

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

FAX (717) 783-7152
consumer@paoca.org

February 27, 2013

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

RE: Petition of PECO Energy Company for Approval of
Its Default Service Program
Docket No. P-2012-2283641

PECO Energy Company Universal Service and
Energy Conservation Plan for 2012-2015 Submitted
in Compliance with 52 Pa. Code §§ 54.74 and 62.4
Docket No. M-2012-2290911

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Main Brief, in the
above-referenced proceeding.

Copies have been served upon all parties of record as shown on the attached
Certificate of Service.

Respectfully Submitted,

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

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824

Enclosures

cc: Hon. Cynthia W. Fordham
Certificate of Service

164690

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company for Approval :
Of its Default Service Program : Docket No. P-2012-2283641

PECO Energy Company Universal Service and :
Energy Conservation Plan for 2013-2015 : Docket No. M-2012-2290911

MAIN BRIEF OF THE
OFFICE OF CONSUMER ADVOCATE

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. #85824
E-Mail: CAappleby@paoca.org

Candis A. Tunilo
Assistant Consumer Advocate
PA Attorney I.D. # 89891
E-Mail: CTunilo@paoca.org

Amy E. Hirakis
Assistant Consumer Advocate
PA Attorney I.D. #310094
E-Mail: AHirakis@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: February 27, 2013

Table of Contents

I. INTRODUCTION AND PROCEDURAL HISTORY	1
II. CAP POLICY STATEMENT	5
III. SUMMARY OF ARGUMENT	6
IV. ARGUMENT	8
A. Design of PECO’s CAP and Affordability	8
1. Overview	8
2. Narrowing the income tiers in the existing CAP Rate program.....	14
3. Fixed Credit Percentage of Income Plan.....	16
4. Conclusion.....	25
B. CAP Rate Operational Issues.....	26
1. Assignment of Customers to CAP Rate Tier A.....	26
2. Targeting of CAP Rate to Lowest Income Customers.....	30
3. PECO’s One Year Arrearage Forgiveness in CAP Rate.....	32
4. Automatic Enrollment in CAP	33
5. Notarized Documentation for Zero Income CAP Rate Enrollment	35
6. The Use of Social Security Numbers in CAP Rate Enrollment.....	38
7. PECO’s Population Average Maximum CAP Credit	41
8. Targeting of LIURP	42
9. PECO’s Proposed Asset Test	44
C. OCA Recommended Modifications to the PECO Universal Service Plan.....	47
1. Utility Allowances Provided to Public Housing and Assisted Housing Tenants....	47
2. De Facto Heating.....	50
3. TURN et al. Proposal to Increase Income Levels For CAP Eligibility.....	52
V. CONCLUSION	55

Table of Citations

Administrative Decisions

Pa. PUC v. PECO Energy Company-Electric Division (2010 Base Rate Proceeding), Docket No. R-2010-2161575, Settlement at 7 (December 21, 2010).....9

PECO Energy Company, Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket No. M-2012-2290911 (Nov. 8, 2012).....passim

Petition of Energy Company for Approval of its Default Service Program II, Docket No. P-20122283641 (Oct. 12, 2012).....2

Statutes & Regulations

43 U.S.C. § 8624(b)(5) 50

43 U.S.C. § 8624(a)(2) 50

52 Pa. Code § 54.76 1

52 Pa. Code § 69.261 5

52 Pa. Code § 69.263(c) 5

52 Pa. Code § 69.265 5

52 Pa. Code § 69.265(2) 5

52 Pa. Code §§ 54.71-54.78 1

52 Pa. Code §§ 62.1-62.8 1

52 Pa. Code § 69.265(3)(i) 5

52 Pa. Code § 69.265(3)(iii) 5

52 Pa. Code at § 69.265(3)(iv) 5

I. INTRODUCTION AND PROCEDURAL HISTORY

On February 28, 2012, PECO Energy Company (PECO or the Company) filed its Universal Service and Energy Conservation Plan (USECP or Plan) in this docket in accordance with the Public Utility Commission's (Commission) regulations at 52 Pa. Code §§ 54.71-54.78, relating to electric universal service and energy conservation requirements and at 52 Pa. Code §§ 62.1-62.8, relating to natural gas universal service and energy conservation requirements. Subsequently, on October 25, 2012, PECO filed an Amended USEP. On October 31, 2012, PECO filed its APPRISE six-year evaluation in compliance with 52 Pa. Code § 54.76.

On November 8, 2012, the Commission entered a Tentative Order at this docket requesting Comments on a large number of important and inter-related issues including the following:

(1) Whether PECO's CAP Rate program should be changed to a Percentage of Income Payment Program (PIPP), including the affordability issues raised and the costs and benefits of such a program design;

(2) How the distribution of the Low Income Home Energy Assistance Program (LIHEAP) grant fits with the PECO CAP Rate Program and its impact on the net energy burdens of the customer;

(3) The viability of PECO's "in-program" arrearage forgiveness program and deferred payment arrangement process;

(4) The viability of PECO's assignment of customers to appropriate CAP Rate tiers, including CAP Rate A;

(5) The extent to which, if at all, PECO should retain or modify its one-year arrearage forgiveness program;

(6) The extent to which PECO should continue its “automatic enrollment” of LIHEAP recipients into the CAP Rate and if so, the extent to which PECO should modify its consumer education program, including the costs, benefits and risks to consumers of the automatic enrollment program;

(7) The need for and operation of PECO’s CAP Rate provision that customers be required to provide Social Security numbers;

(8) The need for and operation of PECO’s CAP Rate provisions regarding the proof of zero dollar incomes;

(9) The viability of PECO’s use of a population average CAP Rate credit ceiling;

(10) The viability and implementation of PECO’s CAP Rate referrals to the Low Income Usage Reduction Program (LIURP);

(11) The impact that switching to a PIPP will have on CAP customers’ ability to shop; and

(12) The need for additional cost control measures for PECO’s affordability program.

See generally PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket No. M-2012-2290911, Tentative Order (Nov. 8, 2012) (Tentative Order).

In the Petition of PECO Energy Company for Approval of its Default Service Program II (DSP II) proceeding, the Commission ordered PECO to work with the Office of Competitive Market Oversight (OCMO) to develop a plan to allow CAP customers to purchase their generation supply from Electric Generation Suppliers (EGSSs) by January 1, 2014.¹ DSP II Order, Docket No. P-20122283641, Order at Ordering ¶ 18 (Oct. 12, 2012). In the Tentative Order in this proceeding, the Commission was clear that “PECO will need to respond through

¹ By Secretarial Letter dated January 3, 2013, this deadline was extended to April 1, 2014.

that [DSP II] docket [P-2012-2283641] as to how it will implement CAP shopping.” Tentative Order at 20. This proceeding seeks to “ensure that critical decisions about the structure of PECO’s CAP Plan are made before PECO has to file the Shopping Plan.” See Prehearing Order at 2 (Jan. 9, 2013).²

On November 28, 2012, the OCA filed its Comments to the Tentative Order, and the OCA filed Reply Comments on December 10, 2012. Other parties filing Comments and/or Reply Comments were PECO, H. Gil Peach and Associates, LLC, Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN et al.), The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Pennsylvania Coalition Against Domestic Violence (PCADV) and Face to Face. By Secretarial Letter dated January 3, 2013, the matter was referred to the Office of Administrative Law Judge to conduct evidentiary hearings and to certify the record to the Commission by March 1, 2013. The matter was then assigned to Administrative Law Judge Cynthia Williams Fordham (ALJ).

On January 15, 2013, a prehearing conference was convened, and a litigation schedule was adopted. On February 4, 2013, the OCA served the Direct Testimony of Roger D. Colton, and on February 12, 2013, the OCA served Mr. Colton’s Rebuttal Testimony.³ Other parties submitting testimony included PECO, CAUSE-PA, TURN et al., PCADV and Direct Energy

² The OCA notes that CAUSE-PA witness Mitchell Miller proposed that the CAP customers participate in the competitive market through an aggregation process. CAUSE-PA St. 1 at 10. The OCA will not address this proposal in this proceeding as more detailed questions of CAP customer shopping are to be addressed in the context of PECO’s subsequent CAP shopping proposal. OCA St. 1 at 24-25.

³ Roger D. Colton is a principal in the firm of Fisher Sheehan & Colton, Public Finance and General Economics. Mr. Colton provides technical assistance to a variety of public utilities, state agencies and consumer organizations on rate and customer service issues for telephone, water/sewer, natural gas and electric utilities. Mr. Colton’s work focuses on low-income energy issues, and he has testified and published extensively in this area. Mr. Colton’s Testimonies in this matter were entered into the record on February 19, 2013.

Services, LLC (Direct Energy). Hearings were held in Philadelphia on February 15 and 19, 2013.

The OCA submits this Main Brief in accordance with the ALJ's Prehearing Order #2 entered January 18, 2013.

II. CAP POLICY STATEMENT

Before implementing or revising a CAP plan, a utility must submit its CAP proposal to the Bureau of Consumer Services (BCS) for review and Commission approval. 52 Pa. Code § 69.263(c). A CAP plan must contain numerous design elements, and these design elements are reviewed by the BCS and Commission before determining whether a company's plan is approved. See 52 Pa. Code § 69.261 et seq. Specifically, the CAP Policy Statement requires CAP plans to include, inter alia, (1) program funding; (2) payment plan proposal; (3) control features; (4) eligibility criteria; (5) coordination of energy assistance benefits; and (6) evaluations. 52 Pa. Code § 69.265. For payment plan proposals, several options are provided for a utility to adopt, including a rate discount (such as the one PECO currently uses) and a Percentage of Income Payment Plan (PIP). 52 Pa. Code § 69.265(2).

Utilities must also include control features in their plans to limit program costs. 52 Pa. Code § 69.265(3). One such control feature for electric utility programs is the requirement that a CAP participant have a minimum bill of at least \$12-15 a month for a non-heating electric account, and a bill of at least \$30-40 a month for an electric heating account. *Id.* at § 69.265(3)(i). Another such control feature is to include consumption limits. *Id.* at § 69.265(3)(iii). Further, utilities are directed to target high usage customers for treatment of such usage through the Low Income Usage Reduction Program (LIURP). *Id.* at § 69.265(3)(iv).

The OCA will address in this brief the elements of the CAP Policy Statement as they relate to PECO's proposals here.

III. SUMMARY OF ARGUMENT

The OCA responded to these identified issues in its Direct and Rebuttal Testimonies of Roger D. Colton. The OCA recommends that PECO's Universal Service and Energy Conservation Plan be approved with certain modifications. The key features of the OCA's recommendations are:

- A 12-tier CAP Rate with seasonality, with the seasonal usage limits set not at the residential population average but rather at the residential population average plus one standard deviation, is a reasonable alternative requiring further discussion. In addition, a fixed-credit percentage of income program (PIP) deserves further discussion.
- PECO's requirement that a customer make some type of demonstration of causality between the existence of the extenuating circumstance and the payment-troubled status should be disapproved. The Company should provide adequate portals through which payment-troubled CAP Rate B customers with extenuating circumstances can be identified and switched to CAP Rate A.
- PECO should re-emphasize the enrollment of low-income customers with income placing them at or below 25% of the Federal Poverty Level.
- No changes to the period of time over which PECO arrearage forgiveness credits are granted should be pursued at this time. Two separate, but related, changes to the grant of arrearage forgiveness are merited, however: First, the CAP Rate arrearage forgiveness program should reflect actual total bill payments by CAP Rate customers by granting arrearage forgiveness on a month-to-month basis as complete, timely bill payments are received. In the alternative, at the end of the twelve-month period, arrearage forgiveness should be granted for the full year in the event that the complete annual payment has been made, irrespective of whether each individual payment was made on a timely basis.
- PECO should implement an "automatic enrollment" process which mirrors the automatic enrollment process used by other Pennsylvania utilities. Under such a process: (1) should the CAP Rate Tiered Rate Discount design be retained, customers receiving a LIHEAP benefit would be given the discount provided to the highest income tier; and (2) should the CAP Rate design be modified to move to a percentage of income program design, customers receiving a LIHEAP benefit would be given the discount provided to the highest income tier. Under either approach, the 60-day participation would not "count" as participation in the CAP Rate/CAP for purposes of limiting the future availability of payment plans for the customer.

