



August 31, 2016

**VIA EFILE**

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

**Re: Duquesne Light Company Universal Service and Energy Conservation Plan for 2017-2019 Submitted in Compliance with 52 Pa. Code §§ 54.74**  
Docket No. M-2016-2534323

Dear Secretary Chiavetta,

Please find attached for filing the **Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania to the Tentative Order Entered August 11, 2016** in the above captioned proceeding.

An electronic and hard copy of these Comments was provided to Adrienne Kurtanich, Counsel of Record in this proceeding for Duquesne Light, as well as Tanya J. McCloskey, Consumer Advocate, and Johnnie Simms, Esq., Bureau of Investigation and Enforcement.

As ordered by the Commission in its August 11, 2016 Tentative Order (TO at 29, para. 4), a Microsoft Word version is also being provided via email to Joseph Magee, Sarah Dewey, and Louise Fink Smith.

Please feel free to contact me directly should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Elizabeth R. Marx".

Elizabeth R. Marx  
*Counsel for CAUSE-PA*

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**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Duquesne Light Company Universal Service :  
and Energy Conservation Plan for 2017-2019 : Docket No. M-2016-2534323  
Submitted in Compliance with 52 Pa. Code :  
§§ 54.74.

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served copies of the **Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) to the Tentative Order Entered August 11, 2016**, in accordance with 52 Pa. Code § 1.54 and the Commission's August 11, 2016 Tentative Order.

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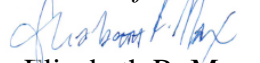
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Dated: August 31, 2016

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Duquesne Light Company Universal Service  
and Energy Conservation Plan for 2017-2019  
Submitted in Compliance with 52 Pa. Code §§  
54.74.

Docket No. M-2016-2534323

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**COMMENTS OF THE COALITION FOR AFFORDABLE UTILITY SERVICES  
AND ENERGY EFFICIENCY IN PENNSYLVANIA TO THE  
TENTATIVE ORDER ENTERED AUGUST 11, 2016**

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*Submitted on behalf of CAUSE-PA*

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Dated: August 31, 2016

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## **I. BACKGROUND**

August 11, 2016, the Pennsylvania Public Utility Commission (Commission) issued a Tentative Order (TO) to the Petition of Duquesne Light Company (Duquesne or Company) for approval of its Universal Service and Energy Conservation Plan (USECP or Plan) for 2017 through 2019. The Plan was filed on March 16, 2016, in accordance with the Pennsylvania Public Utility Commission's regulations at 52 Pa. Code §§ 54.71-54.78, relating to electric universal service and energy conservation reporting requirements. In the TO, the Commission tentatively approved Duquesne's Plan, in part, and required Duquesne to respond to a number of questions about the structure, design, and operation of the programs within Duquesne's portfolio of universal service programs. (TO at 26-27). The Commission also provided a 20 day comment period for interested parties to submit written comments about Duquesne's Plan, with reply comments due 10 days thereafter. (TO at 28). The Commission further noted that to the extent comments and reply comments raise relevant material factual questions, this matter may be referred to the Office of Administrative Law Judge (OALJ) for hearing and decision.

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), through its counsel at the Pennsylvania Utility Law Project, hereby files these Comments to the TO regarding Duquesne's Petition for Approval of its Universal Service and Energy Conservation Plan for 2017-2019. CAUSE-PA is an unincorporated association of low-income individuals that advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating and telecommunication services. CAUSE-PA membership is open to moderate- and low-income individuals residing in the Commonwealth of Pennsylvania who are committed to the goal of helping low-income families maintain affordable access to utility services and achieve economic

independence and family well-being. CAUSE-PA membership comprises individuals who are customers of Duquesne and other regulated utilities across the Commonwealth. CAUSE-PA has been granted intervenor status in other proceedings involving Duquesne and has actively participated in those proceedings. CAUSE-PA thanks the Commission for this opportunity to submit comments.

