

PENNSYLVANIA UTILITY LAW PROJECT

**118 LOCUST STREET
HARRISBURG, PA 17101-1414**

**JULIE GEORGE, ESQ.
JGEORGEPULP@PALEGALAID.NET**

**PHONE: (717) 236-9486, EXT. 214
FAX: (717) 233-4088**

July 7, 2010

VIA ELECTRONIC FILING (E-FILING)

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

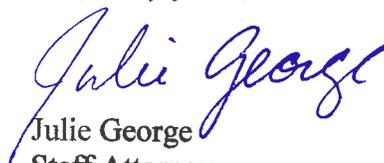
**Re: Pa. PUC v. PPL Electric Utilities Corporation
Docket No. M-2010-1505410**

Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned proceeding, please find the comments of the Pennsylvania Utility Law Project. These comments are submitted pursuant to the Commission Opinion and Order in this proceeding entered June 17, 2010.

If you have any questions, please do not hesitate to contact me directly.

Very truly yours,



Julie George
Staff Attorney
Pennsylvania Utility Law Project
118 Locust Street, Harrisburg, PA 17101
jgeorgepulp@palegalaid.net

Enclosures
cc: Cert. of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Pennsylvania PUC v.
PPL Electric Utilities Corporation**

Docket No. M-2010-1505410

CERTIFICATE OF SERVICE

I hereby certify that I have today served a true copy of the foregoing Comments upon the parties of record in this proceeding listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA FIRST CLASS MAIL

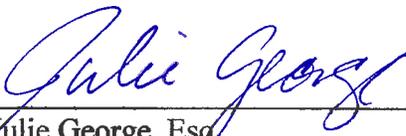
Irwin A. Popowsky, Esq.
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, Pennsylvania 17101-1923

William A. Lloyd, Jr., Esq.
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Kriss E. Brown, Esq.
Assistant Counsel
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

Joseph Farley
Grace McGovern
Bureau of Consumer Services
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17102-3265

Paul E. Russell, Esq.
Timothy R. Dahl
Associate General Counsel
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101-1179



Julie George, Esq.
Atty. No. 208482
John C. Gerhard, Esq.
Atty. No. 94809
Harry S. Geller, Esq.
Atty. No. 22415

Pennsylvania Utility Law Project
118 Locust Street, Harrisburg, PA 17101

Dated: July 7, 2010

**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

**Pa. Public Utility Commission, Law
Bureau Prosecutory Staff v. PPL
Electric Utilities**

Docket No. M-2010-1505410

**COMMENTS OF THE
PENNSYLVANIA UTILITY LAW PROJECT**

Julie George
Staff Attorney
PA Attorney I.D. #208482
E-mail: jgeorgepulp@palegalaid.net

John C. Gerhard
Staff Attorney
PA Attorney I.D. # 94809
E-mail: jgerhardpulp@palegalaid.net

Harry S. Geller
Executive Director
PA Attorney I.D. # 22415
E-mail: hgellerpulp@palegalaid.net

Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414
Phone: (717) 236-9486, ext 214
Fax: (717) 233-4088

Dated: July 7, 2010

I. INTRODUCTION

The Pennsylvania Utility Law Project (“PULP”) respectfully submits these comments in the above-captioned proceeding regarding Settlement Agreement between PPL Electric Utilities Corporation (“PPL”) and the Law Bureau Prosecutory Staff (“Law Bureau”).¹

PULP’s comments are in response to the Settlement Agreement’s recommendations to alter the contract language governing subcontractors in the WRAP program and enhance energy conservation education efforts.² PULP supports both of these recommendations. PULP recognizes the benefits of the PPL Low Income Usage Reduction Program (“LIURP”) and supports its continued growth and expansion of services. However, we encourage the Commission to monitor this program continually to ensure the public interest is served by maximizing the benefits of the program through efficient and effective administration. PULP supports the Commission in promoting and approving settlement agreements which provide for the development of public utility company LIURPs and other Universal Service programs as they are being continually monitored and improved upon. PULP respectfully submits these comments pursuant to the Opinion and Order entered on June 17, 2010.³ PULP, part of the Pennsylvania Legal Aid Network, a nonprofit network of legal service providers representing the interests of low income Pennsylvanians, is the specialized project providing statewide representation, advice, and support in energy and utility matters related to low income, residential utility consumers. PULP thanks the Commission for this opportunity to be heard on this issue.