- PECO's proposed requirement that zero dollar incomes be documented through a notarized statement should be disapproved. If the customer's zero-dollar income has been certified by LIHEAP, or another public assistance agency, PECO should require no further documentation and should abide by the government process(es) relating to zero-income customers. If the customer's zero-dollar income has *not* been certified by LIHEAP (or some other government agency), PECO should require a Zero Income Statement mirroring the Statement required by LIHEAP. No notarization is required. If the customer's zero-dollar income has not been certified by LIHEAP (or some other government agency), PECO should require an income recertification every quarter the customer continues to claim a zero-dollar income. In the meantime, PECO should track and report data on zero-dollar income program participants.
- PECO's proposal to collect Social Security Numbers (SSNs) for all household members of CAP Rate households should be disapproved.
- PECO's population average CAP Rate maximum credit ceiling should be retained. In addition, CAP Rate maximum credit ceilings should be separately specified on a tier-by-tier basis within the CAP Rate program (or PIP should a PIP be adopted).
- PECO should improve the targeting of its LIURP services toward high-use low-income customers imposing high bill credits on the program. Improved targeting should begin with the following steps: (1) PECO should target LIURP to the 16,000 CAP Rate customers who participated in the Company's In-Program Arrearage Forgiveness (IPAF) program; and (2) PECO should further target its high burden customers within the 16,000 IPAF population.
- PECO should implement a set benefit for low-income customers who receive government-funded home energy assistance through a utility allowance for tenant-paid utilities in public and voucher-assisted housing units. Rather than receiving the relevant CAP Rate discount, or a percentage-of-income based bill should PECO transform its CAP into a PIP, PECO should allow customers to participate in the CAP Rate (and thus gain the advantage of arrearage forgiveness), but provide a set monthly benefit.
- PECO should implement the recommendations of CAUSE-PA witness Mitchell Miller regarding de facto space heating. Mr. Miller recommended that PECO engage in more coordinated activities with its local weatherization providers, municipal agencies and Natural Gas Distribution Companies (NGDCs) where applicable.
- PECO should not implement the proposal of TURN, et al. witness Dr. H. Gil Peach to increase the income eligibility level for PECO's CAP.

OCA St. 1 at 3-5; OCA St. 1-R at 25-26, 28-29.

IV. ARGUMENT

A. Design of PECO's CAP and Affordability

1. Overview

The Commission's Tentative Order, through the Secretarial Letter of January 3, 2013, set for evidentiary hearings the question of whether PECO should change from the current CAP Rate Tier Discount structure to a Percentage of Income Payment Plan (PIP) design, including an evaluation of the costs and benefits of each program structure to CAP and non-CAP residential customers and an evaluation of how the program design will impact retail choice. Tentative Order at 17. The Commission identified in its Tentative Order affordability concerns regarding the current CAP Rate program structure and questioned whether that structure is appropriately targeting the affordability needs of those customers in need of assistance. The Commission's Tentative Order also seeks to determine whether PECO's CAP design can be implemented to allow CAP customers to shop. Tentative Order at 20.

PECO's current CAP rate program is a rate discount program with six tiers (Tiers B, C, D, D1, E and E1). An additional CAP Rate Tier, A, is for those customers with "extenuating circumstances."⁴ Under the CAP Rate program, rate discounts are set through a formula such that, at expected consumption and income levels, the effect is to achieve an affordable percentage of income burdens for 90% of customers in CAP Rates A-C, and 88% CAP population affordability in CAP Rate Tiers D-E. Pa. PUC v. PECO Energy Company-Electric Division (2010 Base Rate Proceeding), Docket No. R-2010-2161575, Settlement at 7 (Order

⁴ CAP Rate A was established for those customers in the 0-25% of Poverty range with "extenuating circumstances." "Extenuating circumstances" are defined as the following: (1) health related (injury or illness; high medical bills; medically-related usage; or death in the family); (2) sudden loss of employment; (3) households containing at-risk individuals (children below 8; disabled persons; infirm elderly); (4) inability to maintain at least two CAP B payment arrangements; and (5) high usage related to shelter conditions that are not treatable by LIURP. PECO Exh. LF-8 (APPRISE Evaluation) at 22; OCA St. 1 at 26, fn 22.

entered December 21, 2010); OCA St. 1 at 7, fn 5. The APPRISE Evaluation found that under this approach of using expected income levels and usage, 30% of CAP Rate participants did not achieve a home energy burden that was within the Commission's affordability guidelines in 2011. PECO Exh. LF-8 (APPRISE Evaluation) at 99.

After a review of the APPRISE Evaluation, discovery, and informal discussions with the Company, OCA witness Colton concluded:

PECO's existing six-tier CAP Rate program continues to fall substantially short of the objective of meeting the PUC's affordability guidelines to the maximum extent practicable. The PECO Universal Service Evaluation (October 2012) (hereafter, "Apprise") reports that, despite the 90% "rule" that was adopted to govern the establishment of CAP Rate discount levels, 30% of CAP Rate participants did not achieve a home energy burden that was affordable as defined by the guidelines prescribed by the PUC. (Apprise, at 99). While the proportion of CAP Rate customers achieving an affordable burden improved under the new PECO CAP Rate structure, the improvement was slight (from 44% falling short of the PUC guidelines to 30% falling short of the PUC guidelines. (Apprise, at 99).

The PECO universal service evaluation reports that as incomes decline, CAP Rate participants are more likely to be billed a home energy burden that exceeds the affordability guidelines set by the PUC. More than eight-of-ten of the lowest income CAP Rate participants (Tier B: <25% of Federal Poverty Level) did not receive enough discount to achieve rate affordability.

OCA St. 1 at 7. (Footnote omitted).

OCA witness Colton recommended using the following objectives to measure the continuing appropriateness of the CAP Rate discount and other alternative CAP designs. Mr. Colton provided the following:

- Does the program design achieve affordable service to the maximum extent practicable, with affordability measured by the PUC's percentage of income affordability guidelines;
- Does the program involve an efficient use of ratepayer-supplied funding;
- Does the program adequately balance the objective of achieving affordability to the maximum extent possible for program participants with the interests of non-participants in paying reasonable rates;

- Does the program provide a platform for retail shopping without imposing harms on the program participant, on the ability to achieve program objectives, or on program non-participants.

OCA St. 1 at 6. (Footnotes omitted).

The OCA submits that PECO's current six tier design falls short of meeting the affordability needs of CAP customers and efficiently using ratepayer supplied funds to address affordability. By design, a tiered rate approach to affordability raises two concerns: (1) some customers are under-paid because either their consumption is higher than average or their income is lower than average and (2) other customers are over-paid for the converse reasons. OCA St. 1 at 8. Either result represents an inefficiency and if too great, is inappropriate. The OCA and the Company have worked over the years to address these concerns by adjusting the rate tiers and introducing the "90% rule." OCA St. 1 at 8-9.

Despite these efforts, OCA witness Colton testified regarding the continuing mis-targeting of benefits under the current CAP Rate design:

The Apprise Evaluation supports the conclusion that a substantial proportion of CAP Rate benefits are mis-targeted. According to the PECO universal service evaluation, the proportion of customers falling *within* the PUC guidelines actually *declined* under the new CAP Rate tiers, from 19% under the previous structure to only 17% under the new structure (Apprise, at 99-100). The proportion of CAP Rate participants who received "too much" under the new CAP Rate structure increased (17%, from 36% to 53%) more than the proportion of CAP Rate participants who received "too little" decreased under the new PECO CAP Rate structure, (14%, from 44% to 30%).

The mismatch of CAP Rate benefits is not income neutral. Setting aside the CAP Rate Tier A (as both presenting unique circumstances and an under-populated tier), the PECO universal service evaluation reports that as incomes decline, CAP Rate participants are more likely to be billed at a home energy burden that exceeds the affordability guidelines set by the PUC. More than eight-of-ten of the lowest income CAP Rate participants (Tier B:< 25% of Federal Poverty Level) did not receive enough discount to achieve rate affordability; more than seven-of-ten of the higher income CAP Rate participants (Tiers E and E1: 101%-150% received discounts more than sufficient to achieve affordability.

In short, the PECO CAP Rate evaluation reports that for 84% of the CAP Rate participants, the CAP Rate did not achieve what the program was designed to achieve: to establish bills at the designated affordability level. The 84% includes both those customers who were paid “too much” (53%) and those customer who were paid “too little” (30%).

OCA St. 1 at 9-10. (Footnote omitted).

OCA witness Colton also addressed the mis-targeting of benefits as expressed in PECO witness Feldhake’s Table 1 in her Direct Testimony. Table 1 provides information on the “Direct Cost Comparison” of alternative CAP Rate structures for PECO, including the current CAP rate structure, a 12-tier CAP rate structure with seasonality, and Percentage of Income Payment Plan (PIP). PECO St. 1 at 7. OCA witness Colton testified regarding his concerns with the calculation of costs presented in Table 1 and identified how the current program mis-directs funds to achieve affordability:

The \$77.9 million dollars spent through the Current 7 Tier Program is not all targeted toward achieving affordability. As the Company, itself, acknowledges, of that \$77.9 million dollars, \$14.9 million (19%) is spent on providing benefits to program participants who do not need any benefits to achieve affordability. That is not the limit of the “over-spending,” however. In addition to that \$14.9 million, there would be an additional sum, which PECO has thus far been unable to quantify (OCA-I-2), that would have been spent on customers who would still receive a benefit under a PIP, but who would receive a *smaller* benefit under a PIP. The total over-spending, therefore, will be more than 20%.

In contrast to this mis-targeting of program spending under the Current 7 Tier Program, nearly 100% of the \$78.1 million shortfall identified in Table 1 as associated with the PIP with PUC-required Minimum Bill is targeted toward achieving affordability. Mis-targeting of expenditures through the 12-Tiers with Seasonality would fall in-between. The 12-Tiers with Seasonality, however, addresses both aspects of the Current 7-Tier Program that cause the mis-targeting. It narrows the income ranges so the mis-targeting based on income is reduced. It also reduces the mis-targeting based on consumption.

OCA St. 1-R at 3-4. (Footnote omitted).⁵

⁵ The OCA notes that the seven tier program references CAP Rate Tiers A-E1 and includes CAP Rate A while previous references to six tiers reference CAP Rate Tiers B-E1. The reference to the six tier program and the seven tier program refer to the same program design structure.

The OCA submits that the evidence of record establishes that PECO's six-tiered CAP Rate discount program is not efficiently using ratepayer funds to achieve a reasonable level of affordability despite efforts to improve the targeting of benefits. PECO witness Feldhake stated that "[t]he very constrained timeline for this litigation has not made it possible to define and make a specific proposal in this testimony." PECO St. 1 at 35. Ms. Feldhake generally recommends a "redeployment" of CAP Rate resources. She testified:

I therefore would prefer to focus our attention on the other two in-program methods for redeploying funds. PECO can change the targeted percentage of "affordability" goal that it uses for each tier. Reductions of the target percentage result in money flowing from the tier; increases results in money flowing to the tier. This method was also approved by the Commission in previous proceedings, when at the request of the OCA, PECO reduced its CAP E target from 90% to 88%. Similar changes, bookended with increases in the targets for the lower tiers, can cause a revenue neutral redeployment of funds from the higher tiers to the lower. Similarly, reducing the kWh to which the discount applies in a tier will cause funds to flow from that tier; increasing the kWh to which the discount applies will cause funds to flow into that tier. These two methods can be combined to fine tune the flow of funds from one tier to another.

PECO St. 1 at 35. The OCA agrees that this is one method to examine but other options that might more effectively target benefits should also be considered.

OCA witness Colton identified two potential options to address the identified affordability concern more effectively -- a 12-tier program with Seasonality and a "fixed credit" PIP. These options would utilize ratepayer funds to achieve affordable bills for more of PECO's CAP customers. Mr. Colton also sought to ensure that these CAP designs could serve as a shopping platform measured against the following principles:

- The retail shopping platform should allow customers to remain on CAP, meeting the payment obligations of CAP, and receive the benefits of CAP;
- The retail shopping platform should not increase the program costs of CAP to nonparticipants, whether by increasing CAP credits or by increasing CAP administrative costs;

- The retail shopping platform should not increase program costs of CAP to nonparticipants by adversely affecting ability-to-pay and thus increasing the costs of nonpayment.

OCA St. 1 at 12-13.

Mr. Colton first examined a narrowing of the existing income tiers in the CAP Rate program to better target funding by income level. Mr. Colton examined the possibility of expanding the number of income tiers from six to twelve so that each income range was more carefully defined. OCA St. 1 at 14. Mr. Colton also included a “seasonality” for the consumption that is subject to the discount. He described seasonality as “different consumption limits, in other words, were determined for three seasons (winter, summer, shoulder). The consumption limits for each discount were calculated based on a three-year total residential average consumption.” *Id.* OCA witness Colton refined the seasonality approach by stating that “[a] move to a 12-Tier Program with seasonality, however, should perhaps define the seasonal kWh consumption limits by reference to the population average plus one standard deviation rather than simply by reference to the population average.” OCA St. 1-R at 17.

The second proposal Mr. Colton examined is a fixed credit percentage of income plan (PIP). A PIP generally sets each customer’s bill equal to an affordable percentage of income, with the affordable burden prescribed by the PUC’s affordability targets (subject to the maximum CAP credit). There are several different types of PIP designs. A “fixed payment” PIP sets the payment made by the customer at an affordable percentage of income. OCA St. 1 at 17. Under a “fixed credit” PIP that Mr. Colton recommends for consideration, the credit is fixed for the customer, not the payment obligation. OCA St. 1 at 18. OCA witness Colton testified:

Under this approach, an advantage arises from the very fact that a fixed credit is “fixed.” Once determined at the beginning of the program year, the risk that bills will change in that year (based either on weather or on price) lies with the

customer. If the customer has a lower bill, he or she pockets the difference. If the customer has a higher bill, he or she bears the burden of the increase.

OCA St. 1 at 18. The OCA discusses both of these alternatives below.

2. Narrowing the income tiers in the existing CAP Rate program

The OCA submits that one potential option to address the issues identified with PECO's six tier Tiered Rate Discount is to narrow the income tiers of the existing CAP Rate program and move from a six tier CAP Rate program structure to a twelve tier CAP Rate program structure with seasonality. As OCA witness Colton testified:

A twelve tier program would create tiers that are increments of 12.5% of Poverty Level, rather than the existing 25% of Poverty Level increments. Moving to a twelve-tier program could be expected to have two impacts: (1) it would decrease the "underpayment" (and thus improve affordability) in the bottom half of the tier; and (2) it would decrease the "overpayment" in the top half of the tier, without substantially affecting affordability.