Before it can approve Duquesne's proposed USECP, the Commission must ensure that the Plan meets the requirements set forth in the Electricity Generation Customer Choice and Competition Act ("Competition Act" or "Act"), 66 Pa. C.S. § 2801 *et seq.* which became effective on January 1, 1997; the *Universal Service and Energy Conservation Reporting Requirements* (USEC Reporting Requirements) at 52 Pa. Code §§ 54.1-54.9; the LIURP regulations at 52 Pa. Code §§ 58.1-58.18; the directives articulated by the Commission in the CAP Policy Statement at 52 Pa. Code §§ 69.261-69.267; the Final Investigatory Order entered December 18, 2006 to Docket No. M-00051923; as well as to other relevant Secretarial letters, Commission rules, policies, and orders.

The universal service provisions of the Competition Act tie the affordability of electric service to a customer's ability to pay for that service and place the responsibility to ensure that such service is appropriately funded and available in each electric distribution territory upon the Commission.<sup>1</sup> The statutory goals of universal service are to be achieved through the enactment, establishment and maintenance of policies, practices, and services that help low-income customers maintain their electric service. Universal service includes customer assistance programs, usage reduction programs, service termination protections and consumer education.<sup>2</sup>

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<sup>1</sup> 66 Pa. C.S. § 2804(9).

<sup>2</sup> 66 Pa. C.S. § 2803.

The *Universal Service and Energy Conservation Reporting Requirements* require an electric distribution company (EDC) to submit an updated universal service and energy conservation plan every three years to the Commission for approval.<sup>3</sup> It is the Commission's responsibility to determine whether the EDC's plan meets the goals of universal service.<sup>4</sup> The Commission may approve, reject or modify the plan.<sup>5</sup>

The triennial submission and review is an explicit regulatory opportunity for the Commission to analyze the universal service program as a whole. This complete program review is needed to determine if the Company's universal service program adheres to all legal and policy requirements; is structured and administered in a manner which achieves universal service goals; is appropriately funded and available to eligible populations across Duquesne's service territory; and provides an affordable payment structure which enables low income customers enrolled in the program(s) to maintain essential utility service.

Through the intervening three years between triennial program approvals, it is necessary and appropriate for modifications of individual aspects of the universal service programs to occur as a result of regulatory or statutory changes, base rate proceedings, or other factors which affect the affordability and accessibility of utility service for low income populations, however, it is during the triennial review that the universal service and energy conservation program is reviewed and approved as an integrated whole.

In its TO, the Commission identified the following six differences between Duquesne's Proposed 2017-2019 Plan and its previously approved 2014-2016 Plan:

- Allow customers to apply for CAP via telephone.

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<sup>3</sup> 52 Pa. Code § 54.74(a)(1).

<sup>4</sup> 52 Pa. Code § 54.73.

<sup>5</sup> 52 Pa. Code § 54.74(a)(5).

- Allow customers to provide a driver's license or other government identification in lieu of a social security number.
- Automatically enroll non-CAP customers in the program at 85% of budget billing upon receipt of the LIHEAP grant.
- Require customers on fixed incomes to recertify for CAP every two years; LIHEAP recipients would not have to recertify.
- Provide clarification about its zero income verification procedure, universal service program referrals, presentation of CAP benefits to customers, hours of operation at CAP agencies, and Smart Comfort program options.
- Establish third party inspections of Smart Comfort weatherization jobs.

CAUSE-PA comments on these proposed modifications, as well as other critical aspects of Duquesne's Proposed 2017-2019 USECP.

## II. COMMENTS

### **A. The Commission's process for reviewing Duquesne's Plan is insufficient to ensure an adequate record upon which to base a decision and meaningful participation by interested parties.**

From the outset, CAUSE-PA notes that there is insufficient information available to it in which to base its recommendations and comments. As noted throughout the comments which follow, the Commission has asked Duquesne to answer a number of clarifying questions, and CAUSE-PA therefore reserves its right to respond to that information in Reply Comments. However, CAUSE-PA raises a number of additional questions below, and will not have the benefit of Duquesne's response to those questions in commenting on the Plan. This is a deficiency in the process that the Commission has used to review these proceedings.

