

THE PENNSYLVANIA UTILITY LAW PROJECT
118 LOCUST STREET
HARRISBURG, PA 17101-1414

HARRY S. GELLER, ESQUIRE
HGELLERPULP@PALEGALAID.NET

PHONE: (717) 236-9486, EXT. 211
FAX: (717) 233-4088

February 27, 2013

RE: Petition of PECO Energy Company for Approval :
of its Default Service Program : P-2012-2283641

PECO Energy Company Universal Service and :
Energy Conservation Plan for 2013-2015 : M-2012-2290911

Via E-Filing

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

Dear Secretary Chiavetta

Enclosed please find the Main filed on behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) in the above referenced proceeding. Electronic and hard copies have been sent to the parties consistent with the attached certificate of service.

Should you have any question or concerns about this filing please do not hesitate to contact the undersigned.

Respectfully submitted,



Harry S. Geller, Esquire
Patrick M. Cicero, Esquire
Counsel for CAUSE-PA

CC: Hon Cynthia W. Fordham
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for Approval :
of its Default Service Program : P-2012-2283641

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Energy Conservation Plan for 2013-2015 : M-2012-2290911

Certificate of Service

I hereby certify that I have this day served copies of the Main Brief CAUSE-PA via Email and US Postal Service First Class Mail upon the statutory parties and counsel of record in the captioned matters as set forth below in accordance with the requirements of 52 Pa. Code § 1.54:

Elizabeth Rose Triscari, Esquire
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, PA 17101
etriscari@pa.gov

Edward G. Lanza, Esquire
Eckerts, Seamans, Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101-1248
elanza@eckertseamans.com
***Representing Retail Energy Supply
Association***

Christy M. Appleby, Esquire
Candis A. Tunilo, Esquire
Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1923
cappleby@paoca.org
ctunilo@paoca.org

Kenneth M. Kulak, Esquire
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
kkulak@morganlewis.com
Representing PECO

Divesh Gupta, Esquire
Constellation Energy
111 Market Place
Suite 500
Baltimore, MD 21202
410-470-3158
divesh.gupta@constellation.com
Representing Constellation New Energy and Constellation Energy Group

Ward Smith, Esquire
Assistant General Counsel – Exelon
2301 Market Street
Philadelphia, PA 19101
215-841-6863
ward.smith@exeloncorp.com
Representing PECO

Scott Debroff, Esquire
Rhoads & Sinon LLP
One South Market Square, 12th Floor
P.O. Box 1146
Harrisburg, PA 17108-1146
717-237-6716
sdebroff@rhoads-sinon.com
Representing Washington Gas Supply Services, Inc.

Charis Mincavage, Esquire
Adeolu A. Bakare, Esquire
McNees, Wallace & Nurick
100 Pine Street
Harrisburg, PA 17101
cmincavage@mwn.com
abakare@mwn.com
Representing PAIEUG

Stephen L. Huntoon, Esquire
NextEra Energy, Inc.
801 Pennsylvania Avenue, NW
Suite 220
Washington, DC 20004
202-349-3348
shuntoon@nexteraenergy.com
Representing NextEra Services PA LLC & NextEra Energy Power Marketing LLC

Tori L. Giesler, Esquire
FirstEnergy
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
tgiesler@firstenergycorp.com
610-921-6658
Representing Met-Ed, Penn Power and West Penn Power

Jeffery J. Norton, Esquire
Carl Shultz, Esquire
Eckert, Seamans, Cherin & Mellott LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
717-237-6000 **Representing ChoosePA Wind.com**

Thu B. Tran, Esquire
Robert W. Ballenger, Esquire
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
215-981-3788
ttran@clsphila.org
Representing TURN, et al

Todd S. Stewart, Esquire
Hawke, McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17105-1778
717-236-1300
tsstewart@hmslegal.com
Representing Dominion Retail, Inc. & Interstate Gas Supply Inc.

Charles E. Thomas, III, Esquire
Thomas, Long, Niesen & Kennard
212 Locust Street, Suite 500
P.O. Box 9500
Harrisburg, PA 17108-9500
cet3@thomaslonglaw.com
717-255-7611
Representing Noble Americas Energy Solutions LLC

Amy M. Klodowski, Esquire
FirstEnergy Solutions Corp.
800 Cabin Hill Drive
Greensburg, PA 15601
724-838-6765

aklodow@firstenergycorp.com

Representing First Energy Solutions Corp

Brian J. Knipe, Esquire
Buchanan, Ingersoll and Rooney PC
409 North Second Street, Suite 500
Harrisburg, PA 17101
717-237-4820

brian.knipe@bipc.com

Representing First Energy Solutions Corp

Melanie J. Elatieh, Esquire
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
610-992-3750

elatiehm@ugicorp.com

Representing UGI Energy Link

Daniel Clearfield, Esquire
Eckert Seamans Cherin & Mellott LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
717-237-7173

dclearfield@eckertseamans.com

Representing RESA

Andrew S. Tubbs, Esquire
Post & Schell
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
717-612-6057

atubbs@postschell.com

Representing PPL EnergyPlus LLC

Dated: February 27, 2013

Amy E. Hamilton, Esquire
Noel Trask, Esquire
Exelon Business Services Co.
300 Exelon Way
Kennett Square, PA 19348
610-765-6649

amy.hamilton@exeloncorp.com

Representing ExGen

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

info@nscphila.org

Will Gonzalez, Executive Director
CEIBA
149 W. Susquehanna Avenue
Philadelphia, PA 19122
215-634-7245

will.gonzalez@philadelphiaceiba.org

H. Gil Peach, Ph.D.
H. Gil Peach & Associates, LLC
16232 NW Oak Hills Drive
Beaverton, Oregon 97006
503-645-0716

hgipeach@scanamerica.net



Harry S. Geller

**BEFORE THE
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	:	P-2012-2283641
PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015	:	
	:	M-2012-2290911

**MAIN BRIEF OF THE COALITION FOR AFFORDABLE UTILITY SERVICES AND
ENERGY EFFICIENCY IN PENNSYLVANIA**

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA

Harry S. Geller, Esq., PA ID: 22415
Patrick M. Cicero, Esq., PA ID: 89039
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
pulp@palegalaid.net

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I. INTRODUCTION

After more than 17 years of settlements and compromises; after a dozen years of Pennsylvania Public Utility Commission (“Commission”) orders highlighting the failure of PECO Energy Company (“PECO”) to provide bills for its lowest income Customer Assistance Program participants that comply with Commission policy, the time is at hand to make the necessary changes. These proceedings provide the opportunity for PECO to correct long running difficulties and implement a Universal Service and Energy Conservation Plan (“USECP”) for 2013-2015 which comports with the Competition Acts, the CAP Policy Statement, settlement obligations and recurrent Commission orders. We ask that the Commission seize this opportunity to assist the most impoverished of PECO’s customers as they begin to enter for the first time the electric retail competitive market. The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through its counsel at the Pennsylvania Utility Law Project, files this brief in support of its positions demonstrated by the evidence of record and the law and policy relating to universal service programs.