¹ Ordering paragraph number 4 of the Commission’s Opinion and Order entered June 17, 2010 states, “That, subsequent to the Commission’s review of the comments filed in this proceeding, a final Opinion and Order will be issued.”

² *Pa. Public Utility Commission Law Bureau Prosecutory Staff v. PPL Electric Utilities Corporation*, Docket No. M-2010-1505410, (Settlement Agreement filed April 22, 2010) ¶ 20.

³ *Pa. Public Utility Commission Law Bureau Prosecutory Staff v. PPL Electric Utilities Corporation*, Docket No. M-2010-1505410, (Order entered June 17, 2010).

II. BACKGROUND

This proceeding involves reports of incomplete, inadequate, inappropriate and inefficient work performed by PPL, its contractors and subcontractors under PPL's LIURP, also known as Winter Relief Assistance Program ("WRAP")⁴. On May 6, 2008, Prosecutory Staff initiated an informal investigation of PPL. The Prosecutory Staff requested documents related to PPL's LIURP program and had settlement negotiations with representatives from PPL over several months. If the matter had been litigated, the Prosecutory Staff would have alleged: 1) "PPL's LIURP management practices failed to assure that PPL provided equipment was not used by contractors and subcontractors on non-PPL projects, resulting in increased program costs", a violation of 52 Pa. Code §54.73(b)(4); 2) "PPL's LIURP management practices failed to ensure that appropriate conservation and energy efficiency awareness education was provided to LIURP recipients", a violation of 52 Pa. Code § 58.13(a); and 3) "PPL's LIURP management practices failed to ensure that appropriate LIURP measures were properly installed in a cost effective manner on six LIRUP recipients' dwellings", a violation of 52 Pa. Code § 58.14(a)-(b) and 52 Pa. Code §54.73(b)(4).⁵

Commission Staff and counsel for PPL conducted settlement negotiations that resulted in the Agreement filed on April 22, 2010.⁶ The Settlement requires PPL to revise its WRAP contract to prohibit contractors and subcontractors from using PPL supplied equipment for private or for-profit use. The Settlement Agreement also requires the WRAP Energy Educator to complete a two-part form called the Actions to Save, with specific recommendations for the customer. One copy must be left with the customer and a copy must also be sent to the

⁴ *Pa. Public Utility Commission Law Bureau Prosecutory Staff v. PPL Electric Utilities Corporation*, Docket No. M-2010-1505410, (Order entered June 17, 2010) at 2-3.

⁵ *Id.* at 3.

⁶ *Pa. Public Utility Commission Law Bureau Prosecutory Staff v. PPL Electric Utilities Corporation*, Docket No. M-2010-1505410, (Settlement Agreement filed April 22, 2010).

appropriate Universal Service representative. Additionally, follow up with 5% of customers to ensure they received energy education is required.

On June 17, 2010, the Commission entered an Opinion and Order opening the Settlement Agreement to public comment.⁷

III. COMMENTS

A. PULP Supports Enhanced Consumer Education and More Rigorous Subcontractor Terms

PULP supports the Settlement Agreement and, furthermore, supports and endorses the Commission monitoring and modifying LIURP in direct response to complaints and flaws. PULP's support is based on the fact that these agreement terms are in the public interest, solidly grounded on both legal and public policy foundations.

The general powers granted in Title 66, Chapter 5 and the specific charge contained in Title 66, Chapter 15 to ensure public utilities provide safe and reasonable service combine to provide authority to the Commission to review and approve settlement agreements, both formally and informally.⁸ These general powers are made explicit in Title 52, Chapters 3 and 5 of the Pennsylvania Code, wherein the Commission expressly reserves the right to review settlement agreements.⁹

Statutory directives in the *Restructuring of Electric Utility Industry Act* also support the Commission's actions to review and approve settlement agreements and ensure programs are operated in an efficient manner. The *Act* states:

⁷ *Pa. Public Utility Commission Law Bureau Prosecutory Staff v. PPL Electric Utilities Corporation*, Docket No. M-2010-1505410, (Order entered June 17, 2010).

⁸ 66 Pa.C.S. §§ 501, 504—506, and 1501.

⁹ 52 Pa. Code §§ 3.113 and 5.232.