OCA St. 1 at 14.

Mr. Colton proposed to include a seasonality component subject to the discount to address the impact of usage on affordability. As described above, different consumption limits would be determined for each of the three seasons, winter, summer and "shoulder" months. The consumption limits would be based upon the three year total average residential consumption.

OCA St. 1 at 14. OCA witness Colton testified regarding the impact of the inclusion of seasonality on affordability:

The move to a 12-tier discount with seasonality somewhat improved affordability, but not as substantially as I might have expected. Moreover, a comparison of PECO's results for a 12-tier discount without seasonality to the 12-tier discount with seasonality would support the conclusion that the introduction of seasonality has a more substantial impact on improving affordability and decreasing the mis-targeting than the move from the six tiers to the 12 tiers.

OCA St. 1 at 15. (Footnote omitted).

In examining PECO witness Feldhake's model runs (PECO Exh. LF-3), Mr. Colton found that the continuing mis-targeting of benefits under the 12-tier discount occurs for two reasons: (1) the range of income varies from the top to the bottom of each tier and (2) because consumption varies within each tier. Mr. Colton testified that:

Narrowing the tiers addresses the first variable but does not address the second variable. In informal discovery, PECO said that it determined the kWh limits for each season by calculating the three-year average residential consumption for each season. Using the population average will, by definition, introduce a relatively high variability into the extent to which affordability can be achieved with a minimum of mis-targeted benefits, irrespective of how narrow the tiers might be. In any population, there is a natural variation in consumption around the population average. I would recommend that the 12-tier discount alternative be retained for further examination, basing the seasonal kWh consumption limits to which the CAP Rate discount applies on the population average plus one standard deviation. I would expect this modification to the 12-tier discount with seasonality to have a minimum cost impact (if any), while having a noticeable impact on improving affordability within each tier and decreasing the mis-targeting of benefits.

OCA St. 1 at 15-16.

In her Rebuttal Testimony, PECO witness Feldhake added a model run to the 12-Tier discount with seasonality. PECO St. 1-R at Exh. LPF-3. Ms. Feldhake concluded that “[g]enerally, these data runs show that additional movement toward the PIP affordability targets can be attained within the framework of PECO’s CAP tier program.” PECO St. 1-R at 2. OCA witness Colton reached a similar conclusion that “[t]he 12-Tiers with Seasonality program, however, addresses both aspects of the Current 7 Tier Program that cause the mis-targeting. It narrows the income ranges so the mis-targeting based on income is reduced. It also reduces the mis-targeting based on consumption.” OCA St. 1-R at 4.⁶ PECO estimates that the cost of the

⁶ OCA witness Colton notes that that OCA requested that PECO provide a recalculation of the model runs with the modification to the 12 Tiers with Seasonality program plus one standard deviation but had not received it at the time of filing of Rebuttal on February 12, 2013. OCA St. 1-R at 4, fn 2. OCA witness Colton testified that he expected the mis-targeting to be reduced even further. *Id.*

12 Tiered Rate Discount with Seasonality would increase the costs of the program from the current \$77.9 million (for baseload and electric heating customers) to \$81.6 million. OCA St. 1-R at 3; PECO St. 1 at 7.

The OCA submits that this reduction in the mis-targeting of benefits would mean that improvements in affordability would be achieved under the 12-Tiers with seasonality program. OCA St. 1-R at 4, fn 2. As Mr. Colton testified that, by more properly targeting benefits and improving affordability, other efficiencies may also be gained. The OCA submits that if the Commission retains a tiered rate discount program, this 12-tiered approach with seasonality would more effectively use ratepayer funds than the current program. As Mr. Colton also testified, this program could serve as a platform for CAP customer shopping.

3. Fixed Credit Percentage of Income Plan

The second option that Mr. Colton considered is a type of PIP known as a “fixed credit” PIP. The OCA submits that if the Commission wants PECO to move towards a PIP structure, a “fixed credit” PIP, should be considered. Mr. Colton described a PIP generally:

A Percentage of Income Plan (“PIP”) sets each customer’s bill equal to an affordable percentage of income, with the “affordable” burden prescribed by the PUC’s target affordability ranges. Under a PIP, as the Company determined in preparing certain affordability scenarios for informal discovery, each customer would receive an affordable bill, except in the income tier of below 25% of Poverty Level. For that income tier, the minimum bill requirement contained in the PUC’s CAP “cost control” regulations would still impose an unaffordable bill on 57% of the population with income less than 25% of Poverty Level. Nonetheless, the PIP would involve a substantial improvement in affordability, reducing the incidence of unaffordability from the existing 85% in that CAP Rate tier. Moreover, while the *incidence* of unaffordability may remain relatively high (57%), the *depth* of unaffordability would nonetheless decrease.

OCA St. 1 at 17.

There are important differences between a “fixed payment” PIP and a “fixed credit” PIP.

OCA witness Colton explained a “fixed payment” PIP as follows:

The customer's bill is set at an affordable percentage of income. In general terms, the difference between that fixed payment and the bill at standard residential rates is passed-through to non-participating ratepayers as a CAP credit. If a customer's bill at standard rates increases, whether due to higher prices or to higher consumption, the program participant's bill remains the same (i.e., the program is a "fixed payment" program) and the costs to non-participant ratepayers increases.

OCA St. 1 at 17-18. Such a "fixed payment" PIP sets the *payment* obligation for the customer.

So long as the customer maintains the same income level and household number, the CAP customer pays the same amount each month regardless of any changes in usage or the price of service.

Under a "fixed credit" PIP as proposed by Mr. Colton, the *credit* is fixed for the customer, not the payment obligation. Mr. Colton described a "fixed credit" PIP as follows:

Using the customer's historic consumption, PECO would derive that dollar credit that would reduce the bill to an affordable percentage of income so long as the customer retains his or her consumption level.

Under this approach, an advantage arises from the very fact that a fixed credit is "fixed." Once determined at the beginning of the program year, the risk that bills will change in that year (based either on weather or on price) lies with the customer. If the customer has a lower bill, he or she pockets the difference. If the customer has a higher bill, he or she bears the burden of the increase. To the extent that a PIP is considered as an alternative to the existing six-tiered CAP Rate, I would recommend that PECO consider delivering PIP benefits through a "fixed credit" program.

The exception to this mechanism relates to changes in the price to compare. The risk associated with changes in the price to compare should be treated differently. The level of a customer's monthly credit can be adjusted quarterly on a percentage basis on changes in the price to compare. Making such changes is not substantively different from what PECO currently does with the level of discount in the CAP Rate program. (OCA-I-4).

OCA St. 1 at 18.

The OCA submits that as with any structure proposed, there are advantages and disadvantages to the "fixed credit" PIP approach. One of the advantages to a "fixed credit" PIP is that it creates a strong conservation incentive. Under the "fixed credit" PIP, the credit is fixed

within the program term. OCA St. 1 at 22. If the customer can reduce consumption, the customer gets to pocket the savings. If the customer increases consumption, the customer bears the cost of the increase. With the “fixed credit” approach, the customer has a greater incentive to conserve because the customer can directly benefit from such conservation. Similarly, if the customer is able to effectively shop, the customer can save money and pocket the savings, but if the customer ineffectively shops, it will cost the customer more.

The potential for increases in bills from increased usage or increased price, however, is a major concern with a “fixed credit” PIP for the CAP customer. Additionally, the potential IT costs of implementing such a program represent an additional cost of changing to such an approach. With regard to the risk in changes in bills, OCA witness Colton testified regarding his experiences with a fixed credit PIP in Colorado and concluded that the risk of such increases was of an acceptable magnitude because of the relative accuracy of the estimates of the annual bills.

OCA witness Colton testified:

Public Service Company of Colorado (PSCo) operated a two-year pilot “fixed credit” PIP for its natural gas and electric customers. That company’s evaluation, which I authored, reported:

Public Service did a reasonably good job at estimating annual bills or PEAP and PEAP/EAP participants. As [the data] shows, in the first year of participation, 58% of actual combination gas/electric bills fell between 90% and 110% of the billing estimates; 44% of the actual combination gas/electric bills for the second year of program participation fell between 90% and 110% of the billing estimates made when the customer entered the program. Estimates for gas only customers were not quite as accurate. In the first year of participation, 30% of actual bills fell between 90% and 110% of billing estimates, while 18% of actual bills in the second year of participation did. If expanded to a +/-20% range, the estimated accuracy was substantively higher, with 84% of the combination bills falling within a range of 80% to 120% in the first year and 43% of gas-only estimated bills falling into that range.

From a *policy* perspective, I believe that any consideration of a PIP structure should include the consideration of a fixed-credit approach to delivering PIP benefits.

OCA St. 1 at 19-20.

The second concern with a PIP is the potential costs for the Information Technology (IT) to set up the PIP. According to PECO, the costs for implementation of the necessary IT would be between \$8.09 million and \$12.8 million in IT transition costs to move to a PIP. Tr. 76. PECO witness Feldhake testified that the “fixed credit” PIP would incur the “same transition costs, change management costs, and ongoing administrative costs” as a “fixed payment” PIP and may impact the timing for CAP shopping. PECO St. 1-R at 3. While the OCA agrees that this is significant investment for IT, administrative, transition, and change management changes to implement “fixed credit” PIP, there is a potential benefit to the investment of the costs. As Mr. Colton testified:

What one “buys” with those start-up costs, however, is an improved targeting of rate affordability benefits to the Company’s low-income customer base. “Improved targeting” may sound like an amorphous objective to seek for that amount of IT transition costs. However, the level of mis-targeted expenses that are in-play here are in the tens of millions of dollars each year, representing money that is both under-spent and money that is over-spent.

OCA St. 1 at 20. The costs of the IT investment would need to be weighed against the potential benefits received in improvements to affordability levels.

The OCA submits that Mr. Colton considered additional factors in the overall program costs of a PIP which may decrease the total cost of the program, thereby lessening the impact of the increased IT costs. OCA witness Colton testified that there are potential reasons to expect that the total program costs under a PIP would actually be less than the total program costs under the existing CAP Rate program. Mr. Colton stated:

[u]nder a PIP, any usage reduction generated by the federal Weatherization Assistance Program (WAP) or the PECO Low-income Usage Reduction Program (LIURP) would result in a direct dollar-for-dollar reduction in future CAP credits to be paid by nonparticipating ratepayers. As discussed elsewhere in my testimony, under the “fixed credit” structure I propose, customers would keep the usage reduction benefits pending their next program recertification. After a program recertification, however, the cost-reduction impacts would redound to the program.

The cost reduction impact that LIURP (or WAP) would have on a PIP would increase from year-to-year, as greater numbers of program participants receive usage reduction services. Assuming hypothetically, for example, that PECO could deliver LIURP services to 500 homes per year, in Year 1, costs would be reduced for 500 homes per year, in Year 1, costs would be reduced for 500 program participants; in Year 2, costs would be reduced for 1,000 participants; in Year 3, 1,500 program participants. The cost reduction impact of LIURP would extend to the cumulative number of units weatherized in the current and all previous years.

OCA St. 1 at 21.

PECO witness Feldhake raised a second cost-to-achieve a PIP, that the PIP would require the Company to move to annual certification for its entire customer base. PECO St. 1 at 13. The OCA disagrees that this would be the case because not all customers should need to be recertified each year. OCA witness Colton testified:

Not all Pennsylvania utilities that operate PIPs perform annual income recertification for their program participants. Indeed, the move in recent years has been to identify those customers whose incomes are not likely to fluctuate from year-to-year. In particular, customers such as the aged and those on disability incomes fall within this category. Requiring such customers to engage in annual recertification does not inform the eligibility determination process and can be expected to cost more money than it might save by making a more accurate determination of income.

This decision to avoid annual income recertification for its entire participant base would have a substantial impact on reducing the incremental administrative costs that Ms. Feldhake discusses. According to the APPRISE evaluation of PECO’s CAP Rate program, 38% of CAP Rate participants had an elderly member over age 60, while 41% had a disabled member. (APPRISE, at xii). Nearly 30% of CAP Rate participants had retirement income as their primary source of income (Id.) As such, Ms. Feldhake’s estimate of the number of program participant

households who need to be income-recertified each year is considerably overstated.

OCA St. 1-R at 13. (Footnote omitted).

OCA witness Colton stated that the increased cost of certification is only meaningful if the Company is doing a considerably higher number of income certifications under a PIP than under the existing CAP Rate Tier program. Mr. Colton explained:

According to the APPRISE evaluation, while the percentage of CAP Rate participants who participate in the program for a full year who continue their participation in the following year is quite high (95%+), there is only a small percentage of participants who fall into that category of full year participants. According to APPRISE, “[t]here were 134,896 customers who participated in CAP at some point in the year. However, the number with bills in any particular month of the year ranged from 82,941 to 112,518.” APPRISE continued to state: 37% (50,333 of 134,896) of customers who participated in CAP were in the program for the full year.” (APPRISE, at 95). Given a turn-over of CAP Rate participants from year-to-year, whether due to nonpayment, a change in address, a voluntary program exit, or some other reason, with new participants coming into the program and existing participants exiting the program, all of whom would require “new” income verification, it is not at all clear that annual income reverification for a PIP would be substantially higher than currently exists.

