

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held April 15, 2004

Commissioners Present:

Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice-Chairman
Glen R. Thomas
Kim Pizzigrilli
Wendell F. Holland

DOCKETED
JUN 01 2004

Docket No. M-00041788

PECO's Universal Service and Energy
Conservation Plan Submission in
Compliance with 52 Pa. Code § 54.74

**DOCUMENT
FOLDER**

ORDER

BY THE COMMISSION

On January 29, 2004, PECO, an Exelon Company, (PECO) filed its final version of the above-captioned filing at Docket No. M-00041788 pursuant to the Commission's regulations at 52 Pa. Code § 54.71, et seq.

I. Introduction and Background

On December 3, 1996, the Electricity Generation Customer Choice and Competition Act (Act), 66 Pa. C.S. §§ 2801-2812, was enacted. In opening up the electric generation market to competition, however, the General Assembly was also

concerned about ensuring that electric service remained universally available to all customers in the Commonwealth. The Act, therefore, includes several provisions relating to electric universal service.

The Act defines “universal service” as the policies, protections and services that help low-income customers maintain their electric service. 66 Pa. C.S. § 2803. The term includes customer assistance programs and usage reduction programs. Section 2802(10) requires that “the Commonwealth must, at a minimum, continue the protections, policies and services that now assist customers who are low-income to afford electric service.” 66 Pa. C.S. § 2802(10). The Act also requires the Commission to ensure that universal service programs assist low-income customers to afford electric service, and that these programs are appropriately funded and available in each electric distribution territory. 66 Pa. C.S. § 2804(9).

To help meet its obligations under the Act, the Commission established standard *Universal Service and Energy Conservation Reporting Requirements*. 52 Pa. Code §§ 54.71-54.78. Section 54.74 of these regulations requires an Electric Distribution Company (EDC) to submit to the Commission for approval an updated universal service and energy conservation plan every three years. These regulations also require an EDC to have an independent third-party conduct an impact evaluation of its universal service and energy conservation programs and to provide a report of findings and recommendations to the Commission and the EDC. 52 Pa. Code § 54.76.

Pursuant to the *Universal Service and Energy Conservation Reporting Requirements* at 52 Pa. Code § 54.74(a)(1), PECO submitted a universal service and energy conservation plan on October 10, 2003 to the Commission’s Bureau of Consumer Services (BCS). The BCS requested several clarifications. PECO provided all but one of the clarifications; namely, a list of low-income usage reduction program (LIURP)

measures, in its official submission to the Commission's Secretary on January 29, 2004. In January 2003, PECO submitted to BCS the *Evaluation of PECO Energy Universal Service Program* (Evaluation) completed by H. Gil Peach & Associates, an independent program evaluator, pursuant to the Commission's regulations at 52 Pa. Code § 54.76. PECO's universal service and energy conservation plan is available for review on the Commission's website at <http://puc.paonline.com>, and the Evaluation is available for review in the Commission's file at this docket number.

II. Discussion

We find that PECO's universal service plan is consistent with the universal service definition at 66 Pa. C.S. § 2803; the reporting requirements at 52 Pa. Code § 54.74; and the Low Income Usage Reduction Program (LIURP) regulations at 52 Pa. Code §§ 58.1- 58.18. For reasons detailed below, however, PECO's universal service plan does not ensure consistent conformance with the above-noted requirement at 66 Pa. C.S. § 2802(10) and § 2804(9) that universal service programs assist low-income customers to afford electric service, or with the Customer Assistance Program (CAP) Policy Statement at 52 Pa. Code §§ 69.265(2)(i)(A-C).

Compliance with the Act

Section 2803. As noted previously, Section 2803 defines "universal service" as policies, protections and services that help low-income customers maintain electric service. 66 Pa. C.S. § 2803. The term includes customer assistance programs and usage reduction programs. PECO's universal service program to help low-income customers maintain electric service consists of four components: CAP Rate (a payment assistance program), LIURP (a usage reduction program), CARES (a case management and referral program), and MEAF (a hardship fund program). The PECO universal service program includes a customer assistance program and usage reduction program and is, therefore, consistent with Section 2803.

Sections 2802(10) and 2804(9). The Act also recognizes the relationship between the affordability of electric service and a customer's ability to maintain utility service. Section 2802(10) requires that "the Commonwealth must, at a minimum, continue the protections, policies and services that now assist customers who are low income to afford electric service." 66 Pa. C.S. § 2802(10). Section 2804(9) indicates that the intent of universal service programs is to "reduce energy consumption or otherwise assist low-income customers to afford electric service." 66 Pa. C.S. § 2804(9). In other terms, a customer assistance program must work toward the goal of providing an affordable CAP budget to help a customer maintain his or her electric service. Although the Act does not define affordability, the Commission's CAP Policy Statement provides guidance on setting affordable payments. The Commission will continue to balance this goal with funding level constraints and program cost considerations.