The evidence in these captioned proceedings demonstrate that neither the current PECO Energy Company (“PECO”) 7 Tier CAP Discount Rate Model nor a potential 12 tiered model comports with the Pennsylvania Public Utility Commission (“Commission”) Customer Assistance Program (“CAP”) Policy Statement (“CAP Policy Statement” or “Policy Statement”) requirements regarding affordability. Instead, the evidence demonstrates that a Percentage of Income Payment (“PIP”) Plan model will enable PECO to achieve the following: (1) compliance with the Policy Statement significant improvement in providing its CAP participants with affordable asked to pay bills; (2) that the timing of the implementation of a PECO CAP Shopping plan need not be sacrificed because of the complexities involved in the implementation

of an affordable PIP, but instead could be accomplished through an aggregation of CAP participants; and, (3) that PECO's proposed 2013-2015 Low-Income Usage Reduction Program ("LIURP") plan requires additional resources to ensure that there is not a significant reduction in the conservation and energy resources in the second and third years of the Plan.

In addition, the evidence amply demonstrates that PECO's proposed policies requiring the provision of Social Security Numbers, notarized statements, and an assets test for CAP program enrollment should not be approved; that PECO's current policies regarding maximum CAP controls and biannual recertification should continue, and that PECO should continue its automatic enrollment of CAP customers who have received LIHEAP subject to the modifications as proposed by the Commission.

II. Procedural History

To help meet the requirements imposed by the Competition Acts, the Commission established the *Universal Service and Energy Conservation Reporting Requirements* (USEC Reporting Requirements) at 52 Pa. Code §§ 54.71-54.78 and 52 Pa. Code §§ 62.1-62.8. These reporting requirements require each electric distribution company (EDC) serving more than 60,000 residential accounts and each natural gas distribution company (NGDC) serving more than 100,000 residential accounts to submit an updated universal service and energy conservation plan every three years to the Commission for approval. In compliance with these requirements, PECO submitted the Universal Service and Energy Conservation Plan for 2013-2015.

PECO, which is both an EDC and a NGDC, has approximately 1.4 million residential customers divided into three types: (1) those who receive only electric service; (2) those who receive both electric and gas service (combination); and, (3) those who receive only gas service.

There are approximately 114,000 electric customers, 23,000 combination customers and 313 gas-only customers in PECO's CAP program, as reported to the Commission's Bureau of Consumer Services (BCS) as of October 5, 2012.¹

The Default Service Plan Proceeding

On January 13, 2012, PECO filed a Petition for Approval of its Default Service Implementation Program pursuant to Section 2807(e) of the Public Utility Code. The petition concerned PECO's default service procurement starting June 1, 2013, as well as various retail market enhancements proposed by PECO to be implemented beginning June 1, 2013. The petition was published in the Pennsylvania Bulletin on January 28, 2012, with an Answer/Protest date of February 17, 2012. 42 Pa. B 642.

On February 13, 2012, CAUSE-PA filed a Petition to Intervene and an Answer to PECO's Petition raising concerns about its proposed retail market enhancements. Various other parties also filed petitions to intervene and/or an answer to PECO's Petition prior to the February 17, 2012 deadline.² The Petition to Intervene was granted by ALJ Dennis J. Buckley on March 19, 2012 and CAUSE-PA became an active participant in that proceeding.

Following the submission of testimony, a hearing held on May 22, 2012, the submission by the ALJ of a Recommended Decision, and consideration by the Commission, an Opinion and Order was issued on October 12, 2012 which directed PECO to develop a Shopping Plan that

¹ Tentative Order, 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, at 3.

² Petitions to Intervene were filed by the following: UGI Energy Services, Inc., Office of Small Business Advocate ("OSBA"), Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. ("Constellation"), Exelon Generation Company, LLC, and Exelon Energy Company (collectively "Exelon"), FirstEnergy Solutions Corp. ("FES"), Washington Gas Energy Service ("WGES"), Direct Energy Services ("Direct"), Retail Energy Supply Association ("RESA"), Dominion Retail d/b/a Dominion Energy Solutions & Interstate Gas Supply, Inc. ("Dominion/IGS"); the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia ("TURN et al); Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (Collectively, "First Energy Companies"); Noble Americas Energy Solutions, LLC; ChoosePA Wind; Philadelphia Area Industrial Energy Users Group ("PAIEUG"); PPL Energy Plus LLC; NextEra Energy Services Pennsylvania, LLC and NextEra Energy Power Marketing LLC; Green Mountain Energy Company ("GMEC"); and, the Office of Consumer Advocate ("OCA").

will allow its CAP customers to purchase generation supply from electric generation suppliers (EGSs) by January 1, 2014.³

The Universal Service and Energy Conservation Plan for 2013-2015

On February 28, 2012, PECO Energy Company (PECO or Company), filed its universal service and energy conservation plan (USECP) for 2013 through 2015 in accordance with the Pennsylvania Public Utility Commission's (Commission) regulations at 52 Pa. Code §§ 54.71-54.78, relating to electric universal service and energy conservation reporting requirements, and 62.1-62.8, relating to natural gas universal service and energy conservation reporting requirements. PECO's amended USECP for 2013 through 2015 ("Plan") was filed on October 15, 2012.

On October 31, 2012, PECO submitted the APPRISE six-year evaluation report in compliance with 52 Pa. Code § 54.76. APPRISE noted opportunities for PECO to improve its program impact including suggesting that PECO try to increase affordability for lowest poverty group participants and that PECO target lowest income CAP customers who exceed CAP usage discount limits for LIURP.⁴

On November 8, 2012, the Commission, drawing heavily on PECO's CAP history and Commission actions and recommendations regarding making PECO's electric service CAP Rate program more affordable, tentatively approved PECO's Plan in part, while directing PECO, and inviting others, to comment on various aspects of PECO's Plan. Specifically, the Commission solicited comment on: (1) the elimination of the CAP Rate design and movement to a PIP plan

³ See *Petition of PECO Energy Company for Approval of its Default Service Program*; Docket No. P-2012-2283641.

⁴ See APPRISE Evaluation Report, p. 124.

design; (2) whether or not to retain the one-year arrearage forgiveness policy; (3) whether PECO was making appropriate referrals to CAP Rate A while it is still in effect; (4) whether PECO should require customer education and positive customer response rather than automatic enrollment in CAP upon receipt of a LIHEAP grant; (5) whether PECO's CAP credit policy guideline maximums should be modified; (6) whether there should be increased LIURP referral training and call center staffing; ;(7) whether requiring Social Security Numbers from all residents is necessary to the operation of PECO's CAP; and (8) whether requiring a notarized letter of no income is necessary to the operation of PECO's CAP. The Commission indicated that to the extent that the comments and reply comments raised relevant material factual questions, this matter may be referred to the Office of Administrative Law Judge (OALJ) for hearing and decision.