OCA St. 1-R at 14. The OCA submits that as discussed above, the costs-to-achieve for income recertification are significantly overstated and should not be viewed as a significant barrier to implementation of a PIP.

PECO witness Feldhake also raised additional “disadvantages” regarding the impact of generation price increases on the CAP shortfall and a net increase in the number of terminations.

PECO St. 1 at 8. OCA witness Colton addressed each of these issues in his Rebuttal Testimony and determined that they were not significant disadvantages to a “fixed credit” PIP.

Regarding the impact of generation price increases, OCA witness Colton responded that:

This presentation [on Ms. Feldhake’s Table 1] isolates a single factor out for analysis to the exclusion of all other factors that affect the level of the shortfall. One factor, for example, that will assuredly occur is an increase in the average income for program participants by CAP Rate Tier because of annual increases in

the Federal Poverty Level. In the past five years alone, the Federal Poverty Level increased by 12% from \$20,650 (2006) to \$23,050 (2012) for a four-person household. This 12% increase occurred despite the fact that one of those years (2010) represented the *only* time ever the Poverty Level guidelines did not increase from one year to the next. As incomes increase, the cost of a PIP decreases, while the cost of the Current 7 Tier Program would not (since income is not a billing determinant for the Current 7 Tier Program). To include the cost increases/decreases attributable to changes in generation prices, the likelihood of which are unknown, without considering the offsetting increases in income (the likelihood of which approaches 100%), results in an incomplete and inaccurate picture.

OCA St. 1-R at 5.

The OCA also submits that the long-term and short-term energy consumption trends will also impact the increases to the CAP shortfall in a “fixed credit” PIP. While PECO witness Scott Neumann stated in Rejoinder that PECO’s overall usage has been steadily increasing at about one percent per year, Mr. Neumann agreed that the consumption reduction targets included within PECO’s Act 129 Energy Efficiency and Conservation Plan are designed to decrease PECO’s electric usage growth. Tr. 135, 155-156.

PECO witness Feldhake also raised a concern that a PIP may result in 45,000 families receiving zero discount and thus potentially increase the risk of non-payment and termination. PECO St. 1 at 7, 18. OCA witness Colton disagreed because even though these customers would no longer receive a discount, overall these customers would still have an affordable bill under the Commission’s CAP Policy Statement guidelines and would continue to receive CAP benefits such as arrearage forgiveness. Mr. Colton testified:

According to Ms. Feldhake, she estimates that a move to the 12 Tier with Seasonality structure would reduce nonpayment terminations by 500 to 1,000 per year. At the same time, she says, a move to the PIP with PUC-Required Minimum Bill alternative would increase terminations by between 1,500 and 2,000 per year. In an informal data request response, Ms. Feldhake concedes that these estimates are not derived from any robust quantitative analysis, but were rather built on a host of assumptions the basis for which is completely unknown. (TURN Informal-1). According to the Company, for example, Ms. Feldhake

assumed that the rate at which terminations increased under a PIP was equal to the percentage of CAP Rate customers who completely lost their discounts under the PIP. She assigned no value to the fact that customers who lost their discounts still receive an affordable bill. She also assigned no value to the fact that PIP participants, whether or not they receive a discount toward their bill for current usage, nonetheless still receive arrearage forgiveness. Ms. Feldhake does not consider the amount of any change in benefits; the person who moves from receiving \$20 in benefits to receiving \$0 in benefits is treated the same way as a person who moves from receiving \$200 in benefits to receiving \$0 in benefits. Both of these customers would be deemed to have an equal increased percentage likelihood of being disconnected due to their change in benefit levels. Overall, Ms. Feldhake provides no basis for her assumption that the percent of change in shutoffs would reflect the percent change in the number of program participants gaining/losing benefits. While Ms. Feldhake provides a calculation, there is no basis for the numbers she used. The “Net change in terminations” numbers provided in Table 2 provides no insights in deciding between CAP Rate alternatives.

OCA St. 1-R at 6-7.

Ms. Feldhake also argued that the PIP structure does not provide an incentive to conserve. PECO St. 1 at 21. The OCA submits that this assumption is incorrect with a fixed credit PIP. OCA witness Colton stated:

Under the “Fixed Credit” PIP that I discussed, the PIP has a far stronger conservation incentive than does either type of Tiered Rate Discount (whether the Current 7 Tier or the alternative with Seasonality). Second, Table 2 might be construed to communicate that low-income participants could be expected to increase their energy consumption under a PIP. PECO’s own consultant, however, has found that not to be case. According to APPRISE, no PIP evaluation performed (irrespective of the utility delivering the benefits, and irrespective of the consultant performing the evaluation) has found a PIP to result in a systematic increase in consumption by program participants.

OCA St. 1-R at 7-8.

Mr. Colton also examined whether “fixed credit” PIP could serve as a CAP shopping platform. As OCA witness Colton testified:

Use of the “fixed credit” approach to delivering CAP benefits through a Percentage of Income Plan allows PECO CAP Rate customers to participate in, and gain the benefits from, retail shopping while at the same time protecting non-participants from the harms of ineffective shopping.

OCA St. 1 at 22. The OCA submits that a customer who effectively shops can potentially reap the benefits of that shopping under a “fixed credit” proposal, and a CAP customer who ineffectively shops will not otherwise harm non-CAP residential ratepayers who would otherwise pay the costs through the CAP shortfall. RESA witness Ronald Cerniglia testified that either a CAP Tiered Rate Discount or the “fixed credit” PIP could provide a CAP Shopping platform and that he could support either CAP design. RESA St. 1-R at 4-7.

Finally, PECO witness Feldhake estimates that the current CAP Shortfall costs of a “fixed credit” PIP would be \$78.1 million (defined PIP with PUC-required minimum bill) which would be a \$200,000 increase over the current CAP Tiered Rate Discount program. PECO St. 1 at 7. The OCA submits that all of the costs, including the “costs-to-achieve” such as IT cost implementation, and benefits must be balanced when evaluating the option to implement a “fixed credit” PIP.

While Mr. Colton has presented a fixed credit PIP as an alternative and recommended consideration of this approach, OCA witness Colton did urge some caution:

We are, however, not starting from scratch. Should PECO move to a PIP at this point in time, assuming that PECO’s quantitative analyses are correct, the Company would completely remove the payment of affordability benefits for current bills- program participants would still be able to receive arrearage forgiveness but would not receive benefits for current bills- for 44,822 low-income customers. Thousands more low-income customers would continue to receive some benefits, but would nonetheless receive a reduced level of benefits. While I understand that the removal and/or reduction of benefits to these tens of thousands of low-income customers can be appropriate because these customers would have an affordable bill as defined by the PUC without additional rate assistance, I hesitate to remove those benefits after customers have received them for so long.

My hesitation is heightened because I believe that PECO witness Feldhake makes a legitimate point that the payment outcomes exhibited by PECO’s CAP Rate customers, as measured by what I call the bill-payment coverage ratio (i.e., the

percentage of the billed dollars that are paid by the customer), reflect favorably when compared to other Pennsylvania utilities that operate PIPs.

Based on these observations, while I clearly do not discard a PIP as an appropriate payment assistance program for PECO, I do not believe that it is only appropriate structure for a bill payment assistance program for PECO at this time.

OCA St. 1-R at 15-16.

The OCA submits that a “fixed credit” PIP could serve as a means to improve affordability and more effectively use ratepayer funds than PECO’s current 6-tier program. Movement to such a program would increase the costs of the CAP to a certain extent and would require costs to achieve. The advantage, however, is a better targeted benefit.

4. Conclusion

The OCA submits that a refinement of the six-tiered CAP rate structure is necessary in order to improve overall affordability. OCA witness Colton testified:

The last time I reviewed the PECO CAP Rate, I concluded that the Tiered Rate Discount approach to PECO’s CAP Rate discount was “conceptually sound” and “empirically supported.” I cannot still offer such a conclusion today about the six-tiered CAP Rate. The refinement of the CAP Rate tiers that the Company agreed to adopt in 2010 still results in an over-payment of benefits to many CAP Rate participants and a substantial under-payment to a separate group of CAP Rate participants. In addition, despite the refinement of CAP Rate into a six-tier program, the program under-performs in meeting the PUC’s affordability outcomes.

The accelerated time frame for this proceeding has not allowed the OCA and the Company to explore other options to further refine the existing program to better meet the PUC’s prescribed affordability objectives while wisely using ratepayer-supplied funding. I conclude, however, that a 12-tier CAP Rate with seasonality, with the seasonal usage limits set not at the population average but rather at the residential population average plus one standard deviation, is a reasonable alternative requiring further discussion. I conclude further that a fixed-credit percentage of income deserves further discussion. The basis for reaching these two conclusions is the further conclusion that either or both of these alternatives meets the program objectives that I identified above.

OCA St. 1 at 23.

The OCA submits that either of the two models proposed by Mr. Colton, a 12-tiered CAP Rate Discount or a “fixed credit” PIP, would better achieve the four objectives laid out by Mr. Colton than PECO’s 6-tiered program and would be able to serve as a shopping platform.

B. CAP Rate Operational Issues

1. Assignment of Customers to CAP Rate Tier A

The Tentative Order raised concerns regarding PECO’s CAP Rate Tier assignment. Tentative Order at 16-17. Specifically, the Tentative Order questioned whether PECO is properly assigning customers to CAP Rate Tier A. Id. CAP Rate Tier A provides a significantly discounted rate to customers at 0-25% of the Federal Poverty Level (FPL) with “extenuating circumstances.” The extenuating circumstances include: (1) injury or illness; (2) high medical bills; (3) medically related usage; (4) a recent death in the family; (5) sudden loss of employment; (6) households with children below the age of 8; (7) an inability to maintain at least two CAP Rate B payment arrangements; or (8) high usage related to shelter issues which are not resolved by LIURP treatment. Tentative Order at 16. The program has an enrollment limit of 7,500, but as of October 1, 2012, only 88 customers had been enrolled in CAP Rate A. Id. The Tentative Order stated:

If a customer is eligible for CAP Rate A, then, to the extent that CAP Rate A is a tariff offering, PECO should be enrolling such a customer in CAP Rate A rather than in the lesser discount CAP Rate B. Accordingly, PECO should ensure that its customer service representatives have the requisite training to be aware that customers with special circumstances may be eligible for enrollment in CAP Rate A and to enroll them in CAP A, as appropriate.

Id.

The OCA agrees with the concerns expressed in the Tentative Order that the CAP Rate Tier A has been under-enrolled. Tentative Order at 16-17. OCA witness Colton explained CAP Rate Tier A as follows:

CAP Rate Tier A addresses the lowest income tier for PECO customers. It is a derivative of CAP Rate Tier B, which is directed toward customers with income at or below 25% of Federal Poverty Level. Poverty Level measures income taking into account household size. In 2012, 100% of Poverty Level was equal to an annual income of:

- \$11,170 for a one-person household;
- \$15,130 for a two person household;
- \$19,090 for a three-person household;
- \$23,050 for a four-person household.

As is evident, therefore, customers participating in CAP Rate Tier B had maximum annual incomes ranging from \$2,793 (1-person household) to \$5,763 (4-person households). Annual incomes for two- and three-person households at 25% of Poverty Level fell at \$3,783 and \$4,773 respectively.

In addition to being income-qualified for Tier B (i.e., at or below 25% of Poverty Level), in order to qualify for Tier A, a household must be payment-troubled and have one or more listed “extenuating circumstances.”

OCA St. 1 at 25-26. (Footnotes omitted).

Although CAP Rate Tier A is available to all customers with incomes at or below 25% of the FPL with at least one enumerated extenuating circumstance, Mr. Colton found that the number of customers enrolled in CAP Rate Tier A is extremely low when compared to the number of customers enrolled in CAP Rate Tier B. As Mr. Colton testified:

PECO’s CAP Rate program had nearly 139,000 low-income households in the 2011 program year. Of those 138,744 participants, 11,565 were assigned to Tier B (income at or below 25% Poverty Level), representing roughly eight percent (8%) of the total CAP Rate population. Only 73 customers were assigned to Tier A, comprised of those payment-troubled customers with income at or below 25% of Poverty Level with “extenuating circumstances.” As can be seen, the Tier A customers represented only five one-hundredth of one percent of the total CAP Rate population, and only one six-tenths of one percent of the Tier A population. Only two (2) customers remained on CAP Rate Tier A for the entire 2011 program year.

OCA St. 1 at 26. According to PECO’s need assessment, approximately 45,505 customers had incomes at or below 25% of the FPL. PECO Exh. LF-8, Table II-7 (APPRISE Evaluation). The APPRISE Evaluation found that approximately 25% of all CAP Rate participants have children

under the age of 5, 40% had elderly individuals in the household, and 41% had disabled individuals in the household. Id. at 60-61. According to Mr. Colton, “It is questionable whether the demographics of the Tier B Cap Rate participants differ substantially from the program as a whole with respect to how many CAP Rate participants had children under 8, infirm elderly, or disabled household members.” OCA St. 1 at 30.

Mr. Colton also raised concern with how PECO assigns customers to CAP Rate Tier A.