Multiple sources of data indicate that PECO's CAP Rate does not fully conform to the requirement at 66 Pa. C.S. § 2802(10), § 2804(9), or 52 Pa. Code § 69.265(2)(i). Specifically, the following analysis is based on the Commission's informal complaint data and data from the independent third-party Evaluation findings.

From January 1, 2002 through October 10, 2003, the Commission's BCS reports that 3,467 Level 1 and Level 2 PECO customers filed informal payment arrangement requests (PARs) with the Commission. Of those PARs, 1,163 customers are enrolled in CAP. Of the total number of CAP-related PARs, almost 84% of these PARs involved CAP budgets that are inconsistent with the Commission's CAP Policy Statement. The Commission's findings are supported by the Evaluation findings that under the current CAP rate design only 48% of CAP participants have CAP budgets that are consistent with the CAP Policy Statement.¹ The Evaluation also confirms previous findings that the CAP Rate is unaffordable for

¹ H. Gil Peach & Associates, *Evaluation of the PECO Energy Delivery Company Universal Service Program (Evaluation)*, Monograph 0301-1, I-1 (Jan. 2003).

customers whose incomes are below 50% of the federal poverty guidelines and for the 20% of CAP participants with the highest usage. The Evaluation concludes that the consensus modifications approved by the Commission at Docket No. R-00027870 are equivalent to an affordable CAP rate for households whose incomes are below 50% of the poverty guidelines. However, the Evaluation recommends that the only way to ensure that CAP budgets are consistent with the CAP Policy Statement payment guidelines, as well as ensure that CAP budgets meet affordability guidelines without excessively increasing CAP costs, is to adopt a percentage of income payment design.²

To address the problems of unaffordable CAP Rate budgets, PECO submitted a petition in 2002 for Commission approval of consensus modifications to PECO's universal service program and associated tariff changes (consensus modifications).³ The Commission approved the consensus modifications by Order entered April 8, 2003 at Docket No. R-00027870. The consensus modifications provide for the following major changes: new lower CAP budgets for households whose incomes are below 50% of the federal poverty guidelines; establishment of an in-house CARES program that includes three staff positions dedicated to the CARES program; enhancements to the IT system; and a new evaluation to be completed no later than May 1, 2006. To date, PECO has implemented the new lower CAP budgets and made enhancements to its IT system. PECO has verbally informed the Commission that the Company has hired three staff dedicated to the CARES program. The new evaluation will analyze the effects of the consensus modifications and determine whether energy

² *Id.* at p. XI-17.

³ As a result of numerous meetings and consideration of the H. Gil Peach & Associates Evaluation, PECO and the LIURP Advisory Committee developed a mutually satisfactory consensus agreement (consensus modifications) concerning the necessary modifications to be made to PECO's Universal Services Program. The LIURP Advisory Committee members included the Pennsylvania Office of Consumer Advocate (OCA), the Consumer Education and Protective Association (CEPA), the Association of Community Organizations and Reform Now (ACORN), the Tenants Action Group (TAG), the Action Alliance of Senior Citizens (Action Alliance), the Pennsylvania Utility Law Project (PULP), the Utility Emergency Service Fund (UESF), and the Pennsylvania Department of Public Welfare (DPW).

burdens for individual customers provide an affordable payment that is consistent with the CAP Policy Statement at 52 Pa. Code § 69.265(2)(i).

The Commission expects that changes made to the CAP Rate because of the consensus modifications will provide consistent CAP budgets for most households whose incomes are below 50% of the poverty level guidelines. PECO's average monthly residential nonheating usage is 938 kWh – yet PECO only provides a CAP Rate discount on the first 500 kWh of usage for households whose incomes are above 50% of the poverty level guidelines.

The Commission has directed PECO to continue to work toward resolving the problem of unaffordable CAP budgets caused by high usage. However, the solution to the problem is only in the beginning stages. At Docket No. R-00027870, the Commission directed PECO to determine the reasons for high usage (generally accounts that use more than 1000 kWh monthly) and to meet with the Commission's BCS to determine how to resolve these issues. Resolution should include consideration of a maximum bill for defacto heating customers, validation of correct service classification (heating, nonheating, residential) and accompanying rates, and consumer education and usage reduction services when appropriate. The PECO report intended to identify these high usage accounts was due to the Commission by October 8, 2003 (six months from the 4/8/03 Commission Order). To date, PECO has not fulfilled this Commission directive from the April 8, 2003 Order.