Moreover, the provision of a 20-day comment period likewise stunts the ability for CAUSE-PA to engage in a sufficiently comprehensive review of Duquesne's programming. Duquesne filed its Petition on March 16, 2016 – nearly 5 months before the Commission issued

its Tentative Order in this proceeding allowing interested parties the opportunity to comment.<sup>6</sup> If the Commission were to have referred this proceeding for the OALJ upon filing for the collection of evidence, it would have the benefit of a full record in making critical and far-reaching policy determinations about Duquesne's universal service programming. Instead, it is now in the position of requesting new information during the comment period, which in turn hamstringing the ability of interested parties to meaningfully participate with concrete recommendations

The lack of an evidentiary record in Universal Service and Energy Conservation Plan proceedings is a critical problem with the Commission's review, evaluation, and approval of Universal Service and Energy Conservation Plans. Indeed, similarly complex program portfolios – such as EDC mandated Act 129 programs, default service procurement plans, and demand side management programs – are subject to fully litigated proceedings, whereby interested parties are able to exchange discovery, present testimony from experts in the field, and – with the benefit of reviewing evidentiary information – brief the issues for the Commission. The same process should be used for vetting utility plans for the provision of critical universal service programming to serve the vast and ever-growing population of low income customers in Duquesne's service territory and across the state.

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<sup>6</sup> This is despite the fact that 52 Pa. Code § 54.74(a)(6) requires the Commission to “act on the plans within 90 days of the EDC filing date.”

## **B. Customer Assistance Program (CAP)**

### **i. Automatic Enrollment of LIHEAP Recipients into CAP**

In its USECP, Duquesne plans “to automatically enroll LIHEAP recipients into CAP at 85% of budget billing and keep them in CAP at this payment level if they do not respond to the Company’s request for household income information.” (USECP at 4, 6; TO at 8). In its TO, the Commission raised questions about this practice, noting that CAP customers must understand the terms of the program and the consequences of default. (TO at 8). For example, the Commission noted that “customers can only enroll to receive arrearage forgiveness through Duquesne’s CAP one time.” (TO at 8). The Commission concluded that “sending customers a letter explaining CAP immediately after automatic enrollment is not enough to ensure the customer understands the benefits and responsibilities of the program,” and ordered Duquesne to “detail how it will educate customers automatically enrolled in CAP about the benefits and responsibilities of the program.” (TO at 9).

CAUSE-PA supports Duquesne’s proposal to auto-enroll LIHEAP recipients in CAP at the highest discount tier (85% of budget billing), allowing for additional downward adjustments to the customer’s CAP tier if the customer provides more detailed income information. LIHEAP auto-enrollment is a critical tool to bridge the large gap between eligibility and enrollment, and provides streamlined access to critical utility assistance for families who – by applying for LIHEAP – have already demonstrated that they are interested in, eligible for, and in need of energy assistance to meet their basic needs.

Duquesne has been auto-enrolling CAP customers in LIHEAP at 100% of budget – with arrearage forgiveness benefits – since 2011, when the Commission first approved of Duquesne’s auto-enrollment practice (USECP at 2; see also APPRISE Report at 9). To CAUSE-PA’s

knowledge, this practice has been without incident or complaint from those who were auto-enrolled over the last two triennial plan periods. Notably, APPRISE surveyed 300 CAP customers – many of whom were likely auto-enrolled as a result of their participation in LIHEAP – yet no complaints about the experience surfaced. (APPRISE at 34-53). Duquesne’s proposal to extend a 15% discount (85% of budget) to these households is a logical next step, as it provides immediate financial relief to customers who have already evidenced both a need and basic eligibility to receive such a discount.