“The commission shall ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric distribution territory...The commission shall encourage the use of community-based organizations that have the necessary technical and administrative experience to be the direct providers of services or programs which reduce energy consumption or otherwise assist low-income customers to afford electric service. Programs under this paragraph shall be subject to the administrative oversight of the commission, which shall ensure that the programs are operated in a cost-effective manner.”¹⁰

This language requires that the Commission ensure Universal Service programs are adequately funded and that funding is being administrated properly. These goals are advanced by the Commission enhancing the accountability of PPL’s subcontractor policies and conservation and energy efficiency education practices.

The Commission has made it a longstanding policy to encourage settlement agreements between parties on grounds of administrative efficiency.¹¹ The Commission recently adopted a Policy Statement which established standards for determining whether a proposed settlement is in the public interest.¹² This Policy Statement provides flexibility to the Commission and parties in crafting settlement agreements. In promulgating the Policy Statement codified at 52 Pa. Code §69.1201, the Commission stated:

Commission precedent may be considered in both litigated and settled cases; however, parties in settled cases will have flexibility in determining whether and how this factor should be applied within the specific facts of the case in order to develop innovative solutions and to reach an equitable agreement.¹³

¹⁰ 66 Pa. C.S. § 2804(9).

¹¹ 52 Pa. Code § 5.231(a).

¹² The *Final Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations* became final on December 22, 2007, upon publication in the Pennsylvania Bulletin. See 37 Pa.B. 6755 (December 22, 2007).

¹³ *Id.* at 6758 (December 22, 2007).

Prior to approving a settlement agreement, the Commission must review it to ensure it is in the public interest.¹⁴ A settlement agreement, such as the one at issue in this proceeding, is in the public interest because: (1) consumer education is a vital part of any usage reduction program, and (2) ensuring all LIURP dollars go towards LIURP-only expenses maximizes the benefits all interested parties receive from the program. It is a hugely important task to ensure that LIURP programs are run effectively and efficiently. A recent long-term study by the Consumer Services Information Project of Penn State University stated, “LIURP is successful in both reducing energy consumption and heating energy arrearages in treated homes.”¹⁵ Specifically, energy education services are positively associated with reduced arrearage.¹⁶ Conservation and energy efficiency education “plays an important role in both the reduction of energy consumption and the reduction in energy bill arrearage.”¹⁷ Making PPL more accountable in its delivery of consumer education and the use of its program dollars for LIURP-only projects increases these benefits for all. PULP therefore supports the Settlement Agreement terms to enhance conservation and energy efficiency education and strengthen subcontractor terms for use of funding.

B. LIURP Benefits Are Strengthened by Enhanced Consumer Education and More Rigorous Subcontractor Terms

Improvements to LIURP programs, particularly ones that eliminate waste and promote further savings, increase all the residual benefits of the program. A settlement agreement improving LIURP is in the public interest because: (1) LIURP cost effectively reduces energy consumption among low income families; (2) LIURP reduces the overall cost of service for

¹⁴ *Pa. PUC v. Philadelphia Gas Works*, Docket No. M-00031768, (Order entered January 7, 2004).

¹⁵ John Shingler, *Long Term Study of Pennsylvania's Low Income Usage Reduction Program: Results of Analyses and Discussion*, Consumer Services information Project of Penn State University, January 2009, at p. 47.

¹⁶ *Id.* at 43.

¹⁷ *Id.* at 46.

residential ratepayers now and into the future; (3) LIURP has a beneficial economic effect in the Commonwealth; and (4) LIURP can improve the health and well-being of low income families. The Commission serves the public interest most by directing settlement payments into this Universal Service program.

1. *LIURP cost effectively reduces energy consumption.* LIURP has been shown in numerous reports and studies to cost effectively reduce energy consumption among low income households. The Commission's own analysis supports the conclusion that LIURP treatment can result in significant reductions in energy consumption.¹⁸ Moreover, LIURP reduces energy consumption in a cost effective manner, meaning that the money spent on the program is a smart investment, not just a means to reduce energy consumption.¹⁹