The Secretarial Letter

On January 3, 2013, a Secretarial letter was issued to this docket which stated, in relevant part:

On November 8, 2012, the Commission issued a Tentative Order seeking comments on specific aspects of PECO's CAP Plan, including whether design changes should be made, such as to convert the plan to one that is based on percent of income.⁵ In the Tentative Order, the Commission expressed concerns about the affordability of PECO's current program structure and noted that, generally, percent of income plans are more affordable for customers. Upon review of the comments and reply comments, the Commission notes that some interested parties share these views and some have requested the opportunity to participate in an evidentiary proceeding before an Administrative Law Judge (ALJ) to more fully review and analyze relevant data. Additionally, other comments suggest that these issues might be capable of being addressed through a collaborative process.⁶

...

⁵ See *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.

⁶ At 1.

To ensure that critical decisions about the structure of PECO's CAP Plan are made before PECO has to file the Shopping Plan (which, due to the extension of time, is now on or around May 1, 2013), the Commission plans to adopt a Final Order on the CAP Plan by April 4, 2013. To that end, the CAP Plan is immediately assigned to the Office of Administrative Law Judge to conduct any necessary evidentiary hearings and briefing, and certify the record (if any) to the Commission by March 1, 2013.⁷

Pursuant to the Secretarial Letter, this matter was assigned to Administrative Law Judge Cynthia Williams Fordham. A telephonic prehearing conference was held on January 15, 2013. Testimony was filed on February 4, 2013, Rebuttal Testimony filed on February 12, 2013 and Hearings held on February 15 and 19, 2013.

III. LEGAL STANDARD

PECO's Plan must fully comply with the applicable provisions of the Public Utility Code, 66 Pa. C.S. §§ 101 *et seq.*, Commission regulations, orders and policy statements. The Plan must meet the submission and content obligations of the USEC Reporting Requirements at 52 Pa. Code §§ 54.74 and 62.4, the Low Income Usage Reduction Program (LIURP) regulations at 52 Pa. Code §§ 58.1-58.18 and the CAP Policy Statement at 52 Pa. Code §§ 69.261-69.267.

The Electricity Generation Customer Choice and Competition Act (Electric Competition Act), 66 Pa. C.S. §§ 2801-2812, became effective on January 1, 1997. The Natural Gas Choice and Competition Act (Gas Competition Act), 66 Pa. C.S. §§ 2201-2212, became effective on July 1, 1999. The primary purpose of these Competition Acts is to introduce competition into the electric generation and natural gas supply markets. The Competition Acts established standards and procedures for the restructuring of the electric and natural gas utility industries. Concurrently with opening the markets to competition, the Competition Acts required Universal

⁷ At 2.

Service Programs and included provisions to ensure that those programs enable low-income customers to maintain utility service through affordable program rates.

The universal service provisions of the Competition Acts, among other things, tie the affordability of electric service to a customer's ability to pay for that service. The Competition Acts define "universal service and energy conservation" as the policies, practices and services that help low income customers maintain utility service. The term includes customer assistance programs, usage reduction programs, service termination protections, and consumer education. 66 Pa. C.S. §§ 2202 and 2803.

The Competition Acts declare that the Commonwealth must, at a minimum, continue the low income policies, practices, and services that were in existence as of the effective date of the laws. 66 Pa. C.S. §§ 2203(7) and 2802(10). The Competition Acts require the Commission to ensure that universal service and energy conservation services are appropriately funded and available in each utility distribution territory. 66 Pa. C.S. §§ 2203(8) and 2804(9).

Finally, the Responsible Utility Customer Protection Act at 66 Pa. C.S. § 1401 et seq., enacted subsequent to the Competition Acts and relying upon the expectation of properly functioning universal service programs to provide affordable CAP rates, prevents the Commission from entering payment agreements for CAP customers. 66 Pa. C.S. § 1405(c). Therefore, each PECO CAP customer, uniquely unable to secure Commission intervention regarding payment terms, is totally dependent upon the CAP design model to ensure that the CAP payment structure provides affordable rates and complies with the CAP Policy Statement Guidelines which objectively specify the range of acceptable CAP customer energy burdens.

Thus, the independent evaluation, the Commission's triennial review and its required final approval are the only means available to ensure that each of the program components

comports with applicable law and are designed to request an affordable bill from each CAP customer. Regardless of which program design model is used, the CAP program must maintain its payment requests within the safe harbor of the energy burdens established in the CAP policy guidelines.⁸

The importance of establishing a compliant PECO CAP program now is further highlighted and compounded by the requirement that this CAP Model will form the basis of PECO's initial plan that allows CAP customers to shop in the competitive market.

By this Secretarial Letter, the Pennsylvania Public Utility Commission (Commission) is addressing procedural issues in the above-captioned PECO Energy Company (PECO) proceedings in an effort to issue a Final Order on PECO's Universal Service and Energy Conservation Plan for 2013-2015 relating to its Customer Assistance Program (CAP Plan) before PECO files its plan that allows CAP customers to shop for generation supply (Shopping Plan).⁹

Thus, this proceeding is the singular opportunity for the Commission to ensure that, pursuant to the requirements of the Competition Acts which tie the entry into the competitive marketplace of low-income consumers to affordable CAP rates, that PECO's Universal Service and Energy Conservation Program protections, policies and services, are properly functioning.

IV. ARGUMENT

A. PECO's current CAP Rate 7 Tiered Discount Model does not comply with the Commission's Energy Burden Guidelines

It is undisputed that PECO's low-income customers enrolled in its CAP are economically vulnerable, merit distinct treatment, and require significant protection in order to adequately shield them from potential harm and to ensure that "the protections, policies and services that

⁸ *Final Investigatory Order, Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, Docket No. M-00051923, entered December 18, 2006 [at 48] the Commission clarified that "the maximum energy burdens at 52 Pa. Code § 56.265(2) (i)(A)-(C) apply to all payment plan designs."

⁹ January 3, 2013 Secretarial Letter, at 1.

now assist customers who are low-income” are in place and are working in accordance with Commission guidelines and policies. These protections, provided within the context of Universal Services, are intended to assist low-income households maintain and afford essential electric and natural gas service. However, PECO’s current 7 Tiered CAP Rate Discount Model has failed to provide the protections required. In its Tentative Order, the Commission clearly recognized this failing and laid out the core issue:

PECO’s current CAP Rate design has been evolving since 1996. In 2000, the Commission recommended that PECO implement a percent of income payment plan (PIPP) design, discussed changes in discounts and concerns of customer confusion, and required that CAP tiers be increased in an attempt to further affordability. More recent orders supported the premise that PECO’s CAP Rate has been unaffordable. Notwithstanding the USECPs approved in 2008 (for 2007 – 2009) and 2010 (for 2010 – 2012), PECO has informed staff that APPRISE has recently raised questions in its third-party program evaluation regarding PECO’s rate discounts and affordability. When the USECP for 2010 to 2012 was approved, it was with the clearly express condition that PECO’s next rate case would establish new rate discounts applicable to each tier.¹⁰ Now that we have seen the new tier rates in operation in the context of this current Plan review, we invite comment on several design elements. **Of primary concern is whether PECO’s CAP Rate complies with the energy burdens and affordability provisions outlined in the Commission’s CAP Policy Statement.**¹¹