Mr. Colton testified:

PECO states that “[a] customer is not eligible for CAP A merely because of the presence of ‘infirm elderly’ or ‘disabled persons’ in the households. The presence of those factors must be causing the household to have an inability to pay their CAP B bills.” To be enrolled in CAP Rate Tier A, PECO argues, a customer must demonstrate that “having an inability to pay the CAP B rate is due to one of the specified circumstances.”

Such an argument is not well-founded. The program rules regarding CAP Rate A do not require customers to make a demonstration of causality between one of the extenuating circumstances and payment-troubled status. The intent of CAP Rate A was to presume the relationship between payment troubles and any one of the extenuating circumstances, should such extenuating circumstances be shown at an income level below 25% of Poverty. Enrollment in CAP Rate A, in other words, was intended to be a two-step process: (a) experiencing payment-troubles; and (b) showing extenuating circumstances; it was not intended to be a three-step process: (a) experiencing payment-troubles; (b) showing extenuating circumstances; (c) demonstrating causality between (a) and (b).

OCA St. 1 at 27-28.

Mr. Colton testified to the substantial payment-troubled status of CAP Rate Tier B customers, and why this suggests that more CAP Rate Tier B customers should be enrolled in CAP Rate Tier A. According to Mr. Colton:

Given the payment-troubled status in the CAP Rate B population, it should be expected that there is a higher coincidence between payment-troubles and the extenuating circumstances that are intended to serve as the basis of moving customers to CAP Rate A. Remember the low-income levels of the CAP Rate participants who are affected. A three-person household at the maximum income in CAP Rate Tier B (25% of Poverty Level) would have an income of only

\$4,772. Moreover, consider the group of CAP Rate B customers that participated in the In-Program Arrearage Forgiveness (“IPAF”) PECO initiative. Nine percent (9%) of the 15,941 IPAF participant population (1,403 customers) came from CAP Rate B. The average arrearage for an IPAF participant was \$2,535.70. Of the total number of IPAF participants, PECO reports that: 79% had an agreement default in the past 24 months, 53% had a medical condition within the past 24 months; and IPAF participants had an average number of disconnections for nonpayment of 1.8 within the past 24 months. Moreover, of the 422 CAP Rate B IPAF participants who had participated in CAP Rate for the 12 months prior to receiving IPAF forgiveness, 16% made two or fewer payments in that twelve month period; 32% had made four or fewer payments; 47% had made six or fewer payments in that twelve month period.

Simply from the IPAF population, in other words, it would seem that there would be a confluence of payment-troubled status and one of the “extenuating circumstances” sufficient to populate the CAP Rate Tier A to a greater extent than PECO now does.

OCA St. 1 at 28-29. (Citations and footnotes omitted).⁷

PECO asserts that it is properly assigning customers to CAP Rate Tier A. See PECO St. 1-R at 11. In Rejoinder Testimony PECO witness Feldhake addressed Mr. Colton’s concern that CAP Rate Tier A is being under-enrolled as a result of PECO requiring customers to demonstrate that inability to pay is due to an extenuating circumstance. See Tr. 110-116. Ms. Feldhake testified that PECO requires confirmation from customers that an extenuating circumstance exists before moving customers to CAP Rate Tier A, and this is done through interviews with customers by staff members trained to assess such situations. Id. at 112-114. Ms. Feldhake testified that the low enrollment in CAP Rate Tier A is a consequence of PECO not being able to contact its customers to make a confirmation that the customer qualifies for CAP Rate A because, although the Company reaches out to CAP Rate B customers to determine eligibility for CAP Rate A, the Company does not have working telephone numbers for many of its customers, and many customers do not respond to mailed communications. Id. at 112.

⁷ During 2011, PECO offered a one-time “In-Program Arrearage Forgiveness” (IPAF) program where CAP Rate customers were able to enter into a payment plan in which they paid \$16.67 per month for 60 months and the Company forgave all in-program arrearages exceeding \$1,000.

The OCA submits that CAP Rate Tier A remains under-enrolled and this is an issue PECO should address if PECO's low income CAP program continues to be based on a Tiered Rate Model. According to Mr. Colton:

PECO does an inadequate job of identifying CAP Rate Tier B customers that have extenuating circumstances and that, accordingly, should be assigned to Tier A. The Company's requirement that a customer make some type of demonstration of causality between the existence of the extenuating circumstance and the payment-troubled status should be rejected. The Company should provide adequate portals through which payment-troubled CAP Rate B customers with extenuating circumstances can be identified and switched to CAP Rate A.

OCA St. 1 at 31. The OCA submits that Mr. Colton's recommendation should be adopted.

2. Targeting of CAP Rate to Lowest Income Customers

Although the Tentative Order focused on the under-enrollment of customers to the CAP Rate Tier A, OCA witness Colton identified an additional concern that PECO under-enrolls the lowest income customers into CAP. Mr. Colton explained as follows:

It is clear from the PECO evaluation that PECO under-serves its lowest income population. The PECO program evaluation reported that:

CAP program participation was lowest amongst households with income below 25 percent of the poverty level. Twenty-five percent of eligible households with annual income below 25 percent of the federal poverty guidelines participated in the CAP; however, 65 percent of households between 25 percent and 50 percent of the federal poverty guidelines, and 63 percent of the households between 50 percent and 100 percent of the federal poverty guidelines participated in the CAP.

(Apprise, at 13-14). Even when one limits the participation rate to those customers with home energy burdens exceeding the PUC guidelines, PECO under-serves its lowest income population. Twenty-five percent of eligible households with energy burdens exceeding the PUC target, and with annual income below 25 percent of the federal poverty guidelines, participated in the CAP Rate; however, 67% of the households between 25 and 50 percent of the federal poverty guidelines, and 93% of households between 50 percent and 100 percent of the federal poverty guidelines (and with energy burdens exceeding the PUC guidelines) did. (Apprise, at 14-15).

OCA St. 1 at 31-32.

When asked to explain the low enrollment of customers to the CAP Rate B tier, PECO stated:

Although the CAP Tier B participants are historically very difficult to contact and enroll, PECO does note that, between 2005 and 2009, its CAP outreach program resulted in an increase in CAP B penetration from 16% to 25% of that population – that is, a more than 50% increase in penetration rate over three years. Furthermore, as of December 2012 the penetration of CAP A/B increased to 31% (total CAP A/B enrollment of 14,185). This is nearly a 100% increase in tier penetration since 2005. While there are no guarantees that PECO will continue to attain such huge increases in CAP B penetration on a going-forward basis, in my opinion this substantial three- and six-year increase demonstrates that PECO is on the right track in its methods for accessing this population. PECO is, of course, open to new ideas on how to access the CAP B population.

OCA St. 1 at 32; PECO Exh. No. 4 (PECO Response to OCA Set 1, Question 16).

The OCA submits that despite PECO's efforts to address the under-enrollment of CAP Rate Tier B, the lowest income customers continue to be proportionately under-enrolled in CAP. The Company should modify its three-year universal service plan to better address this issue.

Mr. Colton testified:

I agree that finding ways to reach the lowest income (e.g., below 25% of Poverty Level) population is a challenge for any utility administering a low-income rate assistance program. There are, however, specific ways to reach-out to this particular population; innovative partnerships to facilitate reaching the lowest-income households can be pursued. The primary mechanism I have historically recommended to use in reaching specific populations is to develop an appropriate array of expanded partnerships that otherwise service the targeted population. Through these partnerships, PECO allows the service provider to identify the households; PECO's role is to enroll the households identified by program partners into the CAP Rate. PECO's "job" in such outreach is not to identify each individual low-income household, but rather to identify the characteristics of the lowest income households along with the existing service providers who particularly serve the households with those characteristics.

OCA St. 1 at 32-33. (Footnote omitted).

Mr. Colton recommended as follows:

PECO needs to re-emphasize the enrollment of low-income customers with income placing them at or below 25% of the Federal Poverty Level. In its three-year universal service plan, PECO should set forth an analysis of the

characteristics exhibited by households with income at or below 25% of Poverty Level. PECO should couple that analysis with a specific outreach plan through which the Company identifies service providers particularly serving those households along with a proposed set of partnerships with those service providers to identify and enroll the target population. Despite recent improvement in the enrollment of these households, these lowest income households continue to be substantially under-represented in the Company's CAP Rate program.

OCA St. 1 at 33. The OCA submits that Mr. Colton's recommendation for PECO to re-emphasize the enrollment of low income customers with incomes at or below 25% of FPL should be adopted.

3. PECO's One Year Arrearage Forgiveness in CAP Rate

The Tentative Order questioned whether PECO's one-year forgiveness component of CAP should be retained or changed. Tentative Order at 17. PECO's one-year forgiveness program allows CAP customers to earn forgiveness of their pre-program arrearages if the customer pays his bill in full and on time each month. OCA St. 1 at 34. For each month that a customer makes a full payment on time, one-twelfth of their pre-program arrearage will be forgiven. Id. Arrearage forgiveness is typically completed within 24 to 36 months, if not longer. PECO St. 1 at 41.

In general, the OCA supports the arrearage forgiveness component of PECO's CAP program. OCA witness Colton testified that, "No policy reason exists indicating that PECO should not retain its one-year arrearage forgiveness program. The Program does not appear to be imposing unreasonable costs on nonparticipating ratepayers." OCA St. 1 at 34. Although the OCA supports the current program, the OCA submits that there is room for improvement.

According to the APPRISE Evaluation, in 2011, only 26% of the full year CAP participants received arrearage forgiveness. PECO Exh. LF-8 at 97 (APPRISE Evaluation). These customers received "an average of 1.3 arrearage forgiveness payments and an average of \$64 to \$77 in forgiveness." Id. Mr. Colton testified that the APPRISE Evaluation reports that in

2010, CAP participants earned an average number of 5.5 forgiveness payments, though 82% of the 2010 enrollee group paid 80% of their billed revenue, 70% paid 90% of their billed revenue, and 44% paid 100% of their billed revenue. OCA St. 1 at 36. As explained by Mr. Colton:

This data creates cause for concern about the mismatch between the rate of total bill payment by PECO's CAP Rate participants and the rate at which those participants earn arrearage forgiveness. It is reasonable to expect PECO CAP Rate participants to pay 90% or more of their bills over an annual basis. We must recognize, however, that while that will be the annual result, low-income customers may miss an occasional payment and then make that payment up the next month. The PECO evaluation confirms this mismatch between annual payments and the ability of CAP Rate participants to earn monthly arrearage credits.

OCA St. 1 at 35.

To remedy the mismatch that exists between the rate of total bill payments made by CAP customers and the rate at which those customers earn arrearage forgiveness credit, Mr. Colton recommended that PECO make the following changes to its arrearage forgiveness program:

First, the CAP Rate arrearage forgiveness program should reflect actual total bill payments by CAP Rate customers by granting arrearage forgiveness on a month-to-month basis as complete bill payments are received. In the alternative, at the end of the twelve-month period, arrearage forgiveness should be granted for the full year in the event that the complete annual payment has been made, irrespective of whether each individual payment was made on a timely basis.

OCA St. 1 at 36-37. The OCA submits that PECO should modify its arrearage forgiveness program to incorporate the recommendations of Mr. Colton.

4. Automatic Enrollment in CAP

PECO currently has a policy of automatically enrolling customers who receive a LIHEAP grant in the CAP program. Tentative Order at 18. The Company enrolls the customers in the highest CAP Rate tier, and then notifies and encourages the customers to provide their total household income so that the Company can assign the customers to the appropriate tier. Id. The Tentative Order proposed to limit enrollment to those customers who "understand the CAP

requirements, obligations and benefits and will help to control CAP costs for all residential PECO ratepayers.” Tentative Order at 19. The Tentative Order stated:

Our potential concern for the PECO provision is that CAP enrollment carries with it these specific provisions that the consequences of failing to honor the CAP payment plan provisions can result in removal from CAP and/or termination of service as specified in Chapter 14, 66 Pa.C.S. §§ 1401-1418. It is essential that a customer being enrolled automatically by an EDC into a CAP must fully understand the ramifications of such enrollment and the obligations to make required timely payments.

Id.

The OCA supports continuing automatic enrollment, but shares the concerns expressed by the Commission about participation in the CAP by a customer on an automatic basis without the customer’s full knowledge or understanding of the CAP requirements, obligations and benefits. The Commission suggested an approach similar to that employed by the Duquesne Light Company. Under this approach, customers receiving the LIHEAP benefit would be given the discount provided to the highest income tier, would be provided written notice of the program enrollment and would be “allowed” to participate for 60 days, or two billing cycles. If that customer has not completed the CAP enrollment process by the end of the 60th day, the customer would be placed back on the residential rate. OCA St. 1 at 37, fn 25. In his Direct Testimony, OCA witness Mr. Colton explained the purpose of requiring customers to acknowledge their enrollment in the CAP program in order to continue participation:

Participation in CAP carries many benefits for the customer but these benefits come with obligations and requirements that the customer must meet to make program participation successful. In addition, under Chapter 14, participation in CAP could potentially limit a customer’s right to a payment arrangement. 66 Pa.C.S. § 1405(c). Customers should be required to acknowledge their understanding of the requirements, obligations, and benefits of the program by completing an enrollment process in a reasonable period of time following the automatic enrollment.