CAUSE-PA recognizes and shares the concern of the Commission that auto-enrolled CAP customers be educated about their rights and obligations under the program – as well as potential consequences for failure to comply with program rules, and agrees with the Commission that more information is needed about Duquesne’s educational efforts. Given that LIHEAP auto-enrollment is an existing practice, CAUSE-PA suggests that the Commission require Duquesne to compile the relevant data and information about those who experienced auto-enrollment before changing course on this issue. Open questions which could inform the Commission’s decision include:

- How many auto-enrolled CAP customers respond to requests for income information within 1 month of auto-enrollment? Within 2 months of auto-enrollment? Within 6 months of auto-enrollment?
- How many auto-enrolled CAP customers have requested to opt-out of the program?
- How many auto-enrolled CAP customers were removed from CAP after failure to submit income information within 6 months of auto-enrollment?
- How many auto-enrolled CAP customers were removed for failure to submit income information within 6 months, but later re-enrolled in CAP?

CAUSE-PA recommends that the Commission require Duquesne to provide information and data about customers who were auto-enrolled in CAP over the last two triennial plan periods, and discuss this information with its newly formed Income Eligible Advisory Committee to

make a recommendation as to how to proceed in future iterations of its USECP. In the alternative, and at the very least, this information should be made available at this docket and parties who have filed comments should be provided an additional comment period to respond to the reported data prior to any Commission decision.

Because additional data and details of the program are forthcoming from Duquesne as ordered in the TO, CAUSE-PA reserves the right to provide more extensive comment on this topic in its Reply Comments.

**ii. “Opting-Out” of Automatic Enrollment into CAP**

In addition to raising questions about how Duquesne will educate customers who are auto-enrolled in CAP, the Commission also raises a number of questions about the duties and responsibilities of a customer who “opts out” of LIHEAP auto-enrollment. (TO at 9-11). These are important questions, the answers to which are critical in formulating an opinion and/or recommendations about the design of Duquesne’s auto-enrollment process. As above, CAUSE-PA reserves comment on the details of Duquesne’s auto-enrollment opt-out until after the answers to the Commission’s questions are clarified.

Notwithstanding its reservation of comment, CAUSE-PA notes here that as a basic premise, customers who opt out of CAP auto-enrollment should not be required to pay back the benefits that she or he may have received prior to opting out, and this enrollment - if followed by an opt-out - should not “count” for purposes of arrearage forgiveness and initial enrollment in CAP. Doing so would be unnecessarily punitive and would impose a needless hardship on low income households which are ill equipped to deal with unexpected and/or unbudgeted costs in any given month. Customers who opt-out did not ask to be enrolled, and shouldn’t be penalized

through what essentially would be a delayed billing for doing so. Auto-enrolled LIHEAP customers are desperately poor and have demonstrated that they are unable to meet their basic living expenses without assistance. Receipt of a non-discounted bill in addition to a payback requirement would necessarily create an affordability crisis for the household, heaping costs on that customer that they are unlikely to be able to pay. The amount of benefit the customer receives should nonetheless be used as an educational tool to discuss and highlight the program benefits if an auto-enrolled customer contacts Duquesne to opt out. Explaining the benefits which they did and/or will receive through the program will ensure that customers are making a fully informed choice to forego assistance.

### **iii. CAP Recertification for LIHEAP Recipients**

In addition to auto-enrollment for LIHEAP recipients, Duquesne proposed to waive recertification requirements for CAP customers who receive annual LIHEAP grants. (See USECP at 7; TO at 9). The Commission raised concerns with this approach, noting that it “has never approved a USECP that proposes to recertify a CAP participant’s income and household information less than once every three years.” (TO at 10). The Commission explained that receipt of LIHEAP does not confirm the dollar amount of the household’s income, which is necessary to determine whether the households’ benefit level tier should be adjusted, and concluded that it is “inclined to reject” Duquesne’s LIHEAP auto-recertification provision. (TO at 10-11). The Commission should change its inclination and accept this proposal.