After this proceeding, the inarguable answer to the Commission’s primary concern is that PECO’s CAP rate fails to comply with the energy burdens and affordability. In fact, the evidence submitted *by PECO* in this proceeding demonstrates that its CAP Rate Discount Model fails to obtain affordable payments from its CAP Rate customers. For example, in her testimony of PECO witness Lauren Feldhake demonstrates that under PECO’s current CAP Rate discount program **more than one-third of the total population of PECO CAP participants are required to make payments that are unaffordable.**¹² Ms. Feldhake’s testimony further

¹⁰ PECO’s CAP is based on what it refers to as a “rate discount.” PECO offers a different percentage off each rate, for use up to a limited amount of kWhs for each CAP rate tier.

¹¹ TO at 8-9 (emphasis added).

¹² PECO ST 1, *TABLE 4 AFFORDABILITY*, page 9.

demonstrates that even if PECO's model were to undergo major adjustments such as expanding to 12 tiers or to 12 tiers with seasonality, this level of unaffordability would continue to exist for at least one-third of all participants.¹³ In light of this evidence, PECO's CAP Rate Discount does not and cannot, by "fine tuning", meet the CAP design requirements for affordability.¹⁴ This is in stark contrast to the evidence about affordability that would be achieved through a PIP model.

TURN et al. witness H. Gilbert Peach accurately described the advantages of a PIP as compared to PECO's current tiered approach:

Q. Is the PIP affordability program structure the optimal program approach for meeting affordability needs?

A. Yes. There are two reasons why the PIP is the optimal program approach. First, the PIP program design is the *most precise* among the available alternative program structures in assigning an affordable monthly "please pay" bill. This is because the PIP individually tailors the "please pay" amount to the income of each household. Second, once put into place (that is, after the transition charges associated with the first year) it is the *least cost* approach to full implementation of affordable bills across all future years. In summary, the PIP approach is optimal because it is the most precise in presenting customers with affordable bills and because it is the least cost method to fully reach that goal.

Q. Can you provide an example of how the PIP approach (in contrast to a tiered approach) provides *optimal precise allocation* of bills according to ability to pay?

A. Yes. Suppose there are currently four households without electric heat and with identical energy (kWh) use for a given month. One household has an income above the definition of need as established in the Pennsylvania Code. The second, third and fourth households have incomes that fall within the definition of need and also fall within one of the current tiers of the PECO's CAP program. However, the second household is located near the top of its income tier and the third household is near the bottom of the tier. The fourth household is located at the center of the same tier. In this example, for both a Tiered Program and a PIP Program approach, the household with an income above the definition of need will pay a monthly bill computed at the standard residential rate. In a tiered approach, for the three households within a common tier, the household near the top of the tier will receive too much subsidy; the household near the bottom of the tier will receive too little subsidy and the one in the middle

¹³ Ibid.

¹⁴ CAUSE-PA ST 1R at 3.

will receive a monthly bill calculated using an affordability subsidy that is just right for that tier.¹⁵ In contrast, in a PIP approach each of these three households will receive a bill with a monthly “please pay” amount that is just right because it represents a specific percentage of their household income.¹⁶

None of the parties to this proceeding has challenged that basic premise articulated here – the one which the Commission indicated was “of primary concern”¹⁷ that PECO’s current program does not comply with the energy burdens and affordability provisions of the Commission’s Policy Statement and that a PIP would do so. Instead, while conceding that a PIP has the capability to produce bills that are within the Commission’s guidelines for each CAP participant,¹⁸ each of the other parties focused on various other implementation hurdles to transitioning to a PIP.

For its part, PECO focuses most significantly on the time that it would take to make this transition and the cost involved. As to the first issue, CAUSE-PA believes that timing is a red herring. As articulated more fully below in the section of this brief dealing with CAP customer aggregation there is no reason why the Commission could not order PECO to adopt an aggregation approach to is CAP customer shopping plan and then order it to implement a PIP. This approach would also alleviate come of the OCA’s concerns about cost-containment under a PIP. Rather than having individual CAP customer within a PIP shopping for competitive retail

¹⁵ See Response to OCA I-2 (PECO is attempting to extract data regarding the number of CAP customers at the bottom of the CAP tiers who were “under-paid”); OCA I-22, 23 (reporting the number of CAP customers who PECO believes would not need a discount under a PIP). It is worth noting that, with respect to the responses to OCA I-22 and 23, it is unclear if PECO’s calculations (per the response to OCA I-4) take into current account household discount levels and monthly usage limits (since data for 2009 is utilized), or just current PECO rates. As discussed below, the responses to OCA I-22 and 23 do not take into account that future GSA increases would likely result in some of those same customers again receiving discounted bills under a PIP.

¹⁶ TURN et al. ST 1 at 5:2-6:6.

¹⁷ TO at 9.

¹⁸ See PECO testimony, as provided by Ms. Feldhake’s Table 4, PECO ST 1 at 9; the testimony of TURN et al’s witness Dr., H Gil Peach, TURN ST 1 at 5; OCA witness Colton, OCA ST 1 at 16; and CAUSE-PA witness Miller, CAUSE ST 1 at 9.

supply, PECO or a third party would shop in the aggregate – with the ability of a CAP customer to opt-out and shop on his or her own. As to the issue of the information technology costs associated with a change to a PIP, CAUSE-PA submits that OCA witness Colton summed these concerns up best:

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.¹⁹

Moreover, Mr. Colton testified that there are very real 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.²⁰

CAUSE-PA submits that the evidence in this proceeding overwhelmingly demonstrates that PECO’s current CAP Rate structure is broken. It over-allocates benefits to some customers at the higher end of eligibility at the expense of PECO’s poorest customers. Changing from PECO’s current CAP Rate structure to a PIP is an effective means of remedying this program. While undoubtedly there would be up-front costs to this transitions, these costs would ensure that PECO’s low-income customers would have a more efficiently targeted benefit that is designed to achieve bill affordability consistent with Commission guidelines. When combined with CAUSE-PA’s CAP shopping aggregation proposal as argued more fully in the next section the concerns expressed by other ratepayers are significantly eliminated.

¹⁹ OCA ST. No. 1 at 20.

²⁰ *Ibid.* at 21.

B. A CAP AGGREGATION SHOPPING PLAN WILL ENABLE PECO TO COMPLY WITH COMMISSION SHOPPING DEADLINES WHILE PROVIDING AN EFFICIENT AND SAFE MANNER FOR CAP CUSTOMERS TO ENTER THE COMPETITIVE ELECTRICITY MARKET.