OCA St. 1 at 38. The OCA supports this approach to automatic enrollment and recommends that PECO amend its automatic enrollment process to require customers to affirmatively acknowledge their enrollment or be removed from the program at the end of the 60th day.

PECO cautions that if it were to require an affirmative response from a customer to keep the customer enrolled in CAP, a possible result would be that the customer response rate would be low and that the Company would have to remove thousands of known low-income customers from CAP and place the customers back on the residential rate. PECO St. 1 at 45. The OCA recognizes that modifying PECO's automatic enrollment could result in income-eligible customers being removed from CAP. The OCA submits, however, that customers should understand the requirements, obligations, and benefits of CAP if they are to participate in the program, particularly if that participation can limit the customer's right to a payment arrangement under Chapter 14. One way to ensure that customers do have this understanding is to require them to confirm that they want to continue on the program once automatically enrolled.

5. Notarized Documentation for Zero Income CAP Rate Enrollment

In its USECP, PECO proposed that CAP customers claiming to have no income be required to provide a notarized letter attesting that they have no income. Tentative Order at 22. In the Tentative Order, the Commission noted that the Department of Public Welfare (DPW) only requires a person claiming no income to submit a letter explaining how the individual pays for basic living needs. No notarization is required. Tentative Order at 22.

In its Comments, PECO asserted that households that claim no income generally seek more generous CAP benefits, and therefore, such claims are treated with a higher level of scrutiny. PECO Comments at 29. PECO further asserted that a notarized letter requirement

heightens the customer's sense of seriousness of his statement of no income. Id. at 30. As explained by PECO witness Feldhake:

When a person claims that they live in a household that has "no income," they are seeking to be placed on PECO's CAP Rate B, which currently provides a deeply discounted bill – currently a discount of greater than 90% of the normal Rate R charges, with a minimum monthly bill of \$12.00.

PECO St. 1 at 51. While PECO witness Feldhake recognized that there are other methods that could be utilized to scrutinize no income claims, including the DPW method, she asserted that such method is not superior because it relies on the subjective judgment of those reviewing no income claims. Id. at 52. Ms. Feldhake further testified that obtaining a notarized statement, which can cost no more than \$5.00 per Department of State regulations, is no more burdensome than DPW's method of preparing a written statement. Id.

OCA witness Colton disagreed with PECO's proposal and explained the hardship on no income customers to obtain a notarized statement as follows:

Obtaining a notarized statement is not a resource-free proposition. There will be the direct costs of paying the notary public. There will be time and transportation costs associated with obtaining the notary. Notarized statements require standardized forms which will require time and resources to prepare or obtain. One common source of notaries, local banks, require persons seeking notarized statements to have accounts, which would make them unavailable to unbanked customers (which persons with zero income are likely to be) of which have often-substantial fees for customers with low account balances.

OCA St. 1 at 41. Mr. Colton further testified that PECO has not provided an adequate reason to treat no income customers in such a manner as to require a notarized statement, especially considering "[a] zero dollar income customer would, along with other customers having extremely low incomes, be charged that minimum payment." Id. at 42.

CAUSE-PA witness Pileggi and PCADV witnesses Lindemyer and Locke testified similarly to OCA witness Colton regarding the hardship on no income customers to obtain a

notarized statement. See CAUSE-PA St. 2 at 8-9; PCADV St. 1 at 16-18; PCADV St. 2 at 9. CAUSE-PA witness Pileggi testified that PECO's proposed policy imposes financial and logistical hardships on no income families, especially because "[m]any low-income individuals lack proper photo identification that is necessary to get a notarization." CAUSE-PA St. 2 at 9. PCADV witnesses Lindemyer and Locke testified that the actual cost of notarization is not limited to the fee charged by the notary but also includes costs for transportation and in many cases, costs for childcare. PCADV St. 1 at 16; PCADV St. 2 at 9.

OCA witness Colton recommended that the Commission direct PECO to implement the following regarding this issue:

I recommend the following for customers who seek to participate in the PECO affordability program while claiming a zero dollar income:

- If the customer's zero-dollar income has been certified by LIHEAP, or another public assistance agency, PECO should require no further documentation and should abide by the government process(es) relating to zero-income customers;
- If the customer's zero-dollar income has *not* been certified by LIHEAP (or some other government agency), PECO should require a Zero Income Statement mirroring the Statement required by LIHEAP. No notarization is required.
- If the customer's zero-dollar income has not been certified by LIHEAP (or some other government agency), PECO should require an income recertification every quarter the customer continues to claim a zero-dollar income.

In the meantime, PECO should track and report data on zero-dollar income program participants.

OCA St. 1 at 42.

In her Rebuttal Testimony, PECO witness Feldhake testified that PECO is willing to modify its USECP proposal regarding no income statements to track the DPW method. PECO St. 1-R at 15. Specifically, PECO will require customers claiming no income to submit a

detailed explanation of how the household pays its bills without any income and also submit a non-notarized statement that the customer avers the detailed explanation to be true under penalty of law for false statements. Id.

The OCA submits that the Company's modified proposal represents a reasonably improved approach but could still result in duplication of efforts for those no income customers already certified as such for LIHEAP, thereby wasting PECO's resources and reducing the efficiency of CAP. Therefore, in addition to the Company's modified proposal, OCA witness Colton's recommendation that a customer's no income certification for LIHEAP or by another public assistance agency be utilized by PECO without further required documentation should be adopted. The OCA submits that Mr. Colton's recommendations for quarterly recertification for no income customers not certified as such for LIHEAP and for PECO to track and report data on its no income program participants should also be adopted. See OCA St. 1 at 42.

6. The Use of Social Security Numbers in CAP Rate Enrollment

In its USECP, PECO proposed that it would require customers to provide the social security numbers (SSNs) of all household members when a customer enrolls in CAP. Tentative Order at 20. PECO explained that such requirement was designed to protect the integrity of the CAP. Id. In the Tentative Order, the Commission noted that PECO had already implemented the requirement and requested comments on whether requiring SSNs for all household members is necessary to the operation of PECO's CAP. Tentative Order at 20, 22.

Company witness Feldhake explained that the purpose of its policy was to reduce the possibility of duplicate or fraudulent benefits to a household. PECO St. 1 at 46. Ms. Feldhake testified that the Company uses the information to verify income and that members of the household have not been excluded from CAP due to fraud or theft. Id. Also, SSNs are used to

prevent one-time CAP benefits from inadvertently being given a second time. *Id.* Ms. Feldhake asserted that its policy is consistent with DPW's use of SSNs as a method of establishing eligibility to obtain government benefits and to limit fraud and waste. *Id.* at 48-49. Ms. Feldhake noted that PECO would permit customers to provide Individual Tax Identification Numbers (ITINs) in lieu of SSNs, and the Company would work with immigration advocacy groups to address how U-1 and V-1 visa holders would be handled under this policy. *Id.* at 50.

In his Direct Testimony, OCA witness Colton testified that it serves no additional purpose for PECO to require SSNs when they have most likely already been provided to DPW when applying for public assistance programs. OCA St. 1 at 43. Mr. Colton also testified that there is a specific harm in requiring SSNs. Mr. Colton explained:

The use of SSNs by private entities is one of the leading causes of identity theft. SSNs, along with a person's date of birth and name, are the three most sought-after pieces of personal information sought by identity thieves. According to the 2007 report of the Presidential Task Force on Identity Theft, a person's SSN is the *single* most important piece of personally identifiable information available to identity thieves. Unlike names and addresses, which can change over a person's lifetime, it is "virtually impossible" for a person to change his or her SSN. Unlike a lost key, the social security number cannot be changed merely because it has been lost or stolen. There must be evidence that (1) someone is in fact wrongfully using the number, and (2) that the individual to whom the number belongs is being disadvantaged by the wrongful use.

OCA St. 1 at 43-44. (Internal citations omitted). Furthermore,

PECO indicated that it uses a contractor (NCO) to administer the CAP Rate program. (OCA-I-30). That contractor has access to personally identifiable information (PII), including through the CAP Call Center and the Financial Call Center. (*Id.*) The CAP Call Center can view all nine digits of a customer's SSN. (*Id.*)

Under federal law, to the extent that third-party contractors have access to CAP Rate participant SSNs, PECO undertakes certain responsibilities to those CAP Rate participants, including: (1) informing CAP Rate participants of who might have access to their personal information; (2) providing adequate oversight of all services provided by the contractor and supervising the contractor's access to personal information; (3) entering into contractual agreements (and enforcing

such agreements) that the contractor has appropriate procedures in place (e.g., confidentiality provisions, information disposal requirements, audit rights, data security breach procedures, physical safeguards) to prevent the unauthorized release of confidential information.

OCA St. 1 at 45-46.

Mr. Colton concluded that PECO's proposal to require SSNs from CAP customers should be denied because PECO had not addressed the privacy concerns of the collection, protection, use and disposal of such personal information. Id. at 46.

In her Direct Testimony, CAUSE-PA witness Pileggi echoed OCA witness Colton's privacy concerns in concluding that PECO's SSN requirement proposal should be rejected. See CAUSE-PA St. 2 at 5-6. Ms. Pileggi also testified that PECO's requirement of SSNs for all members of the CAP household is overly broad and could prevent an otherwise eligible household from enrolling in CAP because one household member does not and/or cannot obtain a SSN due to visa restrictions. Id. at 4. Similarly, PCADV witnesses Lindemyer and Locke testified regarding the specific hardships that a policy of requiring SSNs of all household members could have on victims of domestic violence. PCADV St. 1 at 6-16; PCADV St. 2 at 3-9.

In her Rebuttal Testimony, PECO witness Feldhake testified that in response to the concerns raised by the OCA, CAUSE-PA and PCADV witnesses, PECO would modify its SSN proposal as follows:

Instead of requiring SSNs of all household members, I propose that PECO will follow the model that DPW uses for LIHEAP – that is, request SSNs on the CAP application, but allow customers the option of refusing to provide SSNs without losing their CAP eligibility. PECO will work with PCADV to ensure that the opt-out does not prejudice the rights or safety of victims of domestic violence.

PECO St. 1-R at 15. Ms. Feldhake asserted that this proposal was the best way for PECO to control fraud and duplication of benefits without creating barriers to obtaining the benefits. Id.

The OCA submits that PECO's modified SSN proposal, as described by PECO witness Feldhake, represents movement in the right direction but does not alleviate the privacy concerns articulated by OCA witness Colton and the witnesses for CAUSE-PA and PCADV. As described above, PECO utilizes a third-party contractor to administer its CAP, and CAP customers' SSNs can be viewed by the contractors' employees. Given the wide access to the SSNs, customers' privacy should be given utmost protection. As such, the OCA submits that PECO's modified SSNs proposal does not resolve the issue.

7. PECO's Population Average Maximum CAP Credit

The Tentative Order requested Comments regarding PECO's use of an averaging of maximum CAP credits, including the cost implications, and whether this policy should be continued. Tentative Order at 23-24. PECO implements the CAP cost control mechanisms contained in the PUC's CAP regulations through the use of a "population average" maximum CAP Rate credit rather than an individual per participant CAP credit ceiling. The OCA recommends that the "population average" maximum CAP Rate credit be maintained.

Under the "population average" maximum credit, some customers will receive more assistance than that identified as a maximum CAP credit. These customers, however, are precisely the customers that should receive the greatest assistance. OCA witness Colton discussed the potential concerns about changing from the "population average" maximum CAP credit to a per participant CAP credit. Mr. Colton testified:

The concern, however, is that the CAP Rate tiers receiving excess CAP Rate credits (i.e., receiving credits "over" what would be available under the PUC individualized CAP credit ceiling) are *precisely* those CAP Rate tiers that are the lowest income households, and that are currently facing the highest degree and incidence of unaffordability under the existing CAP Rate structure. It would seem unreasonable to take the very participant populations with the lowest incomes, and the highest proportion of CAP Rate participants with burdens exceeding PUC standards despite the receipt of CAP Rate credits, and to *increase*

the payments required of those customers by imposing a stricter CAP credit ceiling than currently exists.

OCA St. 1 at 47-48.

The OCA recommends that the “population average” maximum CAP credit average should be maintained because these are the same customers who are experiencing overall unaffordable bills under the Commission’s regulations. Changes to the “population average” maximum CAP credit would only further exacerbate the existing affordability issues.

8. Targeting of LIURP

PECO’s Plan provides LIURP to CAP Rate customers with average monthly usage of more than 500 kWh. Tentative Order at 26. PECO gives highest priority to CAP customers with the lowest incomes and the greatest CAP benefits, with the remaining participants prioritized using income and energy usage. PECO Exh. LF-8 at ix (APPRISE Evaluation). PECO anticipates providing LIURP services to approximately 7,800 customers each year from 2013 through 2015. Tentative Order at 25.

In the Tentative Order, the Commission cited to a “statistically significant number of complaint calls from customers with an evident need who had not been referred to LIURP,” and sought feedback regarding PECO’s CAP Rate referrals to LIURP. Tentative Order at 26. The OCA submits that PECO’s LIURP referral process, while appearing reasonable on its face, in practice, inadequately targets the lowest income customers with the highest CAP Rate credits.

