



COMMUNITY LEGAL SERVICES
OF PHILADELPHIA

June 23, 2010

By eFiling

Rosemary L. Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Philadelphia Gas Works' Petition to Modify its Universal Service and Energy Conservation Plans with Respect to the Customer Responsibility Program, Docket P-2010-2178610

Dear Secretary Chiavetta:

Enclosed for eFiling please find the Answer of TURN et al. to Philadelphia Gas Works' Petition to Modify its Universal Service and Energy Conservation Plans with Respect to the Customer Responsibility Program. Copies of the enclosed document have been served upon the parties as indicated on the attached Certificate of Service.

Very truly yours,

Philip A. Bertocci, Esquire
Thu B. Tran, Esquire

Attorneys for TURN et al.

cc: Certificate of Service

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of TURN et al.'s Answer to PGW's Petition to Modify its Universal Service and Energy Conservation Plans with Respect to the Customer Responsibility Program upon the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL

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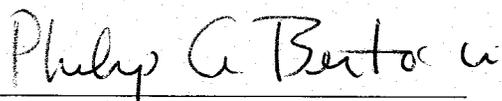
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June 23, 2010


Philip A. Bertocci, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Philadelphia Gas Works' Petition to Modify :
Its Universal Service and Energy :
Conservation Plans with Respect To The : Docket No. P - 2010-2178610
Customer Responsibility Program :

**ANSWER OF TURN ET AL. TO PHILADELPHIA GAS WORKS' PETITION TO
MODIFY ITS UNIVERSAL SERVICE AND ENERGY CONSERVATION PLANS
WITH RESPECT TO THE CUSTOMER RESPONSIBILITY PROGRAM**

The Tenant Union Representative Network (TURN) and Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance)(collectively "TURN et al."), through counsel Community Legal Services, Inc., hereby file the following answer pursuant to 52 Pa.Code §5.61 to the Philadelphia Gas Works' Petition to Modify its Universal Service and Energy Conservation Plans with Respect to the Customer Responsibility Program (hereinafter "Petition").

Introduction.

TURN et al. are two Philadelphia based low income consumer advocacy and membership organizations concerned, *inter alia*, with maintaining the access of low and lower income Philadelphia consumers to life essential natural gas service their homes. Many of TURN et al.'s members are either PGW customers or consumers of PGW gas service provided to their residences.

TURN et al. oppose the Petition to the extent that it seeks authorization to modify PGW's Customer Responsibility Program (CRP) as it operated during the past LIHEAP

year 2009-2010. During that year, CRP customers received an unvaried monthly bill based on 8%, 9% or 10% of their household income according to income tier. In addition, CRP customers were able to exercise their rights under federal law to obtain supplementary assistance, in addition to the discounts provided under CRP, by applying for LIHEAP Cash grants, and assigning them to PGW for application to past due CRP balances, their current CRP “asked to pay” amount, and/or to future CRP charges.

Specifically, TURN et al. oppose PGW’s proposal to assess a LIHEAP Cash Adjustment against CRP participants, in addition to the monthly charges based upon 8%, 9% or 10% of gross household income, according to income tier. The effect of the proposed LIHEAP Cash Adjustment is to partially nullify the benefit provided by the federal LIHEAP program to LIHEAP Cash recipients in the form of increased affordability of the life essential natural gas service provided by PGW to CRP customers. Moreover, this proposal is not consistent with the requirements which the Office of Income Maintenance, Commonwealth of Pennsylvania Department of Public Welfare (DPW) has announced regarding application of LIHEAP Cash grants to amounts owed by participants in Commission approved Customer Assistance Programs.

The proposal is further flawed in that it would result in unreasonable additional financial burdens on certain CRP participants depending on whether the state’s LIHEAP Cash program (closed annually in the April-October period) was open or closed at the time of the participant’s enrollment in CRP.

