.

(E) The class of service—heating or nonheating.

(iii) *Calculation of payment.* Calculation of the monthly CAP payment should be the responsibility of the utility. The utility may develop a payment chart so that the assisting CBOs may determine payment amounts during the intake interview.

(iv) *Explanation of CAP.* A complete and thorough explanation of the CAP components should be provided to participants.

(v) *Application for LIHEAP grants.* The utility should inform a CAP participant of the participant's responsibility to apply for LIHEAP grants annually, as well as other energy assistance programs, if eligible.

(vi) *Consumer education, outreach and referral.*

(A) Consumer education and outreach plans should include information on benefits and responsibilities of CAP participation and the importance of energy conservation.

(B) Consumer education and outreach plans should be developed with input from USACs and reflect focused outreach and education efforts, specific to the demographics of the individual service territory, spanning the duration of the universal service plan period. The utility should include the following provisions in its plan:

(I) Specific efforts to educate and enroll eligible and interested customers at or below 50% of FPIG.

(II) Resources, translation services, and translated materials for those customers who are of Limited English Proficiency.

(C) Customer education should include referrals to other appropriate support services.

(vii) *Account monitoring.* Account monitoring should include both payment and energy consumption monitoring. A CAP participant's bills should be evaluated at least quarterly to determine whether the CAP credit amount and billing method is appropriate.

(viii) *Recertification.*

(A) A utility should recertify a participant's eligibility for CAP benefits within the following time frames:

(I) A household reporting no income should recertify at least every 6 months.

(II) A household with income that participates in LIHEAP annually should recertify at least once every 3 years.

(III) A household whose primary source of income is Social Security, Supplemental Security Income, or pensions should recertify at least once every 3 years.

(IV) All other CAP households should recertify at least once every 2 years.

(B) A utility should identify and implement more effective ways of communicating its recertification practices and procedures to CAP participants and improve its methods of collecting appropriate income information from customers in order to minimize disruption in CAP participation.

(ix) *Pre-program arrearage forgiveness.* Pre-program arrearage forgiveness should occur over a 1- to 3-year period contingent upon receipt of regular monthly payments by the CAP participant.

(A) A CAP participant should receive pre-program arrearage forgiveness for each on-time and in-full monthly CAP payment regardless of in-CAP arrears.

(B) A CAP participant should receive retroactive pre-program arrearage forgiveness for any monthly payment missed once the household pays in full its CAP balance/in-program arrears/debt.

(x) *Routine management program progress reports.* Progress reports that may be used to monitor CAP administration should be prepared at regular intervals. These reports should include basic information related to the number of participants, payments and account status.

(9) *Default provisions.* The failure of a participant to comply with one of the following should result in dismissal from CAP participation:

(i) Failure to abide by established consumption limits.

(ii) Failure to allow access or to provide customer meter readings in 4 consecutive months.

(iii) Failure to report changes in income or household size.

(iv) Failure to accept budget counseling, weatherization/usage reduction or consumer education services.

(v) Failure to recertify eligibility.

(10) *Transfer of service.* A CAP household should be able to retain program enrollment status when transferring service within the utility's, or an affiliate's, service territory.

(11) *Collection Activity.* A utility should initiate collection activity for CAP accounts after no more than two payments in arrears. A customer should not be removed or defaulted from CAP as a precursor to termination for non-payment.

(12) *Reinstatement policy.* A customer may be reinstated into CAP at the utility's discretion.

(13) *Evaluation.* The utility should thoroughly and objectively evaluate its CAP in accordance with the following unless otherwise modified in § 54.76 (relating

to evaluation reporting requirements) for EDCs or § 62.6 (relating to evaluation reporting requirements) for NGDCs.

(i) *Content.* The evaluation should include both process and impact components. The process evaluation should focus on whether CAP implementation conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to CAP participants at reasonable cost levels. At a minimum, the impact evaluation should include an analysis of the following:

(A) Customer payment behavior.

(B) Energy assistance participation.

(C) Energy consumption.

(D) Administrative costs.

(E) Program costs.

(ii) *Time frame.* Unless otherwise modified by § 54.76 or § 62.6, program impacts should be evaluated by an independent third-party at no more than 6 year intervals and submitted to the Commission. The impact evaluations should be filed and served at the utility's then-current USECP docket and submitted to the Bureau of Consumer Services.

(iii) *Evaluation plan approval.* The utility should submit the impact evaluation plan to the Bureau of Consumer Services for review and approval.

(14) *Industry-standardized forms.* Utilities are encouraged to develop and use standardized CAP forms and CAP procedures.

§ 69.266. Cost recovery.

(a) In evaluating utility CAPs for ratemaking purposes, the Commission will consider both revenue and expense impacts. Revenue impact considerations include a comparison between the amount of revenue collected from CAP participants prior to and during their enrollment in the CAP. CAP expense impacts include both the expenses associated with operating the CAPs as well as the potential decrease of customary utility operating expenses. Operating expenses include the return requirement on cash working capital for carrying arrearages, the cost of credit and collection activities for dealing with low income negative ability to pay customers and uncollectible accounts expense for writing off bad debt for these customers. When making CAP-related expense adjustments and projections, utilities should indicate whether a customer's participation in a CAP produced an immediate reduction in customary utility expenses and a reduction in future customary expenses pertaining to that account.