As explained by OCA witness Colton:

According to PECO’s universal service evaluation, “PECO sends a quarterly download of high usage, low-income customers to CMC. Customers are also referred to LIURP through PECO staff and external agencies. CMC prioritizes CAP participants for LIURP service delivery. Those with the lowest income and the greatest CAP benefits receive the highest priority. CMC prioritizes remaining LIURP participants by energy use and income.” The Evaluation states that “All CAP participants with monthly usage above 500 kWh are considered for LIURP.

Those with the lowest income and the greatest CAP benefits receive the highest priority. CMC prioritizes remaining LIURP participants by energy use and income.”

OCA St. 1 at 49-50. (Citations omitted). Mr. Colton testified, however, that “The data on relative participation rates in the CAP Rate and LIURP program does not appear to reflect [PECO’s] prioritization process. According to the PECO evaluation, the relative participation by income level is virtually identical between the CAP Rate and LIURP.” OCA St. 1 at 50. Mr. Colton stated that the data on relative participation rates shows that LIURP services are “being delivered such that distribution of the LIURP population closely reflects the distribution of the CAP Rate population.” Id. This close correlation between income level and LIURP participation suggests that LIURP services are being apportioned more on CAP customer income rather than on the highest usage level.

PECO witness Feldhake testified that the APPRISE Evaluation does not suggest that PECO is failing to target or reach its high usage customers, but instead suggests that PECO has already reached its high usage customers, and is now re-addressing those same customers and working with the low-usage customers. PECO St. 1 at 56.

OCA witness Colton testified, however, that PECO can and should do more to target high-use low-income customers that impose high bill credits on the program for LIURP services. OCA St. 1 at 51. Mr. Colton recommended that PECO do the following to improve the targeting of its LIURP:

First, PECO should target LIURP to the 16,000 CAP Rate customers who participated in the Company’s In-Program arrearage Forgiveness (IPAF) program. The company has identified these customers as having above-average consumption (i.e., average monthly usage of 1,118 kWh), resulting in an extreme build-up of arrearages despite CAP Rate discounts and on-going collection activities. (OCA-I-13(a)). Given this observation by PECO, it is clear that any usage reduction to be accomplished for these customers through LIURP would result in a direct reduction in the energy burdens billed to the customers and thus to the arrearages incurred by the customers. The 16,000 customers who

participated in IPAF (along with those customers who would participate in IPAF were it continued today) should be targeted for LIURP service.

Second, within the IPAF population, not all customer energy burdens were equal. According to the Company, in 2012 post-IPAF evaluation, the Company distributed IPAF participants by whether the customer had an energy burden below the PUC target of affordability, within the target range, or above the target. The data is presented in Schedule RDC-4. As can be seen in that PECO data, 58% of the IPAF population from the 2011 Analysis Group (defined in the Apprise Evaluation), and 53% of the IPAF population from the 2011 "Full Year CAP" group (also defined in Apprise) had energy burdens "above" (i.e. greater than) the PUC target range. Given that IPAF had a disproportionately high percentage of CAP Rate participants with income lower than 50% of Poverty Level, PECO would be well-served to further target its high burden customers within the 16,000 IPAF population.

OCA St. 1 at 51-52.

According to Ms. Feldhake, PECO targeted 11,020 IPAF accounts that were active in the 4th quarter of 2012 for LIURP services, which led to 2,731 LIURP Audits being completed and 2,299 customers being placed on the current LIURP list. PECO St. 1-R at 18. The OCA submits that PECO should continue its practice of targeting IPAF customers for LIURP Services.

9. PECO's Proposed Asset Test

In its Comments to the Tentative Order, PECO requested that the discussion of the elements in the Tentative Order include whether PECO may implement an asset test, wherein customers that own assets in excess of a set level would not be eligible for CAP regardless of their income because they could not be deemed to be payment-troubled. PECO Comments at 3, fn 1.

In his Direct Testimony, OCA witness Colton provided his general views regarding asset tests and identified the problems with such tests. See OCA St. 1 at 53-55. Specifically, Mr. Colton testified to the following administrative problems inherent in all asset tests:

- It is difficult to determine the value of the home as an asset. To establish an asset value, PECO would not simply have to establish the market value of a home, but would need to establish the equity value in the home.

- Using an asset test imposes a de facto discriminatory factor based on age. Recognizing that the asset value of a home is neither the fair market value nor the appraised value, but rather the equity value, households that live in homes without mortgages are more likely to be older households that have lived in their homes for a substantial period of time.
- Using an asset test effectively isolates a single factor, independent of all other factors, for consideration in determining eligibility for the CAP Rate. Particularly given that an asset test (based on net home equity value) would disproportionately affect aging householders, PECO's suggestion to implement an asset test isolates one factor (i.e., asset value) out for a determination of ability-to-pay to the exclusion of other factors that would decrease a homeowner's ability-to-pay. Aging householders, for example, while they perhaps have succeeded in paying off their mortgage (and thus has a higher asset value) unquestionably also have higher medical expenses.
- Finally, an asset test is unfairly one directional. If PECO were to determine that a household's positive assets have a positive impact on its ability-to-pay, then it would necessarily follow that the presence of negative assets (e.g., debt exceeding equity in a home) would have a negative impact. To exclude an otherwise income eligible household from CAP Rate because of high assets would be appropriate only if PECO were willing to include an otherwise income ineligible household in CAP Rate because of negative assets.

OCA St. 1 at 53-54. OCA witness Colton further testified that specifically with regard to low income customers, an asset test:

- Discourages households from developing savings accounts. Customers are encouraged to spend down their savings rather than to build up their savings. Even in the short-term, therefore, customers thus do not have the capacity to absorb higher monthly utility costs, or other financial exigencies that impede their ability to pay.
- Discourages customers from building long-term assets that can be devoted to productive anti-poverty strategies such as the pursuit of educational opportunities.
- Discourages aging householders from continuing to live independently in their own homes, often found to be an effective ongoing anti-poverty strategy.

OCA St. 1 at 55.

In her Direct Testimony, PECO witness Feldhake explained that the Company had recently observed CAP applications from customers with substantial assets but had recently experienced decreased income making them income-eligible for CAP. PECO St. 1 at 58. Ms. Feldhake asserted that CAP was not designed or intended to provide benefits to customers with substantial assets, and therefore, PECO should be permitted to deny CAP applications in such situations. Id. Ms. Feldhake explained that an asset test was not intended to be a screening tool for CAP applicants, though. Id.

In his Rebuttal Testimony, OCA witness Colton recommended that PECO's proposed asset test be rejected. OCA St. 1-R at 21, 22. Mr. Colton testified that PECO's proposed asset test lacks sufficient specificity and the rationale for imposing it is inappropriate for CAP. Specifically, Mr. Colton explained:

➤ [PECO's] proposal is not defined. At one point, Ms. Feldhake refers to CAP Rate participants who "own very substantial assets – sometimes in the hundreds of thousands of dollars" At another point she specifically calls out an instance where "customers that own. . . \$900,000 homes." (PECO Statement 1, at 58). She suggests that PECO should be allowed to deny CAP Rate benefits in "such situations." She does not, however, offer any definition of "such situations."

➤ Ms. Feldhake testifies that an assets test "would not be a screening tool that is regularly used for CAP applicants." (PECO Statement 1, at 58). Instead, PECO would simply deny program participation when PECO becomes aware of such situations. Ms. Feldhake does not address, however, how the Company would become aware of the level of assets of a CAP participant. As I describe in my Direct Testimony, the asset value is not the value of the home, it is the value of the equity interest in the home. A home worth "hundreds of thousands of dollars" does not necessarily represent an asset of "hundreds of thousands of dollars."

➤ Ms. Feldhake objects to providing assistance to someone who "recently experienced decreased income and [is] therefore income-eligible for CAP" but nonetheless has assets in a home. (PECO Statement 1, at 58). These persons, however, should not be excluded from CAP Rate. Instead, these persons are precisely the people who should be included in CAP Rate. They likely will not bring substantial preprogram arrears into the program. They are not likely to

become long-term program participants. Persons who have recently experienced decreased income might include spouses who are recently divorced or widowed; householders who have recently been injured or become disabled; and workers who have recently become unemployed. These customers face particular difficulties. They are not accustomed to obtaining public assistance. They are likely to have substantial debts (car, home, education) that were supported by their prior income level but not at their new income level. These are precisely the type of people for whom CAP assistance could be not only a critical support, but the critical support. For these customers, forcing them to liquidate their long-term asset (or whatever equity value they might have in that home) to meet a short-term financial crisis is exactly the wrong step for PECO to force them to take.

OCA St. 1-R at 21-22. (Internal footnote omitted).

CAUSE-PA witness Mitchell and TURN et al. witness Peach testified similarly to OCA witness Colton. CAUSE-PA witness Mitchell asserted that PECO failed to present evidence that “such an asset test is needed or that the absence of a test for the past decades has had any negative effect.” CAUSE-PA St. 1-R at 10-11. Mr. Mitchell also noted that there is no asset test for LIHEAP or other DOE/DCED Weatherization programs. *Id.* at 11. Additionally, according to Mr. Mitchell, no other Pennsylvania CAP program uses an asset test. *Id.* TURN et al. witness Peach testified that “PECO’s suggestion that such a vague asset test would not be used as a screening tool in processing CAP applications, but rather for removal from CAP in ‘situations’ where PECO becomes aware of large assets, only raises additional serious concerns that such a policy would be applied in an arbitrary [manner] at PECO’s sole discretion.” TURN et al. St. 1-R at 19.

For all of the foregoing reasons, the OCA submits that PECO’s proposed asset test should not be adopted.

C. OCA Recommended Modifications to the PECO Universal Service Plan

1. Utility Allowances Provided to Public Housing and Assisted Housing Tenants

In its Universal Service Program, PECO properly focuses on the receipt of LIHEAP as a source of energy assistance that integrates and coordinates with its CAP program. PECO should also consider other forms of government-funded energy assistance for CAP customers. Specifically, the OCA submits that energy assistance delivered as utility allowances provided to tenants of public housing and assisted housing should be considered in the CAP. The OCA submits that given the continuing increases in CAP costs, it is time to consider the interaction between PECO's CAP and HUD subsidies provided to tenants of subsidized housing who are directly billed for their utility service and who receive a utility allowance for these utility bills. Specifically, the OCA recommends that PECO establish the ratepayer subsidy to a fixed annual dollar amount (varying by household size) for CAP Rate participants who are also tenants of public or subsidized housing receiving a utility allowance.⁸ OCA St. 1 at 57. This would mirror what LIHEAP does in many states. *Id.*

Energy assistance is provided to tenants of public and assisted housing through "utility allowances." OCA witness Colton testified "[t]he issue extends to any subsidized housing program (rental) through which the tenant receives a utility subsidy; Section 8, public housing, HOME (rental), Low-Income Housing Tax Credits (LIHTC), and a host of other HUD-subsidized (e.g., § 202, § 232) housing." *Id.* at 56. In theory, tenants of such subsidized housing receive a utility allowance that is designed to cover a subsidized tenant's utility bill. In practice, however, that is not the way that the utility allowance ends up working. As OCA witness Colton testified:

Utility allowances are provided as a rent credit, with the notion that by reducing out-of-pocket rent expenses to tenants, the utility allowance frees-up household resources that can then be used to pay the utility bills. In practice, subsidized tenants live with such low-incomes (they tend, on average, to live with income well below the Federal Poverty Level), the "freed-up resources may just as likely

⁸ The OCA notes "subsidized housing" is limited to Section 8 housing under its recommendation.

be used to pay for food or other household necessities as used to pay the utility bills for which they are intended.

OCA St. 1 at 56-57.

While in practice a “utility allowance” may not be sufficient to pay the entire utility bill, it is inappropriate to ignore the fact that subsidized housing tenants receive a utility bill subsidy from the government. OCA St. 1 at 58. Providing a limited fixed annual dollar amount would reconcile these conflicting factors.

The OCA submits that this proposal could have a significant impact on the overall costs of the program. While PECO does not currently track information on Section 8 assisted housing for customers, the OCA submits that this could represent a substantial number of potential CAP participants. OCA witness Colton testified:

According to the U.S. Department of Housing and Urban Development’s “Resident Characteristic Report (“RCR”), the Philadelphia Housing Authority administered 15,112 units of public housing as of December 31, 2012. Similarly, according to the HUD RCR, the Philadelphia Housing Authority administered 19,430 voucher-assisted units (most of which would be Section 8 tenant-vouchers). As can be seen, the number of public and assisted housing tenants in Philadelphia is substantial.

Id. at 58.

OCA witness Colton noted that taking HUD subsidies into account has also been done with LIHEAP in many states. Section 8264(b)(5) permits utility allowances to be considered and states:

For purposes of the Low-Income Home Energy Assistance Program, tenants described in subsection (a)(2) who are responsible for paying some or all heating or cooling costs shall not have their eligibility automatically denied. A state may consider the amount of the heating or cooling component of utility allowances received by tenants described in subsection (a)(2) when setting benefit levels under the Low-Income Home Energy Assistance Program. The size of any reduction in the Low-Income Energy [Assistance] Program benefits must be reasonably related to the amount of the heating or cooling component of the utility allowance received and must ensure that the highest level of assistance will

be furnished to those households with the lowest incomes and the highest energy costs in relation to income, taking into account family size, in compliance with section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981.

43 U.S.C. § 8624(b)(5). The tenants included in subsection (a)(2) include those tenants who are responsible for out-of-pocket payments for utility bills and those who “receive energy assistance through utility allowances that include energy costs under [specifically identified] programs.” 43 U.S.C. § 8624(a)(2).