The Commission has ordered PECO to develop a plan allowing PECO's CAP customers to purchase generation supply from EGSs by April 1, 2014. Throughout this proceeding, parties have tried to use this deadline as a reason why substantial changes to PECO's CAP that appropriately target affordability cannot be made in time for this transition. CAUSE-PA submits that this is not an either/or proposition. Instead, consistent with the testimony of CAUSE-PA witness Miller, PECO's CAP shopping plan could be developed first under the rubric of CAP customer aggregation. Under an aggregation approach, PECO could comply with the Commission shopping deadline **and** provide an efficient and safe manner for CAP customers to enter the competitive electricity market under either the tiered CAP design model or a PIP. None of the parties addressing this proposal has disputed this fact,²¹ but rather they posit that such a determination to aggregate is premature and should be left to a later proceeding regarding PECO's implementation of CAP shopping. CAUSE-PA respectfully disagrees and asserts that now is the appropriate opportunity for Commission direction within its USECP determination that an aggregation program, with appropriate consumer protections, will enable PECO to have sufficient time to reform its CAP while ensuring that CAP shopping deadlines may be met..

PECO witness Feldhake asserts that a changeover to a PIP structure, if done within the expedited time frame set for CAP shopping, would place the changeover on a "fast track" that is fraught with risk significant enough for her to counsel against moving to a PIP at this time.²² PECO is therefore grounding its advocacy of maintaining the tier program discount model status

²¹ Direct Energy, OCA, PECO, TURN.

²² PECO ST 1 at 12:1-5.

quo to a large degree on the difficulty of implementing CAP shopping successfully and efficiently on the impediments to implementation in conjunction with CAP shopping, rather than the merits of developing a CAP shopping design that complies with Commission requirements. This makes no sense. Neither the process of facilitating CAP customer shopping nor the task of structuring the CAP program to ensure affordability should be prejudiced by attention to one versus the other. Both are essential. Aggregation of CAP customers eliminates these theoretical implementation impediments while enabling PECO to establish the appropriate CAP model within the appropriate time frame.

Aggregation, as presented by Mr. Miller, would mean that CAP customers would shop as a group, not individually. PECO, or a third party administrator contracted by PECO if that would be a more cost-effective approach, would seek retail market bids through an RFP or some other competitive approach to provide load for PECO's CAP customers for a fixed period of time. PECO, as the CAP administrator, would establish the requirements for the competitive supplier to bid on serving the aggregated CAP customer group.

This approach has advantages for all involved. First, it would allow CAP customers to get the benefits of the competitive retail market's lower energy prices while eliminating the difficulties which individual consumers encounter such as sorting through the multiple product offerings of numerous generation suppliers, maintaining vigilance over price changes, and determining how the change to a competitive supplier would affect their CAP benefits and consumer protections. Second, suppliers would benefit through a reduction in their customer acquisition costs. Further, the aggregation of 140,000 customers should provide sufficient load certainty to attract interested suppliers. Due to the purchase of receivables program, these suppliers have little to no risk of uncollectible expenses. Finally, other ratepayers would benefit

from this structure because they would not be subject to paying the costs of the CAP program that are defined by the individual shopping choices of CAP customers, but rather through a competitive process designed to ensure sufficient cost protection and cost certainty.

Such an aggregation approach would be appealing to many competitive suppliers who would be able to significantly reduce their marketing and individual sign-up and contracting expenses. The appropriate length of the aggregation contract, as well as renewal and other terms could be developed through negotiation or a collaborative of the parties.

Although PECO and OCA indicate that the aggregation proposal is premature²³, they do not object to the aggregation of CAP customers as a way to approach and implement PECO's Shopping plan. CAUSE-PA submits that much can be gained by developing and agreeing upon the details of aggregation now either concurrent with or preliminary to with the final determination by the Commission of the PECO USECP. Many of the impediments and concerns regarding the cost and time to development of a PIP simultaneously with a shopping Plan would be alleviated through aggregation. Furthermore, PECO, through aggregation would be able to solicit the lowest competitive bid for its CAP customers, which would alleviate the concerns that shopping decisions by individual CAP consumers would result in unaffordable rates for that customer and the need by other ratepayers to cover the costs of more costly individual shopping results.

CAUSE-PA witness Miller put forward protections to be incorporated into the aggregation process which would enable continued compliance with the universal service and consumer protection sections of the Competition Acts and Commission CAP policies to be

²³ PECO ST 1R at 9, OCA ST 1R at 24:19-21.

maintained. CAUSE-PA supports the incorporation of these protections in the aggregation process:

- a. CAP customers' monthly asked to pay amounts must be affordable as designated by the Commission Policy guidelines;
- b. CAP customers must maintain their full universal service program protections;
- c. CAP customers must experience no reduction or loss of benefits as a result of shopping;
- d. CAP customers must be assured that the competitive price charged to them is always at or below the price they would pay if they remain on default service;
- e. CAP customers who leave CAP must be able to switch to an alternate supplier or back to PECO at any time without any fee or penalty;
- f. CAP customers must be exempt from security or other deposit requirements that an EGS might otherwise impose; and
- g. Written information regarding the rights and responsibilities of CAP customers who shop through aggregation must be provided.²⁴

Direct Energy and OCA witnesses each respectively expressed positive responses to the aggregation concept in general²⁵ but they stated concern regarding different aspects of Mr. Miller's proposed protections. Direct Energy witness Cerniglia warned about erecting barriers to participation by customers and suppliers and questioned the legality of assuring that the competitive price charged to CAP customers is always at or below the price they would pay if they remain on default service.²⁶ OCA witness Colton stated:

While I agree that allowing CAP customers to participate in the competitive market through an aggregation process would logically result in a better price for these customers than having each individual customer shop for competitive service individually, I do have a concern. The legitimacy of such an approach would depend on who has the authority to continue service at the end of the

²⁴CAUSE-PA ST 1 at 5:9-26.

²⁵ Direct Energy at 8: 10-17; OCA at 24:7-17.

²⁶ Direct Energy ST 1R at 9: 1-4.

period. I have been informed by counsel that it is not clear, under Commission orders, that the authority (and obligation) to serve CAP customers would revert to PECO at the end of what Mr. Miller refers to as a “fixed period of time.” Under such circumstances, in my opinion, to bid CAP customer load out on an aggregated basis would impose a substantial risk that, at the end of the contract period, these customers might potentially lose the affordability protections that would be available to them through PECO.²⁷

CAUSE-PA submits that these concerns are capable of being addressed and should not act as a deterrent to the Commission recognition of aggregation as an appropriate mechanism to be employed in conjunction with the establishment of a PECO USECP that complies with Commission policies, regulations and orders. As Direct Energy witness Cerniglia pointed out, these matters may be resolved through Commission orders or regulations or through negotiation by the parties prior to the RFP.²⁸ Furthermore, CAUSE-PA acknowledges Mr. Colton’s concern as legitimate; but not a bar to the implementation of aggregation. Mr. Miller’s testimony implied and CAUSE-PA urges the Commission to specify, in conjunction with its approval of a PECO CAP shopping plan, that the authority and obligation to serve CAP customers through retail aggregation would continue to remain with PECO and that fixed time periods refer only to the length of the retail aggregation contracts. That is, at the end of the retail aggregation contract PECO would solicit another retail aggregation bid.