Finally, the Commission should not ignore the disastrous impact of this proposed change upon the many CRP customers who for one reason or another have historically not obtained a LIHEAP Cash grant or have obtained a grant and assigned it to PECO for

heat related service. These customers will be charged a monthly LIHEAP Cash Adjustment, but receive no offset to their CRP bills in the form of a LIHEAP Cash grant. Moreover, the financial impact upon these customers is greatest on the poorest of the poor. The amount of the monthly LIHEAP Cash Adjustment is linked to the amount of the LIHEAP Cash grant that a household will receive. The lower the monthly household income, the larger the potential LIHEAP Cash grant and the larger the LIHEAP Cash Adjustment.

TURN et al. do not oppose PGW's proposals to modify its Conservation Plan for CRP participants.

Answer.

1. Admitted.
2. Admitted in part; denied in part. It is denied that one goal of CRP was to "reduce collection costs while minimizing monetary burdens transferred to other (non-CRP) customers." To the contrary, the CRP designers did not believe that creation of this program entailed pitting the monetary interests of low income customers against those of non-low income customers, but rather a more general balancing of responsibilities and interests. The Recommended Decision adopted by the Philadelphia Gas Commission's January 24, 1994 Order and Resolution creating CRP did not identify the "minimizing of monetary burdens" on non-CRP participants as a goal, but rather the balancing of the Commission's responsibilities to low-income customers with its responsibility to all ratepayers to develop equitable and fiscally responsible policies.¹

¹ As the Commissioner who authored the Recommended Decision stated: "my goal was to develop recommendations that balance the Commission's responsibility to provide reasonable protection for low-income customers with the Commission's responsibility to all ratepayers to develop equitable and fiscally

3. Admitted in part; denied in part. After reasonable investigation, TURN et al. are without sufficient knowledge or information to form a belief as to the truth of the last sentence of the averment which states that the CRP customers' monthly payments are "designed ... as much as possible to reflect the Commission's determined 'energy burdens' that low income customers should be required to bear."

4. Admitted.

5. It is admitted that "[p]rior to the change in DPW's policies, the CAP credit was reduced by crediting LIHEAP Cash Grants against the CAP credit imposed on non-CRP recipients." It is admitted that such allocation of LIHEAP Cash Grants was "specifically authorized by the PUC policy statement on customer assistance programs"; by way of further answer, the PUC has frequently emphasized that a PUC policy statement is not enforceable and has no binding effect on the agency or on anyone else.

6. Admitted.

7. Admitted.

8. Regarding the terms of the LIHEAP Settlement, no answer is required because the Settlement speaks for itself. It is admitted that PGW consulted with TURN et al. regarding "changes proposed in light of the DPW mandate and/or the conservation incentive." As to the last sentence of the averment regarding PGW's attempts to address some of the concerns of the parties, TURN et al. after reasonable investigation, are without sufficient knowledge or information to identify any specific change effectuated

responsible policies. Such a balance is not easy to achieve; however, I believe that the recommendations contained in this report strike this balance by improving the payment assistance program for low-income individuals, strengthening PGW's collection practices, and improving support systems for all customers." *PGW's Customer Service Regulations/Energy Assurance Program*, Philadelphia Gas Commission Order and Resolution (January 24, 1994) incorporating "Recommended Decision for the Philadelphia Gas Commission. Proposed Changes to the Customer Service Regulations Contained in Tariff No. 9," dated September 22, 1993, at 4.

to address the concern of a party and therefore is without sufficient knowledge or information to form a belief as to the truth of the averment, which is therefore denied.

9. No answer is required to PGW's averment concerning the Rate Case Settlement, which speaks for itself. Whether PGW's conservation incentive proposal for CRP participants fulfills promises contained in the Rate Case Settlement is a conclusion of law to which no response is required.

10. Denied in part; admitted in part. TURN et al. deny that the fact that the CRP customer now receives the LIHEAP Cash Grant "directly necessitates a redesign of CRP" as proposed by PGW; to the contrary, PGW has already redesigned CRP for the 2009-2010 LIHEAP Year to accommodate the DPW mandate concerning the application of LIHEAP Cash Grants and needs to make no further alterations.