Therefore, within 30 days of the date of this Order, PECO is directed to submit a compliance plan to BCS addressing the unresolved problem of unaffordable CAP budgets caused by high usage. The compliance plan must include a determination of the reasons for high usage. The plan should take into consideration a maximum bill for defacto heating customers; validation of correct service classification and

accompanying rates; and consumer education and usage reduction services where appropriate.

Finally, as part of the consensus modifications approved at Docket No. R-00027870, PECO is required to submit an evaluation of its universal service programs to the Commission no later than May 1, 2006. As part of that evaluation, an independent evaluator will determine if PECO's program payments comply with the CAP Policy Statement. The findings from this independent evaluation, combined with consideration of both historical universal service program data and the results of the Commission's review of relevant informal complaints, will enable the Commission to determine if PECO's revised CAP payment plan complies with the intent of 66 Pa. C.S. § 2802(10) and § 2804(9).

By approving PECO's universal service plan, the Commission expects that prior to the next evaluation in 2006, PECO will have implemented a solution to address problems of CAP Rate customers whose usage is high. The evaluation, as well as informal complaint data and data required at 52 Pa. C.S. §§ 54.71-76, will be the foundation for determining if PECO's CAP payment plan complies with the intent of 66 Pa. C.S. § 2802(10), § 2804(9), and the CAP Policy Statement. Finally, Commission approval of this plan does not limit the Commission's ability to consider future changes to the payment plan design based on evaluation findings, universal service data, and informal complaint data.

Section 54.74(b) – Plan Contents

This provision requires that EDCs include the following information in their plans: program description; eligibility criteria; projected needs assessment; projected enrollment levels; program budget; plans to use community-based organizations; organizational structures; and an explanation of any differences between

the EDC's approved plan and the implementation of that plan. Following is a detailed description of the plan components.

Section 54.74(b)(1) - Program Description

PECO's universal service plan includes a description for each program component. However, the program description for LIURP does not include a list of program measures. A list of program measures indicates the types of treatments, such as attic insulation or refrigerator replacement, that are part of LIURP usage reduction efforts. Therefore, within 30 days of the date of this Order, the Commission directs PECO to file a list of its LIURP program measures with the Commission.

PECO proposes several design changes to reduce program costs and to improve availability of program services. These proposals are discussed below.

Proposed Design Changes for CAP. PECO proposes to revise CAP recertification procedures, arrearage forgiveness requirements, and the name of CAP.

Recertification. PECO plans to automatically recertify customers who receive energy assistance such as LIHEAP or hardship fund grants. PECO also plans to recertify customers every two years instead of the current one year schedule.

Arrearage forgiveness. PECO will forgive all arrearages rather than holding \$500 on the account.

The Commission approves these design changes.

Section 54.74(b)(2) Eligibility

PECO's four program components have slightly different eligibility criteria. Table 1 below shows the eligibility criteria for each universal service component.

**Table 1
Eligibility Criteria**

Program	Income	Other
CAP	Verified income \leq 150% of poverty	Ratepayer or new applicant status. Payment troubled
LIURP	Verified gross income \leq 200% of poverty	Electric nonheating – minimum usage at least 600 kWh per month Electric heat - minimum usage at least 1400 kWh per month
CARES	Not applicable	Special needs.*
MEAF	Verified income \leq 150% of poverty (175% of poverty for UESF grants)	MEAF grant (\$500) must eliminate the total outstanding arrearage.

* Special needs include medical problems, personal crisis, loss of income, and low income elderly.

Section 54.74(b)(3) - Projected Needs Assessments

PECO submitted a needs assessment that complies with section 54.74(b)(3). A summary of the needs assessment is provided below:

For each of the universal service program components, PECO bases its needs assessments on the 2000 U.S. Census data. About 260,000 households in PECO's service territory have annual incomes at or below 150% of the federal poverty guidelines.

Pursuant to 52 Pa. Code § 54.75(1)(iv), PECO reports that the company has identified 188,852 low income households in its service territory.

Section 54.74(b)(4) - Projected Enrollment Levels

PECO's plan contains projected enrollment levels. Table 2 below shows PECO's projected enrollment levels for the universal service components.

**Table 2
Projected Enrollment Levels**

Universal Service Component	2004	2005	2006
CAP Rate	118,000	128,000	138,000
LIURP	8,000	8,000	8,000
CARES*	200,000	200,000	200,000
MEAF	2,000	2,000	2,000

*PECO projects they will make 200,000 referrals (not enrollments) to services for low income customers.