TURN et al. witness Dr. Peach opposes the proposal to offer a set amount for public housing tenants and recommends that the proposal not be adopted. TURN et al. St. 1-R at 17-18. The OCA submits that this proposal is designed to establish a set benefit for low-income customers who receive government-funded home energy assistance through a utility allowance that properly reflects the realities of this allowance. The customers will also gain the advantage of arrearage forgiveness and other CAP benefits. Mr. Colton explained the program:

I recommend that PECO implement a set benefit for low-income customers who receive government-funded home energy assistance through a utility allowance for tenant-paid utilities in public and voucher-assisted housing units. Rather than receiving the relevant CAP Rate discount, or a percentage-of-income based bill should PECO transform its CAP into a PIP, PECO should allow customers to participate in the CAP Rate (and thus gain the advantage of arrearage forgiveness), but provide a set monthly benefit. The monthly benefit I propose is equal to the average discount of the highest-income CAP Rate tier. Under a PIP, the set benefit would be the PIP fixed credit through application of the higher income bracket.

OCA St. 1 at 59.

The OCA recommends that its proposal for PECO to implement a set benefit for low-income customers who receive government-funded home energy assistance through a utility allowance for tenant-paid utilities in public and voucher-assisted housing units be adopted.

2. De Facto Heating

CAUSE-PA witness Miller proposed that PECO should do more to address the problem of de facto electric space heating within the low-income customer population and within the CAP population in particular. CAUSE-PA St. 1 at 17-19. Mr. Miller states that the “The term ‘de facto heating’ is used to describe when customers use portable space heaters as their primary heating source because they do not have use of their central heating system.” CAUSE-PA St. 1 at 17-18. Overall, Mr. Miller proposes that “[a]ddressing the reduction of de facto heating provides PECO a means to achieve energy usage reductions, ratepayer cost reductions and safer living conditions.” CAUSE-PA St. 1 at 18. Mr. Miller recommended that PECO engage in more coordinated activities with its local weatherization providers, municipal agencies and Natural Gas Distribution Companies (NGDCs) where applicable. Id.

The OCA agrees with Mr. Miller’s concerns and agrees that PECO should do more to address the problem of de facto heating. Mr. Colton testified regarding the de facto space heating issue:

Since PECO’s CAP Rate data base was not available to other parties to this proceeding for any independent analysis, it was not possible for me to consider the prevalence of de facto space heating for this proceeding. However, in responding to the PUC’s 2008 inquiry about de facto electric space heating customers, I outlined a methodology for identifying those customers through monthly usage and billing data. I then found, amongst other things, that substantial numbers of PECO’s CAP Rate participants had high consumption (i.e., more than 1,000 kWh per month) during the cold weather heating months. I reported that:

- For example, 4,200 more CAP Rate E customers had usage of more than 1,000 kWh in January than had high consumption in the two months of May/October. Nearly 7,000 more CAP Rate D customers had high consumption in January than had such high consumption in the non-heating months of May/October.
- The increase in the number of high use customers in the cold weather months is not attributable to RH heating customers. While there are between 19,000 and 20,000 high use CAP Rate customers in February and March, and nearly 24,000 high use CAP Rate customers in January, there are fewer than 7,000

CAP Rate RH customers in those months. While there are roughly 17,500 high use CAP Rate customers in December, there are only 5,900 CAP Rate RH customers in that month. Between January and March, between 19,000 and 24,000 CAP Rate participants had consumption over 1,000 kWh, compared to an RH participation rate of between 6,400 and 6,900. In December, 17,500 CAP Rate participants had consumption over 1,000 kWh, compared to an RH participation rate of 5,900.

OCA St. 1-R at 25-26.

OCA witness Colton found significant implications for PECO's customers as a result of de facto space heating. Mr. Colton testified:

In my analysis of de facto space heating customers, I found that from a programmatic perspective, high consumption amongst PECO's CAP Rate participants occurs at a non-discounted price. No additional discount is provided for *any* CAP Rate customer increased weather-sensitive heating consumption during the winter months. All four CAP Rate tiers were limited to a CAP Rate discount for consumption at lower usage levels, even during the cold weather months. I found further that to the extent that the PECO CAP Rate program does not achieve an affordable burden for all CAP Rate participants, one reason involves the penetration of weather-sensitive cold-weather electric heating load that is not associated with permanent electric heating fixtures that can be served under the RH rate. The presence of this weather-sensitive electric heating load has the direct result of impeding the ability of CAP Rate customers from experiencing an affordable electric burden. As a result, notwithstanding the PECO CAP Rate program, PECO CAP Rate participants may experience unaffordable bills both on an annual basis and in individual winter heating months.

OCA St. 1 at 27.

The OCA recommends that CAUSE-PA witness Miller's recommendations on the need to treat de facto electric space heating customers be adopted.

3. TURN et al. Proposal to Increase Income Levels For CAP Eligibility

TURN et al. witness Dr. H. Gil Peach recommends that eligibility for PECO's rate affordability assistance program "should be set in the range of 270% to 300% of poverty for the County of Philadelphia and somewhat higher for the higher cost and higher income counties that surround Philadelphia." TURN et al. St. 1 at 22. The OCA submits that Dr. Peach's proposal to

use these higher incomes to define the eligibility for a low-income assistance program should not be adopted in this proceeding.

As of March 31, 2012, PECO's CAP program has grown to the largest program in Pennsylvania with 140,440 customers enrolled at a cost of approximately \$71.8 million for baseload electric CAP customers and an additional \$6.1 million for electric heating customers in the current six-tier program. Tentative Order at 28; PECO St. 1-R at Exh. LPF-3. The OCA submits that expanding the income eligibility to 200-270% of the Federal Poverty Level or higher would significantly increase the costs of the program beyond those already identified in the instant proceeding to change the CAP structure.

The CAP Policy Statement recommends that the programs be designed for customers at or below 150% of the Federal Poverty Level. As OCA witness Colton explained that Commission has defined an affordable bill based on the upper limit at 150% of the Federal Poverty Level:

It is important to remember that the PUC has defined "affordability" in three specific ranges for Pennsylvania utilities. Limiting my discussion to electric non-heating customers, though noting that it is equally applicable to electric heating customers, we start with the recognition that the PUC has defined an affordable electric non-heating burden to be:

- 2% to 5% for households with income at or below 50% of Poverty Level;
- 4% to 6% for households with income between 50% and 100% of Poverty Level;
and
- 6% to 7% for households with income between 100% and 150% of Poverty Level. (APPRISE, at 11). The significance of these affordability standards is not only that they define a standard by which to measure the amount of rate assistance to provide, but they also create an effective upper limit on income eligibility. Consider, for example, that using the upper end of Dr. Peach's recommended income-eligibility (300% of Poverty simply for the ease of calculations), the income levels by household size would be as follows for two-, three- and four-person households:
 - 100% of Poverty for a two-person household in 2012 was \$15,130, so 300% of Poverty would be \$45,390;

- 100% of Poverty for a three-person household in 2012 was \$19,090, so 300% of Poverty would be \$57,270;
- 100% of Poverty for a four-person household in 2012 was \$23,050, so 300% of Poverty would be \$69,150.

The PIP creates an effective upper limit on income eligibility because a customer, even at these new standards of what it means to be low-income, would not participate in PIP if their bill at standard residential rates was already less than the bill at the affordable percentage of income.

OCA St. 1 at 29.

Further, OCA witness Colton concluded that it is unlikely such a customer would need such a discount and testified:

Using the highest point in the affordability range (7%) for the highest current income range (100% - 150% of Poverty), and applying that percentage to the income ranges recommended by Dr. Peach, we would find that a PECO customer at these income ranges would only participate in a PECO (electric) PIP if their non-heating electric bill were as follows:

- 2-person household: $\$45,390 \times 7\% = \$3,177$;
- 3-person household: $\$57,270 \times 7\% = \$4,009$;
- 4-person household: $\$69,150 \times 7\% = \$4,841$

Since I find that it is not reasonable to assume that low-income customers would routinely, if ever, experience electric non-heating bills at these levels, I conclude that it is unlikely at best, that expanding the income eligibility to the levels recommended by Dr. Peach would provide meaningful additional rate assistance. Even if income-eligible at these increments of Poverty Level (270% to 300%), customers would not participate given that their bills at standard residential rates would be less than their bill at the prescribed affordability ranges.

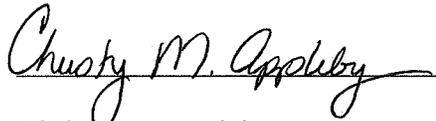
OCA St. 1 at 29.

Therefore, the OCA submits that TURN et al.'s proposal to increase the income eligibility limits should not be adopted.

V. CONCLUSION

The OCA submits that the PECO Universal Service and Energy Conservation Plan should be modified in the areas as discussed above. Accordingly, PECO's Universal Service and Energy Plan, with the OCA's proposed recommendations, should be approved.

Respectfully Submitted,



Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org

Candis A. Tunilo
Assistant Consumer Advocate
PA Attorney I.D. # 89891
E-Mail: CTunilo@paoca.org

Amy Hirakis
Assistant Consumer Advocate
PA Attorney I.D. # 310094
E-Mail: AHirakis@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

DATE: February 27, 2013
166295.doc

CERTIFICATE OF SERVICE

RE: Petition of PECO Energy Company for Approval of Its Default Service Program
Docket No. P-2012-2283641

PECO Energy Company's Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4
Docket No. M-2012-2290911

I hereby certify that I have this day served a true copy of the foregoing, the Office of Consumer Advocate's Main Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 27th day of February 2013.

SERVICE BY E-MAIL and FIRST CLASS MAIL

Elizabeth Rose Triscari, Esq.
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, PA 17101

Divesh Gupta, Esq.
Constellation Energy
111 Market Place, Suite 500
Baltimore, MD 21202

Scott Debroff, Esq.
Rhoads & Sinon LLP
One South Market Sq., 12th Fl.
P.O. Box 1146
Harrisburg, PA 17108-1146

Edward G. Lanza, Esq.
Eckerts, Seamans, Cherin & Mellott, LLC
213 Market Street, 8th Fl.
Harrisburg, PA 17101-1248

Kenneth M. Kulak, Esq.
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921

Ward Smith, Esq.
Assistant General Counsel – Exelon
2301 Market Street
Philadelphia, PA 19101

Thu B. Tran, Esq.
Robert W. Ballenger, Esq.
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102

Charis Mincavage, Esq.
Adeolu A. Bakare, Esq.
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108

Stephen L. Huntoon, Esq.
NextEra Energy, Inc.
801 Pennsylvania Avenue, NW
Suite 220
Washington, DC 20004

Tori L. Giesler, Esq.
FirstEnergy
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001

Jeffery J. Norton, Esq.
Carl Shultz, Esq.
Eckert, Seamans, Cherin & Mellott LLC
213 Market Street, 8th Fl.
Harrisburg, PA 17101

George D. Gould, Esq.
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102

Todd S. Stewart, Esq.
Hawke, McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17105-1778

Charles E. Thomas, III, Esq.
Thomas, Long, Niesen & Kennard
212 Locust Street, Suite 500
P.O. Box 9500
Harrisburg, PA 17108-9500

Patrick M. Cicero, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Amy M. Klodowski, Esq.
FirstEnergy Solutions Corp.
800 Cabin Hill Drive
Greensburg, PA 15601

Brian J. Knipe, Esq.
Buchanan, Ingersoll & Rooney PC
409 North Second St., Suite 500
Harrisburg, PA 17101

Melanie J. Elatieh, Esq.
UGI Corporation
460 North Gulph road
King of Prussia, PA 19406

Daniel Clearfield, Esq.
Eckert Seamans Cherin & Mellott LLC
213 Market St., 8th Fl.
Harrisburg, PA 17101

Harry S. Geller, Exec. Director
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Amy E. Hamilton, Esq.
Noel Trask, Esq.
Exelon Business Services Co.
300 Exelon Way
Kennett Square, PA 19348

Steven Larin
Acting Exec. Director
Nationalities Service Center
1216 Arch Street, 4th Floor
Philadelphia, PA 19107

Will Gonzalez, Exec. Director
CEIBA
149 W. Susquehanna Avenue
Philadelphia, PA 19122

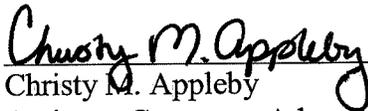
H. Gil Peach, Ph.D.
H. Gil Peach & Associates, LLC
16232 NW Oak Hills Drive
Beaverton, Oregon 97006

Veronica Ludt, Legal Center Director
109 E. Price Street
Philadelphia, PA 19144

Laurie Baughman, Esq.
Elizabeth Marx, Esq.
3605 Vartan Way, Suite 101
Harrisburg, PA 17110

Maripat Pileggi, Esq.
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102

Natasha Kelemen, Exec. Director
Pennsylvania Immigration &
Citizenship Coalition
2100 Arch Street, 7th Fl.
Philadelphia, PA 19103



Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CApplby@paoca.org
Candis A. Tunilo
Assistant Consumer Advocate
PA Attorney I.D. # 89891
Amy E. Hirakis
Assistant Consumer Advocate
PA Attorney I.D. # 310094

Counsel for
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
164692