For all of the reasons articulated above, CAUSE-PA submits that the Commission should adopt the aggregation model proposed here and order PECO to work to implement retail CAP aggregation before implementing changes to its CAP structure. Once the details of the aggregation are finalized, PECO should then work in implementing a PIP consistent with the arguments contained earlier and the testimony submitted by TURN et al’s witness Dr. Peach.

²⁷ OCA ST 1R at 24:7-17

²⁸ Direct Energy at 9: 1-4.

C. PECO'S USECP REQUIRES ADDITIONAL RESOURCES TO BE DEDICATED TO ENERGY EFFICIENCY

In this proceeding, PECO has proposed a flat-funded LIURP budget that does not respond to increased costs for weatherization measures and as a result, PECO projects to perform a decreased number of audits each year and serve fewer households.²⁹ This should not be accepted. Further, PECO has not committed to extending into 2014, the Default Service Program and Rate Mitigation Plan settlement of \$2.5 million dedicated in 2013 to low-income energy efficiency. The combination of the potential loss of \$2.5 million in DSPRMP low-income energy efficiency funding after 2013, and the reality of fewer households being served by LIURP will be a significant reduction of energy efficiency resources available for low-income households. Although PECO witness Feldhake cites the energy efficiency commitment of \$15.1 million for PECO in 2013, the facts indicate that this level of funding will not continue and that for the remaining two years of the plan (2014 and 2015), PECO's low-income energy efficiency commitment would be significantly reduced. The loss of this resource would greatly exacerbate the difficulties low-income households presently face in accessing efficiency services.³⁰

CAUSE-PA Miller proposed a three pronged approach to remedy these defects:

- a) PECO commits sufficient LIURP funds to serve 15% more LIURP households incrementally in each of the program years;
- b) PECO adjust for the higher costs of serving each of its LIURP households; and,
- c) PECO commit to continue the equivalent of the DSPMRP supplement of LIURP in the amount of \$2.5 million for 2014 and 2015, the remaining years of its USECP.

²⁹ CAUSE-PA ST 1 at 16:9-11.

³⁰ Ibid at 17: 11-13

CAUSE-PA further supports the testimony of Mr. Miller, corroborated and supported by PECO witness Feldhake³¹ and OCA witness Colton³², that *de facto* electric space heating is one area of significant concern which is not currently being adequately addressed. This is not a new issue. OCA witness Colton provides a detailed discussion of the evaluation and conclusions he reached in 2008 regarding the need to address *de facto* heating³³ and PECO witness Feldhake specifically references *de facto* heating as an historically troubling issue.³⁴ Most significantly, a decade ago the Commission concerned by high usage directed PECO to determine, in conjunction with BCS, how to “resolve these issues” and directing that “Resolution should include consideration of a maximum bill for *de facto* heating customers, correcting inappropriate rates, and consumer education and usage reduction services when appropriate.”³⁵ CAUSE-PA respectfully submits that each of these issues has continued without abatement for this past decade and the time for the Commission to direct corrective action is now. Ensuring that PECO dedicates sufficient funding for energy efficiency services, as witness Miller recommended, would enable the company to realistically begin to address *de facto* heating in a meaningful manner.

Witness Feldhake proposes that one way to address the current lack of attention to *de facto* space heating would be for the Commission to grant PECO a waiver to have flexibility within LIURP to address this issue.³⁶ To the extent that such a waiver is necessary, CAUSE-PA would support this approach. However, extension of the DSPMRP funding in the amount of \$2.5

³¹ PECO St. 1R, at 20

³² OCA 1R at 25-27

³³ OCA ST 1R at 25-27.

³⁴ PECO ST 1R at 18:15-19:3.

³⁵ Tentative Order (later becoming final) to *PECO Energy Company's Petition for Expedited Approval of Consensus Modifications to PECO Energy Company's Universal Service Program and Associated Tariff Changes*, Docketed Nos R-00027870 and M-00001418 at 10. Order entered April 8, 2003.

³⁶ PECO St. 1R, at 20

million annually for 2014 and 2015 would enable PECO to address de facto heating now without the need for either of a waiver or the reallocation of limited LIURP funds.

Social Security Numbers

D. PECO's proposal to require CAP applicants and household members to provide Social Security Numbers should be disapproved because it imposes an excessive burden on low-income households and will have the effect of precluding certain otherwise eligible households from accessing CAP benefits.

As a part of its CAP enrollment process, PECO requires a Social Security Number (SSN) for all household members, including those household members under the age of 18. This process was implemented by PECO despite not having the Commission's approval to do so prior to seeking permission in its current plan filing. PECO asserts that the purpose of its SSN requirement is to "reduce the possibility of duplicate or fraudulent benefits to a household."³⁷ PECO also states that it uses SSNs to verify income and determine whether an individual in the household previously received certain CAP benefits such as pre-program arrearage forgiveness, or has been removed from CAP for fraud, theft or similar activities.³⁸ The Commission should specifically order PECO to discontinue this practice.

All of the parties in this proceeding, save PECO, have taken the position that PECO's SSN requirement should be disapproved and each has done so for substantially the same reason: (1) PECO has not demonstrated a need to impose this requirement other than its own administrative preference; (2) there is a significant population of customers who would be harmed by the continuation of such a requirement; and, (3) there significant privacy issues at stake which PECO has not adequately addressed.

³⁷ Comments of PECO Energy Company to the November 8, 2012 Tentative Order at *PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4* at Docket No. M-2012-2290911 at 24.

³⁸ *Ibid.* at 28 n.9.

First, PECO has come forward with no evidence indicating that the requirement of SSNs is necessary for it to effectively administer and monitor its CAP program. As the Commission has cited, the U.S. Social Security Administration has provided guidance suggesting that utility companies do not need SSNs and can do a credit check or identify the person in records by alternate means.³⁹ PECO's CAP application currently requests name and date of birth of all household members, which is alternate information that PECO can use to identify household members. This is sufficient and if PECO continues to insist that such information is inadequate to maintain the integrity of the CAP program, it should be required to provide evidentiary support for this position. As highlighted in the testimony of CAUSE-PA witness Maripat Pileggi, PECO has come forward with no such support:

In response to discovery sent by the Pennsylvania Coalition Against Domestic Violence seeking that PECO identify the rate of fraud or duplicative benefits provided by CAP recipients, PECO responded as follows:

The purpose of PECO's SSN proposal is so that it can identify fraud and duplicate benefits in its CAP program. Collection of SSNs from all customers, and identification of instances of fraud and duplicate benefits will allow PECO to track those metrics over time. Absent such a program and metrics, PECO does not have sufficient information to provide the requested data.