Section 54.74(b)(5) - Program Budgets

Table 3 shows PECO's program budget levels for the universal service components.

**Table 3
Proposed Universal Service Programs Budgets**

Program Component	2004	2005	2006
CAP Rate	\$61,429,177	\$61,429,177	\$61,429,177
LIURP	\$6,475,000	\$6,475,000	\$6,475,000
CARES + LIHEAP Outreach	\$560,000	\$560,000	\$560,000
MEAF*	\$900,000	\$900,000	\$900,000
Total	\$69,364,177	\$69,364,177	\$69,364,177

*MEAF's budget is based on charitable donations from PECO's customers, shareholders, and employees. No ratepayer monies are used for MEAF.

Section 54.74(b)(6) - Use of Community-Based Organizations (CBOs)

Section 2804(9) of the Act directs the Commission to encourage the use of community-based organizations that have the necessary technical and administrative experience to be the direct providers of services or programs to reduce energy consumption or otherwise assist low income customers to afford electric service. Table 4 shows that PECO’s use of CBOs complies with the intent of the Act. PECO has contractual arrangements with six primary CBOs to help administer its universal service programs. The Commission finds that PECO has also developed a network of contacts for universal service programs in compliance with 66 Pa. C.S. § 2804(9).

Table 4
Use of CBOs

Universal Service Component	# of CBOs
CAP	6
LIURP	1
CARES	6
MEAF	6

Section 54.74(b)(7) - Organizational Structure

The organizational structure for PECO’s universal service programs is shown in Table 5. The Evaluation makes several recommendations relating to staffing. Specifically, the Evaluation recommends that PECO add five positions over the next two years – two community liaisons and three analysts.⁴ The Consensus Modifications, approved by Commission Order entered April 8, 2003 at Docket No. R-00027870, provided that PECO would develop a detailed work plan for the in-house CARES program by May 30, 2003. As part of the Consensus Modifications, PECO would hire three CARES staff. The Commission expects that the addition of three CARES representatives will act as community liaisons, as well as performing other CARES

⁴ *Evaluation at pp. XXII-1-3.*

responsibilities. Within 30 days of the date of this Order, PECO must provide written verification to BCS that the three CARES staff have been hired and have start dates. If PECO fails to provide the names of three CARES staff to BCS, this matter will be referred to Prosecutory Staff.

Although PECO has the largest CAP program in the Commonwealth, the company has one of the smallest staff to administer and monitor the program. The Commission recommends that PECO continue to evaluate its universal service staffing needs on a regular yearly basis.

**Table 5
Organizational Structure**

Company Staff
Director – Revenue Management
Manager – Universal Services
Program Analyst – (3)
General Office Administrative Support – (2)
CARES Representatives (3)
Contract Staff
Universal Service Call Center (1)
LIURP Vendor- (1)

Conclusion

In light of the analysis above, we find that PECO’s universal service plan meets the requirements of the universal service definition at 66 Pa. C.S. § 2803; the reporting requirements at 52 Pa. Code § 54.74; and the Low Income Usage Reduction Program (LIURP) regulations at 52 Pa. Code §§ 58.1- 58.18. At this time, PECO’s universal service plan is not fully consistent with the requirement at 66 Pa. C.S. § 2802(10), § 2804(9), or with the Customer Assistance Program (CAP) Policy Statement at 52 Pa. Code §§ 69.265(2)(i)(A-C). However, the universal service plan submitted by PECO continues to move toward a CAP payment design that is consistent with the intent of the above noted statutory provisions and policy guidelines. Moreover, the work that

PECO must complete regarding high usage accounts will continue movement toward a more consistent payment design; **THEREFORE,**

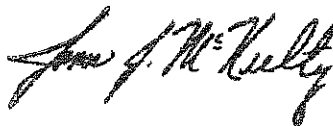
IT IS ORDERED:

1. That PECO's Universal Service and Energy Conservation Plan is approved, with the condition that PECO submit a list of LIURP program measures to the Commission within 30 days of the date of this Order.

2. That PECO is directed to submit a compliance plan to BCS addressing the unresolved problem of unaffordable CAP budgets caused by high usage and provide written verification that PECO has hired three CARES staff within 30 days of the date of this Order.

3. That a copy of this order and any accompanying statements of the Commissioners be served upon PECO and the Office of Consumer Advocate and be posted on the Commission's website at <http://www.puc.paonline.com>.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: April 15, 2004
ORDER ENTERED: APR 21 2004