11. Denied; after reasonable investigation, TURN et al. are without sufficient knowledge or information to form a belief as to the "financial effect" of this change, both in terms of whether the subsidy will increase materially and in terms of whether other lower income ratepayers will be able to absorb any increase that might result. By way of further answer, the Commission itself has tentatively recognized that CRP customers presently shoulder energy burdens which are not affordable.²

12. Denied. The averment is a statement of law to which no response is required purporting to compare the CAP Policy Statement's "affordable household energy burden" standards with a different standard invented by PGW and its consultants for the purposes of this Petition. By way of further answer, PGW's so-called "net household energy burden" calculation assumes that every CRP household will receive a LIHEAP Cash

² *Proposed Revision to Policy Statement to Policy Statement on Customer Assistance Programs*, 52 Pa.Code §§ 69.261-69.267 (PUC Docket No. M-00072036, Order and Proposed Policy Statement, entered September 5, 2007), 2007 WL 2608784 (Pa.P.U.C.).

grant; the Modified Model further deems a portion of such grant as household income or resources, in violation of the federal Low Income Home Energy Assistance Act (hereinafter "LIHEAP Act"), as set forth at 42 U.S.C. § 8624(f).

13. Denied. It is denied that the DPW change eliminates the ability of CRP customers to have an unvaried monthly bill; to the contrary, even with the DPW change in LIHEAP year 2009-2010, PGW's CRP customers had an "unvaried" monthly bill. Neither the DPW change nor the LIHEAP Act prevents utilities with LIHEAP vendor status from providing an "unvaried" monthly bill. It is denied that an "unvaried" monthly bill was one of the unique benefits of CRP as originally designed; to the contrary, in the past year, CRP customers, under the revised program approved by the Commission, have been receiving "unvaried" bills reflecting a set percentage of their gross household income. By way of further answer, non-CRP low income customers have always been able to receive "unvaried" monthly bills through PGW's equal monthly billing plan, known as the "Easy-Way Budget Plan."

14. Admitted in part; denied in part. It is admitted that PGW retained Apprise as alleged in the first sentence of Paragraph 14, and that Apprise presented PGW with a Report containing three (3) alternative CRP models for consideration. It is denied that the three (3) alternatives presented by Apprise were the only "possible" CRP models; to the contrary, Apprise was limited in its inquiry by PGW preconditions, including, but not limited to the requirement that CRP customers compensate through higher monthly payments for the loss of the pooled offset to CAP credits which resulted from the DPW change.³ By way of further answer, other possible CRP models that Apprise could have

³ Apprise, *Philadelphia Gas Works Customer Responsibility Program Analysis and Recommendations. Final Report (April 2010)*, pp. ES4, 1-2, 17-18, 25-29, attached as Exhibit CC-1 to PGW's Petition.

considered, might have been based on lower energy burden targets, especially since in its pending proceeding regarding the revision to the CAP Policy Statement (PUC Docket M -- 00072036), the PUC itself has been questioning whether the energy burden targets set forth in the Section 69.265(2)(i)(B) of the CAP policy statement adequately reflect present day realities.

15. Denied. As to whether PGW's proposed Modified Model is truly "based on" the "findings of the Apprise Report and input from other parties" or only provides a rationale for PGW's predetermined goals, TURN et al. are after reasonable investigation without sufficient knowledge or information to form a belief as to the truth of the averment, which is therefore denied. It is further denied that the Modified Model is to the benefit of PGW and all of its customers. To the contrary, the Modified Model has many flaws, including but not limited to: (1) while purporting to allow PGW LIHEAP Cash recipients the full benefits of their LIHEAP Cash grant with one hand, the Company with the other hand takes away substantial portions of that grant by raising the "asked to pay" amount; (2) while purporting to benefit all PGW customers, the Company proposes a plan which would increase the "asked to pay" amount the most for its lowest income CRP participants, a substantial number of whom have historically not received LIHEAP Cash grants; (3) while purporting to benefit all customers, the Company proposes a plan which would charge a LIHEAP Cash Adjustment to CRP customers who assign their LIHEAP Cash grant to PECO for heat related service; (4) while purporting to benefit all customers, the Company proposes a plan which imposes greater "asked to pay" amounts on all CRP participants than was required in the 2009-2010 LIHEAP year.