This answer demonstrates the circularity of PECO's logic: PECO wants to use SSNs to prevent fraud and duplicative benefits but cannot demonstrate that there is actually a problem that needs to be remedied until it is able to use SSNs. This is not a rational basis upon which to collect SSNs.⁴⁰

In her rebuttal testimony, PECO witness Lauren Feldhake does not provide any additional argument or evidence to support PECO's need for Social Security numbers. Despite the dearth of evidence in the record supporting PECO's need to collect SSNs, there is significant

³⁹ *PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code 54.74 and 62.4* at Docket No. M-2012-2290911 at 21. (Tentative Order issued November 8, 2012) ("Tentative Order").

⁴⁰ CAUSE-PA Statement No. 2 at 6:12-23 (footnote omitted) (citing PECO Response to PCADV-I-2 attached to CAUSE-PA Statement No. 2 as Appendix B).

evidence suggesting that the plan would limit the ability of many individuals to participate in PECO's CAP. Ms. Pileggi outlined these concerns in her testimony:

First, providing SSNs is not a requirement for obtaining utility service and is not a Commission imposed requirement for CAP enrollment. While I understand that PECO is interested in preventing duplicative enrollment, its imposition of a SSN requirement is overly broad. In the Public Benefits Unit at CLS we often see clients who do not have SSNs or other tax identification numbers, but nonetheless have utility accounts with PECO and other Philadelphia area utilities.

Second, a SSN requirement would have an especially adverse impact in the Philadelphia area where there is a high concentration of immigrants many of whom either cannot get SSNs or other tax identification numbers, or, if they are able to do so, often have very long waits in order to get a SSN or tax identification number. Additionally, there are numerous immigration visas that do not allow or require the immigrant to apply for a SSN. Individuals with lawful immigration or visa status who do not have work authorization, may obtain a SSN **only** if federal, state, or local law requires a SSN to obtain a public benefit, and only if a government entity provides the Social Security Administration with a very specific letter detailing the need for the SSN in the individual's case. As there is no law requiring SSNs for CAP eligibility, I do not believe it would be possible, under Social Security Administration's rules, for immigrants without work authorization to obtain a SSN solely to enroll in CAP.

In addition, any rule conditioning CAP eligibility on the provision of SSNs for all household members will unfairly preclude individuals with SSNs from the benefits of the CAP program if they live in households that include individuals with immigration statuses that make it impossible to get a SSN. For example, at CLS we see clients whose families include both adult members who cannot obtain SSNs and U.S. Citizen children who do have SSNs. If PECO is permitted to continue conditioning enrollment in CAP on the provision of SSNs for all household members, there will be U.S. Citizen children in mixed status households who are denied access to CAP benefits necessary to sustain life-essential utility services and keep their homes warm and safe. All of these otherwise eligible individuals and families would be unreasonably discriminated against if a SSN requirement for CAP were allowed to continue. This is a particularly pernicious result given that neither the receipt of utility service nor CAP eligibility is limited to households with a particular immigration status. By imposing a SSN requirement PECO is discriminating against those who are unwilling or unable to get a SSN and the family members, including children, of those unable to get SSNs.⁴¹

⁴¹ *Ibid.* at 3-5 (footnotes omitted).

These concerns are not trivial as they would cause very real harm to economically vulnerable customers and provide no net tangible benefit to PECO's ability to effectively manage its program. Furthermore, all of the other parties in this proceeding share CAUSE-PA's concerns.⁴²

In her rebuttal testimony, PECO witness Ms. Feldhake proposes a concession on this issue:

After reviewing the various concerns raised and the options available to PECO, I am prepared to modify PECO's SSN program for CAP. Instead of requiring SSNs from 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.⁴³

PECO's concession addresses some, but not all of CAUSE-PA's concerns. Most significantly, PECO's proposed resolution does nothing to address the privacy concerns at stake with the broad dissemination of SSNs. The collection and processing of unnecessary and unwarranted personal information by utilities provides access to countless individuals who may or may not handle that information responsibly. This is not a trivial concern as it raises the vulnerability of already economically troubled households to intentional or unintentional breaches which can lead to identity theft. CAUSE-PA agrees with PECO that it is not subject to the federal Privacy Act. While PECO somehow seems to think that this is a reason to allow it to ask for and collect SSNs, CAUSE-PA (and others) submit that this is a paramount reason for PECO not to collect this information. PECO is simply not subject to the same stringent confidentiality provisions needed to protect individual's SSNs.

⁴² See PCADV Statement No. 1 at 4-8; PCADV Statement No. 2 at 3-6; OCA Statement No 1 at 43-46; TURN et al.'s Statement No. 1-R at 16-17.

⁴³ PECO Statement No. 1-R at 15:6-12.

CAUSE-PA is also concerned about PECO's implementation of this alternative plan. Specifically, the option for individuals to keep their SSN private may be buried in the application and not readily apparent to the applicant. If this plan were to be adopted by the Commission, the disclosure that a SSN is not required must be **prominent and conspicuous** on the application itself immediately following the request for SSNs. Applicants may have difficulty exercising their right to opt out of providing a SSN if the option is not clear and prominent on the application and in the native language of the applicant.

In light of the fact that PECO has come forward with no evidence indicating that in the absence of requiring SSNs for its CAP applicants and their household members that it would not be able to effectively administer the CAP program, and in light of the myriad problems associated with PECO collecting SSNs, CAUSE-PA asserts that the Commission should deny PECO's request and specifically order PECO to cease the collection of SSNs as a condition of CAP enrollment.

Notarization Requirement

E. The Commission should reject PECO's requirement that household's who report zero income obtain a notarized statement, as well as the OCA's requirement that these households submit themselves to quarterly recertification of their income.

PECO's policy requiring households without income to obtain a notarized statement attesting that they do not have any income imposes unnecessary financial and logistical burdens on persons who already lack the resources to appear before a notary public and pay for notary services. PECO's policy is both irrational and has no basis in fact. Although PECO asserts that the policy helps to protect the integrity of the CAP program, when asked in discovery to provide evidence in support of this assertion it provided no such evidence.⁴⁴

⁴⁴ See PECO Response to PCADV-I-3 and I-4, attached hereto as Appendix B.

As Ms. Pileggi pointed out in her testimony, this policy is especially troubling in light of the August 2012 elimination of the General Assistance cash assistance program, a last resort safety net program that provided \$205/month to about 35,000 adults in Philadelphia who are unable to work due to a disability, domestic violence, or because they are in intensive drug or alcohol rehabilitation, or caring for an unrelated child or disabled family member. Many individuals who were receiving GA are awaiting approval of Social Security disability benefits, but those approvals often take more than a year to be made. Many former GA recipients who now have no income are facing an enormous struggle to fend off homelessness and to find a way to support themselves. These households do not have the resources to afford to pay for notarization.