This cost effective reduction of energy consumption is in accord with Federal and state policy directives. The Federal government recognizes the importance of and has passed legislation supporting energy conservation. The Department of Energy's Weatherization Assistance Program²⁰ and the Department of Health and Human Services' Low Income Home Energy Assistance Program²¹ are both excellent examples of the Federal government's commitment to energy conservation, as both of these programs, year after year, weatherize low income households in much the same way that LIURP does. Additionally, the American Recovery and Reinvestment Act of 2009 includes sizeable appropriations for weatherization and conservation activities as a means of spurring economic activity and reducing energy consumption.²²

¹⁸ See on the Commission's website the annual *Reports on Universal Service Programs and Collections Performance* by the Bureau of Consumer Services documenting consistent household energy savings as a result of LIURP treatment. Found at www.puc.state.pa.us/general/publications_reports/publications_reports_yearly.aspx.

¹⁹ Shingler, at p. 47.

²⁰ See, 42 U.S.C. §6861 et seq.; 42 U.S.C. §7101 et seq.; 10 C.F.R. §440.1 et seq.

²¹ See, 46 U.S.C. §2601 et seq.; 45 C.F.R. §96.80 et seq.

²² See Section 407, Public Law 111-5 on 2/17/200. Retrieved from <http://frwebgate.access.gpo.gov/cgi->

Pennsylvania recognizes the value of energy conservation and reducing the cost of energy for Pennsylvanians and has recently enacted sweeping pieces of legislation designed to foster alternative energy and energy conservation: the Alternative Energy Portfolio Standards Act of 2004,²³ the Alternative Energy Investment Act of 2008,²⁴ and Act 129 of 2008.²⁵

Because the LIURP program cost effectively reduces energy consumption among low income families, the program is directly in support of Federal and state policy. Tightening provisions in LIURP contracts to more securely guarantee the funds are being used in a cost effective manner as part of a settlement agreement is in the public interest.

2. *LIURP reduces energy costs for other residential ratepayers.* The energy usage reductions LIURP creates lead to direct savings in energy expenditures for LIURP participants. Each of the Commission's *Reports on Universal Service Programs and Collections Performance* issued this decade confirms that low income natural gas households accrue considerable energy savings that yield a significant monetary benefit to the LIURP participant. This average annual energy savings can range from 7%-10%²⁶ This monetary savings makes sense – reduced energy consumption leads to lower bills.

The impact of these monetary savings is important because it goes beyond low income LIURP participants to benefit all Pennsylvania ratepayers. Other residential ratepayers benefit from the reduced energy consumption of low income households achieved through LIURP because other residential customers are required to share in the cost of the Universal Service programs that serve low income families. Reducing energy consumption results in lower Universal Service costs. Additionally, LIURP participants tend to have lower arrearage levels

[bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf](#) on 7/7/09.

²³ 73 P.S. §1648.1 et seq.

²⁴ Pa. H. Bill No. 1, Printer's No. 86 (enacted July 9, 2008).

²⁵ Pa. H. Bill No. 2200, Printer's No. 4526 (enacted Oct. 15, 2008).

²⁶ See www.puc.state.pa.us/general/publications_reports/publications_reports_yearly.aspx for copies of these reports.

after LIURP treatment,²⁷ which means that fewer uncollectible dollars must be accounted for in the rates of residential ratepayers. Overall, then, LIURP reduces the costs for both low income and non low income residential ratepayers. It is imperative that all available LIURP dollars are effectively used to reduce costs for all PPL ratepayers. PULP therefore supports the Settlement Agreement term to strengthen subcontractor contract terms to ensure LIURP funds stay within the program.

3. *LIURP has a beneficial economic effect for Pennsylvania.* Weatherization programs, like LIURP, have been shown to produce substantial economic benefits in the communities in which they exist. Much of the economic impact from weatherization programs like LIURP is in the creation of good, stable jobs; these jobs have good wages, which circulate back into the local economy and further stimulate local economic activity and development.²⁸ Some studies have found that “investments in low income energy efficiency would produce an impact that is more than 23 times the original investment.”²⁹ Pennsylvania’s own Department of Community and Economic Development (“DCED”) recognizes the power of weatherization funding to stimulate job creation and the local economy. In its plan submitted to the Department of Energy outlining its intention to use stimulus funds provided through the American Recovery and Reinvestment Act of 2009, DCED claims that it will put 940 Pennsylvanians to work through the investment of Federal funds into local weatherization activities.³⁰

Because investments into weatherization programs like LIURP have positive economic benefits for ratepayers and local economies, benefits which are clearly in the public interest, the

²⁷ Almost forty percent of electric LIURP participants reduced their arrearage after LIURP treatment. See Shingler, at pp. 41-42.