16. Admitted in part; denied in part. It is admitted that the Modified Model would increase the customer's monthly "asked to pay" amounts by a Cash Grant Adjustment, a projected LIHEAP related dollar amount based on the total number of LIHEAP Cash Grants that will be obtained by CRP customers. It is denied that the Cash Grant Adjustment constitutes a credit; to the contrary, the Cash Grant Adjustment constitutes an additional charge imposed upon the CRP customer which must be paid from gross household income and/or from any LIHEAP Cash benefits which the customer obtains. It is denied that the Cash Grant Adjustment will result in CRP energy burdens approximating 8%, 9% and 10% of household income; to the contrary, adding the Cash Grant Adjustment to CRP bills would result in raising the actual energy burdens imposed on CRP customers, because LIHEAP Cash Grants under federal law may not be considered as part of gross household income in setting PUC CAP energy burden standards.

17. Admitted in part; denied in part. It is denied that PGW's proposed approach does not discriminate against or distinguish among those who actually receive a LIHEAP Cash grant and those who do not receive a LIHEAP Cash grant; to the contrary, PGW's Modified Model unreasonably discriminates against CRP participants who are or have been unable to obtain a LIHEAP Cash grant when it imposes a Cash Grant Adjustment on all CRP participants in full knowledge that substantial numbers of CRP participants will not be able to obtain LIHEAP Cash grants. It is denied that all CRP customers can avoid this discrimination by applying for and receiving a LIHEAP grant; to the contrary, in adopting this approach, PGW has shifted the risks associated with a household's potential inability to access LIHEAP Cash to its most vulnerable customers. By way of

further answer, the risk that has been shifted is substantial, because: (1) historical LIHEAP take-up statistics show that tens of thousands of CRP customers will not apply for or obtain LIHEAP Cash grants and assign them to PGW, since only approximately half of eligible customers apply for and obtain LIHEAP Cash grants during the limited six month LIHEAP season; (2) based on current DPW EASUM reports for Philadelphia, the amount of the LIHEAP Cash Adjustment (assuming that it is 50% of the anticipated LIHEAP grant) will range between \$135 and \$475 for households with annual income below \$9,000.⁴

18. Admitted in part; denied in part. As to whether the analysis set forth in the second, third and fourth sentences of the Paragraph, and the ensuing chart entitled “CRP Payment Comparison” is accurate, TURN et al. are after reasonable investigation, without sufficient knowledge or information to form a belief as to the truth of the averments, which are therefore denied.

19. Admitted in part; denied in part. Whether the Modified Model is “just and reasonable” is a conclusion of law to which no response is required. It is admitted that crediting the full amount of a CRP customer’s LIHEAP Cash grant constitutes a positive incentive for CRP customers to apply for available LIHEAP Cash grants. It is denied that the creation of a LIHEAP Cash Adjustment is necessary to incentivize CRP customers to apply for LIHEAP Cash grants and to assign them to PGW; to the contrary, the DPW policy requiring application of the LIHEAP Cash grant to the existing “asked to pay”

⁴ We have assumed for the purposes of this estimate that consistent with historical patterns, only about half of eligible CRP households will obtain LIHEAP Cash grants. The Apprise Report anticipates that about 55% of CRP participants will receive a LIHEAP Cash grant. Apprise, *Philadelphia Gas Works Customer Responsibility Program Analysis and Recommendations. Final Report (April 2010)*, p. 34, attached as Exhibit CC-1 to PGW’s Petition. Assuming CRP has 83,000 participants in FY2011, and only 50% obtain LIHEAP Cash grants, over 41,500 CRP customers would incur LIHEAP Cash Adjustment charges with no offsetting LIHEAP Cash grant.

amount is sufficient to accomplish that goal, without allowing PGW to increase the amount of the monthly CRP bill. It is denied that the Modified Model “will more fairly balance the financial effect of the DPW requirements on non-CRP ratepayers”; to the contrary, there is no fairness in increasing the already excessive allowable energy burdens of PGW’s poorest customers.