(b) In rate cases, parties may raise the issue of recovery of CAP costs, whether specifically or as part of universal service program costs in general, from all ratepayer classes. No rate class should be considered routinely exempt from CAP and other universal service obligations.

§ 69.267. Alternative program designs.

Alternative program designs that differ from §§ 69.261—69.266 and this section may reduce uncollectible balances and may provide low-income customers with needed assistance. These programs may be acceptable if the utility can provide support for design deviations. Before implementing an alternative program design, the utility should submit its proposal including an evaluation plan as described in § 69.265(13) (relating to CAP design

elements) to the Bureau of Consumer Services for review. Thereafter, if the utility determines to proceed with proposing the alternative program design, it will need to file and serve the proposed alternative program design as it would a proposed USECP that conforms to this policy statement. The proposed alternative program design should not be implemented until it has received Commission approval.

[Pa.B. Doc. No. 20-409. Filed for public inspection March 20, 2020, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 69]

[M-2019-3013158]

Rescission of Policy Statement Relating to Transportation of Passengers by Common Carriers in Allegheny County

The Pennsylvania Public Utility Commission, on October 24, 2019, rescinded its statement of policy relating to transportation of passengers by common carriers in Allegheny County because the passage of Act 61 of 2012 had rendered it obsolete.

Public Meeting held
October 24, 2019

Commissioners Present: Gladys Brown Dutrieuille, Chairperson; David W. Sweet, Vice Chairperson; Andrew G. Place; John F. Coleman, Jr.

Rescission of Policy Statement Relating to Transportation of Passengers by Common Carriers in Allegheny County;
Doc. No. M-2019-3013158

Final Policy Statement

By the Commission:

The Public Utility Commission (Commission) is rescinding a statement of policy to remove an obsolete provision from the *Pennsylvania Code*. By way of background, in 2012, Act 61 was enacted and amended various provisions of the Second Class County Port Authority Act. 55 P.S. §§ 561—563.7. Act 61 provided that the Commission has sole and exclusive jurisdiction over passenger transportation service provided in Allegheny County, other than service operated by or for a statutory Port Authority and non-jurisdictional service as defined in the Public Utility Code. Prior to passage of Act 61, the Commission's jurisdiction over passenger transportation service in Allegheny County was limited to taxicabs, school buses, and limousines. 66 Pa.C.S. §§ 1121—1124; *Port Authority of Allegheny County v. Pa. Public Utility Commission*, 431 A.2d 243 (Pa. 1981); 52 Pa. Code § 41.13 (see deletions in Annex A).

The Commission's now-obsolete policy statement at 52 Pa. Code § 41.13 (relating to transportation of passengers by common carriers in Allegheny County—statement of policy) reflects the state of regulation prior to enactment of Act 61. The rescission of this provision will reflect the current state of regulation and eliminate any possible confusion regarding the effect of Act 61 of 2012 on the Commission's jurisdiction over passenger transportation service provided in Allegheny County. See Implementation Order of Act 61, Docket Number M-2012-2318841 (Order entered August 30, 2012); *Therefore*,

It Is Ordered:

1. That the Policy Statement is rescinded, as set forth in Annex A.
2. That the Law Bureau shall submit this Order and Annex A to the Governor's Budget Office for review of its fiscal impact.
3. That the Law Bureau shall deposit this Order and Annex A with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
4. That the rescission of the Policy Statement shall become effective upon publication in the *Pennsylvania Bulletin*.
5. The Order and Annex A shall be posted and made available electronically on the Commission's website.
6. That the contact person for this matter is Christian McDowell, Assistant Counsel, Law Bureau, (717) 787-7466, cmcdowell@pa.gov.

ROSEMARY CHIAVETTA,
Secretary

Fiscal Note: 57-328. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart B. CARRIERS OF PASSENGERS OR PROPERTY

CHAPTER 41. GENERAL ORDERS, POLICY STATEMENT AND GUIDELINES ON TRANSPORTATION UTILITIES

TRANSPORTATION

§ 41.13. (Reserved).

[Pa.B. Doc. No. 20-410. Filed for public inspection March 20, 2020, 9:00 a.m.]

Title 55—HUMAN SERVICES

DEPARTMENT OF HUMAN SERVICES

[55 PA. CODE CH. 41]

Clarification of the Term "Mailing" Related to Agency Actions

This statement of policy applies to all providers enrolled in the Medical Assistance (MA) Program.

Purpose

The purpose of this statement of policy is to clarify the term "mailing" related to agency actions subject to the Department of Human Services (Department) regulations at 55 Pa. Code §§ 41.21(a)(1) and 41.32(a) (relating to notice of agency actions; and timeliness and perfection of requests for hearing).

Background / Discussion

The Department has received requests from MA providers to issue notice of agency actions electronically. MA regulations at 55 Pa. Code § 41.21(a) state that in the absence of a Department regulation that specifies the method in which the agency can provide notice of an action, the Department or program office may send notice by mail to the provider's most recent business address on