²⁸ Jerry Oppenheim and Theo MacGregor, *Energy Efficiency Equals Economic Development*, June 2008 Report for Entergy, at p. 33. Retrieved from <http://www.democracyandregulation.com/> on June 23, 2009.

²⁹ Oppenheim and MacGregor at p. 33.

³⁰ Dept. of Community and Economic Development, *Pennsylvania ARRA Weatherization State Plan for Program Years 2009-2012*, at p. 1. Retrieved from <http://www.newpa.com/strengthen-your-community/redeveloping-your-community/housing/weatherization/index.aspx> on June 23, 2009.

Commission should approve the improvements to the LIURP program outlined in this settlement agreement.

4. *LIURP can improve the health and welfare of low income families.* Households who are able to reduce energy expenses as a result of LIURP treatment may be able to redirect their limited resources to prevent termination of service or to afford other life-essential necessities, thereby improving the welfare of the entire household.

It is well substantiated that low income families often face a dilemma in determining where to spend their limited resources in the face of high energy bills.³¹ Because of limited income and nonexistent savings, low income families must choose between paying for utility service and paying for other life essential necessities, such as food, medicine, and/or clothing. “Convergent evidence suggests that the periodic stress of home heating and cooling costs may adversely impact the health and nutritional status of children and other vulnerable populations.”³² That is, because low income households often have insufficient money to pay for all their basic needs, they will cut back on food and medicine, thereby imperiling the safety of household members, often the very young and the very old, just so they can pay to keep the heat on.

As noted earlier in these comments, participation in LIURP can produce significant energy usage reductions for a household, and these reductions can yield an average energy savings of \$373 for the household.³³ LIURP households, because of the money saved from

³¹ See Deborah A. Frank, Nicole B. Neault, Anne Skalicky, John T. Cook, Jacqueline D. Wilson, Suzette Levenson, Alan F. Meyers, Timothy Heeren, Diana B. Cutts, Patrick H. Casey, Maureen M. Black and Carol Berkowitz, *Heat or Eat: The Low Income Home Energy Assistance Program and Nutritional and Health Risks Among Children Less Than 3 Years of Age*, *Pediatrics* 2006; 118; 1293-1302. Retrieved on June 23, 2009 from <http://www.childrenshealthwatch.org/page/PublicationsTopic/#Site>. See also *Fuel for Our Future. Impacts of Energy Insecurity on Children's Health, Nutrition, and Learning*. Children's Sentinel Nutrition Assessment Program (C-SNAP) in collaboration with Citizens Energy Corporation, September 2007. Retrieved on April 4, 2008 from http://www.c-snap.org/upload/resource/fuel_for_our_future_9_18_07.pdf.

³² See *Heat or Eat: The Low Income Home Energy Assistance Program and Nutritional and Health Risks Among Children Less Than 3 Years of Age*, at pp. 1294-1295.

³³ Bureau of Consumer Services, *2008 Report on Universal Service Program and Collections Performance*, at p. 36.

energy usage reductions, have additional resources with which to purchase clothing, nutritious food, and medicine. As a result, household members may enjoy improved health and well-being.

LIURP can help improve the health and welfare of low income families by freeing up money from energy expenditures to be used to purchase other life essential necessities. This results in improved health for the family, a clear public policy benefit. Because LIURP can improve family health and well-being, ensuring this program is effectively administrated as it continues to grow and expand its services is in the public interest.

CONCLUSION

It is clear that the Commission has the legal authority to review, revise, and approve settlement agreements that are in the public interest. It is also clear that the Commission acts in the public interest when it approves settlement agreements in which problems are addressed and improvements are made to existing Universal Service Programs. PULP supports the Settlement Agreement in this proceeding and would respectfully request the Commission to approve this Agreement.

Thank you for this opportunity to submit these comments on this matter of importance to low income families throughout Pennsylvania.

Respectfully submitted,


Julie George, Esq.
John C. Gerhard, Esq.
Harry S. Geller, Esq.

Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414
Phone: (717) 236-9486, ext 214
Fax: (717) 233-4088

Dated: July 7, 2010