20. Admitted.

21. Admitted.

22. Admitted.

23. The averment is a statement supported by only two sentences of testimony regarding a general intention to take certain actions in the future. After reasonable investigation, TURN et al. are without sufficient knowledge or information to form a belief as to the truth of the averment, which is therefore denied.

24. Admitted.

25. The averment is a statement of general intention without explanation concerning what goals are to be achieved by the reporting commitments. After reasonable investigation, TURN et al. are without sufficient knowledge or information to form a belief as to the truth of the averment, which is therefore denied.

26. Admitted in part; denied in part. It is admitted that PGW proposes partially to retain a CRP structure which establishes a CRP participant’s monthly bill by applying a set percentage to the customer’s household income. It is denied that the changes proposed by PGW are immaterial or insubstantial; to the contrary, by proposing that the level of CRP charges be fixed to meet a net energy burden *after* application of imputed LIHEAP Cash grants, PGW has partially nullified the contribution that LIHEAP Cash

grants are intended to make to the individual customer's ability to afford PGW's natural gas service.

27. The averment is a statement of intention to which no response is required.

WHEREFORE, TURN et al. respectfully request that the Commission deny PGW's Petition to Modify Its Universal Service Plan.

New Matter.

28. TURN et al. incorporate Paragraphs 1-27 *supra* as if set forth in full herein.

29. On June 1, 2010, the Office of Income Maintenance, Commonwealth of Pennsylvania Department of Public Welfare (DPW) filed Comments (hereinafter "DPW Comments") in the Commission's proceeding captioned *Proposed Rulemaking: Universal Service and Energy Conservation Reporting Requirements and Customer Assistance Programs, Docket No. L-0007086*, a copy of which is attached hereto and incorporated herein as Exhibit A.

30. The DPW Comments state that DPW policy requires that LIHEAP Cash grants be applied as follows:

- First, to any past due CAP payment or "asked to pay" amount
- Second, to the current CAP payment or "asked to pay" amount, and
- Third, if any LIHEAP funds remain, they should be applied to future CAP payments until exhausted.⁵

31. PGW's Modified Model does not conform to DPW policy, in that it proposes to divide the customer's LIHEAP Cash grant into twelve segments to be applied over a twelve month period. If the LIHEAP Cash grant were applied in this way:

⁵ DPW Comments, *Proposed Rulemaking: Universal Service and Energy Conservation Reporting Requirements and Customer Assistance Programs, Docket No. L-0007086* (June 2, 2010), at 1.

a. the grant would not be available to pay any past due CAP payments or “asked to pay” amount;

b the grant would not be available as a credit to pay in full future asked to pay amounts in the circumstance when a CRP household is experiencing a financial emergency requiring diversion to another creditor of non-LIHEAP household financial resources normally earmarked for PGW.

32. The DPW Comments also state that DPW policy requires that a LIHEAP Cash grant must “be applied in full to the benefit of the individual eligible household that applies.”⁶

33. PGW’s Modified Model does not conform to DPW policy, because the Modified Model does not assure that the LIHEAP customer receives the benefits in the form of interest which would accrue to the grant balances in the period between its receipt by PGW and its application to the customer’s account over a twelve month period.