In its rebuttal, PECO appears to have conceded these points. Ms. Feldhake states:

PECO will modify its program to track the DPW model – that is, customers who claim “no income” will be required to submit a detailed explanation of how the household pays its bills with no income. That statement will be submitted with a statement that the customer avers the statement to be true, on penalty of law for false statements. The statements will be accepted on a non-notarized basis.⁴⁵

CAUSE-PA appreciates PECO’s concession on this matter but has concerns about how it will be implemented. From CAUSE-PA’s perspective, the purpose of a statement that the household does not have income is to satisfy the requirement that that household documents its income. If there is no income the only means to document income is with a statement. CAUSE-PA accepts that this statement needs to come from the household, be signed by the applicant, and be made pursuant to the provisions contained in 52 Pa. Coe § 1.36 and 18 Pa. C.S. § 4904. CAUSE-PA is concerned however by PECO’s additional recommended requirement that the household “submit a detailed explanation of how it pays its bills with no income.” To be sure,

⁴⁵ PECO Statement No. 1-R at 16-21.

all low-income households – households with incomes at or below 150% of the Federal Poverty Income Guidelines – lack sufficient income to pay their bills.⁴⁶ To be poor is always to have to decide which bill will get paid and which can wait; that is, which bill will be the “Peter” who is robbed to pay the “Paul.” This is not irresponsibility; it is the economic reality of poverty. CAUSE-PA’s concern is that the suggestion that households without income must provide a detailed explanation of how they will pay their bill each month without income will be subjected to a litmus test of whether PECO believes the explanation plausible. In CAUSE-PA’s view, this is not the purpose of the attestation that the household has no-income. The purpose of the requirement is to document income not demonstrate how all of the household’s bills will be paid. Many households do not know or cannot project how they will pay their bills until the bills come and they see what resources their friends and family have to lend them. Thus, while CAUSE-PA supports the verification proposal outlined by PECO, CAUSE-PA does not support the additional requirement that the household provide a detailed explanation of how it is paying its bills. If this latter requirement is adopted by the Commission, CAUSE-PA submits that PECO should not have the discretion to determine that the household’s explanation is insufficient but rather it should accept the explanation at face value. The lone exception would be if PECO has evidence to suggest that the household does in fact have income when it says that it does not.

For its part, the OCA agrees with the other parties in this proceeding that PECO should not be permitted to continue with its notarization requirement, but states that “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

⁴⁶ See TURN et al. Statement No. 1 at 21-22.

zero-dollar income.”⁴⁷ CAUSE-PA opposes this suggestion as it would add administrative costs and logistical concerns to PECO’s program without providing much benefit. CAP participants are already obligated to report change of circumstances to PECO as they occur. Thus, if a household without income gets income it is obligated to report this change. CAP households without income and without changed circumstances should not be required to report that their situation remains that same. There is no tangible benefit gained from such a reporting requirement. Moreover, no other group of CAP customers is required to make quarterly reports even if they have very low-income. While it is true that a household with no income cannot likely maintain housing, utility service, or other necessities for very long the same could be said for households with very low-income. Mr. Colton recognized this in his testimony when he stated, in response to his general colloquy about PECO’s notarization requirement, that “there is no reasonable basis for treating zero dollar income customers in the way that PECO proposes. There is no practical difference in program impact between a customer with a zero dollar income and customer with some other very low reported income.”⁴⁸ CAUSE-PA submits that the same rationale applies to recertification: there is no practical difference for recertification purposes between a customer with some very low reported income and one with zero reported income. As such, the Commission should reject the OCA’s recommendation that zero income households recertify quarterly.

F. The Commission should reject PECO’s proposed Assets Test

Within a footnote to its Comments to the Tentative Order,⁴⁹ and then in Ms. Feldhake’s Direct Testimony⁵⁰ PECO presented the possibility of implementing an assets test. This concept

⁴⁷ OCA Statement No. 1 at 42.

⁴⁸ Ibid.

⁴⁹ PECO Comments at 3, fn1.

⁵⁰ PECO ST 1 at 58.

has received no support from any other party and has been opposed by OCA witness Colton, TURN et al. witness Peach, and CAUSE-PA witness Miller.

In his Rebuttal testimony, CAUSE-PA witness Miller asserted that “Ms. Feldhake presents no evidence that such a test is needed or that the absence of a test for the past decades has had any negative effect.”⁵¹ He further indicated his belief that “the adoption of such an assets test would negatively affect low-income, otherwise CAP eligible seniors who may be living in homes that are their only asset and whose value has increased over the years.”⁵²

Mr. Peach stated “PECO has failed to provide any specifics about its proposed asset test. 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 matter at PECO’s sole discretion”⁵³.

OCA Witness Mr. Colton in his Direct Testimony raised significant reasons why an asset test should be not be approved. Among these were that an asset test discourages households from developing savings accounts; from building long-term assets; and discourages senior citizens from continuing to live independently in their own homes.⁵⁴

PECO has come forward with no evidence suggesting why an asset test is appropriate. Without any such evidence, and for all of the reasons stated by the other parties in this proceeding, CAUSE- PA submits that PECO’s proposal is unwarranted, vague and should not be approved.

⁵¹ CAUSE-PA ST 1R at 10-11.

⁵² CAUSE-PA ST.1R at 11.

⁵³ TURN et al ST 1R at 19:15-19.

⁵⁴ OCA ST 1 at 55.

V. CONCLUSION

The record in this proceeding demonstrates that low-income households enrolled in PECO's CAP program are not receiving affordable bills which comply with the Commission's CAP Policy Guidelines. Low-income households who are required to shoulder inappropriately high energy burdens have no budget elasticity and thus when faced with the prospect of paying even marginally more for electricity for even a short period of time this additional cost is often the difference between remaining current on their bills or falling behind. This is an unacceptable risk for CAP customers who have run out of options for keeping current on their bills. Moreover, statutory language prevents the Commission from entering payment agreements for CAP customers. 66 Pa. C.S. § 1405(c). Therefore, the CAP program, which is designed to produce an affordable bill for CAP customers, is an essential means for allowing low-income, payment troubled households to continue to receive service.

The best way to monitor and promote the success of the CAP program is to require PECO to develop a model that ensures that each customer is provided a CAP bill within the safe harbor of the Commission's maximum energy burden guidelines. The PECO current tiered model does not fulfill this obligation and should be replaced by a PIP structure which will. Regardless of the CAP design model, CAP customer aggregation accompanied by appropriate consumer protections, will enable PECO to comply with Commission required deadlines for implementation of CAP customer shopping.

In addition, CAUSE-PA respectfully urges the Commission to require PECO to establish a budget sufficient to address PECO low-income customer energy efficiency and conservation requirements and to adopt sufficient funding as advocated by witness Miller, particularly in regard to addressing de facto heating.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT

*Counsel for the Coalition for Affordable Utility
Services and Energy Efficiency in Pennsylvania
(CAUSE-PA)*



Harry S. Geller, Esq., PA ID: 22415
Patrick M. Cicero, Esq., PA ID: 89039
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
pulp@palegalaid.net

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