34. The DPW Comments also state that LIHEAP recipients are not to be treated “adversely” due to the fact that their payments derive in whole or in part from LIHEAP Cash grants.⁷

35. PGW’s Modified Plan does not conform to DPW policy because in circumstances when a customer enrolls in CRP after the close of the LIHEAP year, usually in late March or early April, the customer may be treated “adversely” due to his/her status as an actual or potential LIHEAP recipient. For instance, PGW will assess

⁶ *Id.*

⁷ *Id.*

a LIHEAP Cash Adjustment for several months which will not be offset by an actual LIHEAP Cash grant in the following circumstances:

a. when the customer already received a LIHEAP Cash grant in the prior LIHEAP year and used it to defray PECO or PGW utility bills, this new CRP participant will be charged a LIHEAP Cash Adjustment until the beginning of the next LIHEAP year in late October-early November which will not be offset by any LIHEAP cash grant;

b. when the customer who had not previously received a LIHEAP Cash grant enrolls in CRP between the end of the LIHEAP year and the issuance of DPW's LIHEAP matrix for the succeeding year, the customer may be charged a monthly LIHEAP Cash Adjustment for several months which will not be offset by any future LIHEAP Cash grant.

36. In each of the instances set forth in Paragraph 35a and 36a, a LIHEAP recipient or potential LIHEAP recipient participating in CRP will not receive the full benefit of his or her grant, because the LIHEAP Cash benefits will be less than the additional burdens arising from the LIHEAP Cash Adjustment.

37. PGW's Modified Model also treats LIHEAP Cash recipients who are CRP participants adversely, because it would charge any such participant a LIHEAP Adjustment Charge even when that participant has assigned his/her grant to PECO. In contrast, a low-income non-CRP customer receiving a LIHEAP Cash grant and assigning it to PECO would incur no additional PGW charge.

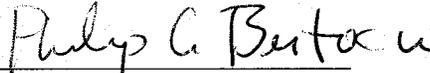
38. PGW's Modified Model also treats LIHEAP Cash recipients who are CRP participants adversely because in comparison with non-CRP LIHEAP recipients, the CRP participants are not allowed to credit the full balance of their LIHEAP Cash grant, after

payment of past due CRP bills and current CRP bills, to the full amount of future PGW bills until the balance is exhausted.

39. The Commission should not approve PGW's Modified Model, because, as set forth above, it proposes to utilize the LIHEAP Cash grants assigned to it by CRP customers in ways which are barred by DPW and which impair the benefits available to individual customers under the federal LIHEAP program.

WHEREFORE, TURN et al. respectfully request that the Commission deny PGW's Petition to Modify Its Universal Service Plan.

Respectfully submitted,



Philip A. Bertocci, Esq.
(PA Atty. I.D. No. 32329)
Thu B. Tran, Esq.
(PA Atty. I.D. No. 83086)

Attorneys for Tenant Union Representative
Network & Action Alliance of Senior Citizens of
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June 23, 2010

EXHIBIT A

**Comments of the Office of Income Maintenance,
Department of Public Welfare**

**Submitted on June 1, 2010 in the
Proposed Rulemaking: Universal Service and
Energy Conservation Reporting Requirements
and Customer Assistance Program,
Docket No. L-00070186**



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
P.O. BOX 2675
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LINDA T. BLANCHETTE
Deputy Secretary for
Income Maintenance

PHONE: (717) 783-3063
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JUN - 1 2010

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

Re: Docket No. L-00070186

Dear Secretary McNulty:

Enclosed please find for filing the comments from the Office of Income Maintenance, Department of Public Welfare in reference to the above-referenced proceeding.

As per instructions, an electronic version of these comments has been sent to: Stephanie Wimer, Law Bureau, stwimer@state.pa.us and Grace McGovern, Bureau of Consumer Services, gmcgovern@state.pa.us.

Sincerely,

Linda T. Blanchette

Enclosure

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To: Rosemary Chiavetta, Secretary
From: Linda Blanchette
Date: June 2, 2010
Subject: Comments on Docket No. L-00070186

The Pennsylvania Department of Public Welfare (DPW) recognizes the positive impact that Customer Assistance Programs (CAP) have on low income households and applauds the Pennsylvania Utility Commission (PUC) for supporting the establishment of these programs in the commonwealth.

DPW administers the Low Income Heating Energy Assistance Program (LIHEAP), with responsibility for compliance with federal statute, program planning, budget development and management, eligibility determination and benefit issuance, and quality assurance and monitoring. Within this context, DPW must ensure that LIHEAP funds are applied in a manner that is consistent with federal law, specifically:

- 42 U.S.C. § 8621(a) showing Congress' intent that the LIHEAP cash grants meet the immediate home energy needs of households, not bills and arrearages for past energy usage that have accumulated over time, especially if those bills will be forgiven through a customer assistance program.
- The definition also ensures that Pennsylvania complies with the LIHEAP statute sections 42 U.S.C. § 8624(b)(5) - "the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size" and
- 42 U.S.C. § 8624(b)(7)(B), which requires that states establish procedures to assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the LIHEAP payment made by the State.

These provisions require that LIHEAP funds must be applied in full to the benefit of the individual eligible household that applies, that LIHEAP grants are used to help the household meet their immediate heating needs, that LIHEAP customers are not treated adversely, and that the department must be able to monitor that LIHEAP funds are used in accordance with federal statute.

In response to concerns raised by the US Department of Health and Human Services, DPW has clarified and strengthened the policy regarding the manner in which a LIHEAP cash grant is applied to the account of a customer participating in a Customer Assistance Program (CAP). The policy requires that the grant be applied as follows:

- First, to any past due CAP payment or 'asked to pay' amount,
- Second, to the current CAP payment or 'asked to pay' amount, and
- Third, if any LIHEAP funds remain, they should be applied to future CAP payments until exhausted.

By applying the LIHEAP cash grant in this manner, DPW can be assured that payments are made consistent with federal statute as noted above.

Some objections have been raised about this payment methodology and the potential impact on CAP designs, particularly the potential impact on other rate payers as LIHEAP grants will no longer be used to reduce CAP credits or otherwise subsidize a CAP design.

While DPW acknowledges these concerns, the department continues to believe that the policy as set forth is consistent with federal law and, more importantly, is the most beneficial application of LIHEAP funds to ensure the health and safety of eligible LIHEAP recipients. At an eligibility level of 150% of Federal Poverty Income Guidelines (FPIG), LIHEAP recipients are among the most vulnerable in the commonwealth. Moreover, 31% of LIHEAP recipients are elderly, 35% are living with a disability, and 18% have children who are under 5 years of age in the household. For these households, keeping up with expenses is a continuous struggle and getting the full benefit of the LIHEAP grant to help with utility bills is essential to their health and safety.

To illustrate this point, consider the following example:

LIHEAP CAP customer		Non LIHEAP CAP Customer	
Income	\$15000	Income	\$15000
Annual usage based bill	\$1500	Annual usage based bill	\$1500
Annual CAP credit	\$250	Annual Cap Credit	\$250
Net annual bill	\$1250	Net annual bill	\$1250
Monthly CAP payment	\$105	Monthly CAP payment	\$105
LIHEAP grant	\$300	LIHEAP grant	\$0
Monthly CAP payment	\$105	Monthly CAP payment	\$105

In this example, the LIHEAP household received no benefit from the LIHEAP grant to meet their immediate heating needs, which is the monthly out of pocket CAP payment. The household is in the exact same position they would have been had they not applied and been determined eligible for a LIHEAP cash grant.

Under DPW's policy, the \$300 LIHEAP grant would mean that the household would have the means to pay the \$105 CAP payment for almost three full months, assuring that they could stay current with their CAP payments and avoid utility shut off. It is reasonable for these households, who have applied and have been determined eligible for a LIHEAP cash grant, to expect that the grant will be used as intended to pay their monthly utility bill. DPW remains open to discussion with the PUC and individual regulated utility companies about options for CAP designs that assure that the individual household that applies and is eligible for a LIHEAP cash grant receives the full benefit of the grant to meet their immediate heating needs.

Low income, vulnerable households face very real challenges in meeting basic needs such as housing, utilities, food, transportation and clothing. In most cases, housing alone consumes about 30% or more of the household income, leaving little to address the other areas of need. A basic LIHEAP grant means not only help with utility payments during the coldest winter months; it may also mean that for those few months they may be better able meet some other critical needs.

Utility companies have argued that the DPW policy unduly burdens the ratepayers who support the CAP design, including those who are low income but who have not applied for LIHEAP. DPW has not been provided with any data to support this position; however, the department has considered this argument by using the example of Philadelphia Gas Works (PGW), which is the utility company with the highest dependence on LIHEAP funds to support their CAP program as well as the highest cost per ratepayer for universal services spending. The average universal service spending by PGW ratepayers is \$220.05 per year, which is 66% higher than the average spending by customers of other natural gas utilities.

On average over the last ten years, \$18 million dollars in LIHEAP cash grant funding is directed to PGW each year. It is DPW's understanding that approximately \$15 million in LIHEAP funding is directed to the Customer Responsibility Program (CRP). Cash grants to the CRP customers were not applied to the accounts of the eligible, approved LIHEAP households; rather, PGW has used that amount to support the CRP, thereby reducing the burden on other ratepayers at the expense of individual LIHEAP households.

If it is true that PGW must shift that cost from the individual LIHEAP households to the 481,000 PGW ratepayers, the additional cost will be approximately \$2.60 more per month per household. While any rate increase can be difficult, a \$2.60 monthly increase to other ratepayers is substantially less burdensome than the loss of an average cash grant of \$230 by a very low income eligible LIHEAP household whose grant is not applied in full to their account.

Compared to PGW's annual spending rate of \$220.05 per customer, on average, universal service spending by electric rate payers is \$43.45 per year. For natural gas customers, the amount is \$74.32.¹ These lower annual costs mean that any rate increase resulting from the DPW LIHEAP policy will be substantially lower than the \$2.60 per month estimated impact on PGW customers. Here again, we see a stark comparison between the current costs and assumed increase to rate payers versus the loss of a \$230 LIHEAP cash grant to a very low income household.

DPW believes that the policy of applying the LIHEAP cash grant to the account of the eligible, approved household is consistent with the letter and intent of federal law. Moreover, the policy assures that the funds are appropriately directed to ensure the health and safety of low income, vulnerable households in a manner that is equitable and accountable.

¹ Pennsylvania Utility Commission. Appendix 8 – Universal Service Programs Spending Levels and Cost Recovery Mechanisms

Opponents of the DPW policy also cite examples of other states where LIHEAP grants are used in the calculation of the targeted energy burden. These examples generally involve programs that are statewide and programs that have targeted energy burdens that are significantly lower than Pennsylvania's targeted energy burden of up to 17% as provided in the Policy Statement for CAP. Even the Commission's proposed lower targeted energy burden of 10% is still significantly higher than the 6% in New Jersey and Illinois, the 5% in Colorado, and the 2.46% in Nevada. The establishment of a statewide program with lower targeted energy burdens would certainly promote more effective coordination with LIHEAP and further support the goal of achieving actual affordability of life-essential utility service to low income households.

Therefore, DPW would also like to express support for the proposed changes to set a maximum energy burden of 10% or less for Pennsylvania's CAP designs, and to allow for a deduction of at least 20% from all earned income to compensate for taxes and other expenses when determining the energy burden.

These changes, along with full compliance with DPW's LIHEAP policy, will result in more affordable utility bills for low income households, therefore promoting the health and safety of families across the commonwealth.

Thank you for the opportunity to comment.

VERIFICATION

I, Philip Lord, hereby state that the facts contained in the foregoing Answer are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

Date:

7/18/2010



Executive Director

Tenant Union Representative Network