LIHEAP has historically served as a proxy for general CAP eligibility, as both require that applicants have income which is at or below 150% of the federal poverty level. This is all that is required for recertification in the Commission’s CAP policy statement, which states

simply: “Annual reapplication: an annual process that reestablishes a participant’s eligibility for CAP benefits should be required.”<sup>7</sup>

It is certainly the overarching goal to ensure that customers are receiving the correct tier level benefit. To that end, CAUSE-PA fully supports and recommends additional notice and education requirements to ensure that customers who are auto-recertified have the opportunity and are encouraged to update their income information to adjust their tier if their income changes. However, the automatic recertification process should not be sacrificed to achieve this goal unless more is known about the benefits and risks of such a policy change.

As APPRISE reported in its evaluation of Duquesne’s Universal Service programming, failure to recertify is far and away the number one reason for CAP removal: “in 2014 **2,919 CAP customers defaulted because they did not recertify.**” (APPRISE at 12). This number is likely to grow even higher if LIHEAP auto-recertification were eliminated. Most LIHEAP recipients, who are subject to and benefit from auto-reenrollment, are from extremely vulnerable subsets of the low income population: According to a DHS, from September 27, 2015 (the start of the 2015/2016 LIHEAP season) through August 25, 2016, **77% (267,087 out of 345,791) of all LIHEAP recipient households had a household member who was disabled, over age 60, or under age 5.**<sup>8</sup> The paramount concern for these vulnerable households is that they retain their CAP benefits, and do not default from CAP for failure to recertify. Allowing for auto-recertification for LIHEAP would ensure that this happens. Likewise, income levels for households with members who are disabled (53% of LIHEAP recipients) or over 60 (35% of LIHEAP recipients)<sup>9</sup> are less likely to fluctuate, as their income is more likely to be fixed

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<sup>7</sup> 52 Pa. Code § 69.265(6)(viii).

<sup>8</sup> DHS, Energy Assistance Summary: 9/27/2015 – 8/25/2016, at 68 of 136.

<sup>9</sup> Id.

through receipt of disability and/or or social security benefits.<sup>10</sup> Yet at the same time, these households have demonstrated that they are most in need of uninterrupted energy assistance to prevent loss of critical utility service.

As a practical matter, there are many unanswered questions about LIHEAP auto-recertification which should be answered before this important programmatic aspect is rejected, as the Commission noted it is inclined to do. (TO at 11). Open questions include:

- How many CAP customers are recertified automatically each year as a result of their receipt of LIHEAP?
- Of the customers who are automatically recertified:
  - How many were at or below 50% FPL? 51-100% FPL? 101-150% FPL?
  - How many are on a fixed income which is not subject to regular adjustments? (ex: Social Security / Disability)
- What program savings are achieved through auto-reenrollment?

The answers to these questions should reveal more nuanced information about the costs and benefits of auto-recertification, and would allow the Commission to make an empirically informed decision. CAUSE-PA respectfully requests that the Commission assign this issue to the Office of Administrative Law Judge to create a record from which the Commission can make a more fully informed decision prior to discontinuing LIHEAP auto-recertification. At a minimum, the Commission should not reject this proposal outright, and should require the Company to provide the information requested at this docket and provide additional opportunity for comments prior to making any determination.

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<sup>10</sup> For the purpose of LIHEAP, an “individual with a disability” is defined as “receiving financial assistance for a disability or eligible for MA through DHS due to a disability.” (LIHEAP State Plan at B-2). See generally APPRISE Report at 59; SSA, Supplemental Security Income (SSI) in Pennsylvania (2016), <https://www.ssa.gov/pubs/EN-05-11150.pdf>; SSA, Cost-of-Living Adjustment (COLA), <https://www.ssa.gov/oact/cola/colasummary.html>.

**iv. CAP Enrollment for Customers Who Relocate**

The Commission points out in its TO that Duquesne did not specify how CAP customers are treated when they relocate, and whether a customer may stay in CAP when they relocate to a new home within Duquesne's service territory. (TO at 11). The Commission ordered Duquesne to explain the moving process generally, and identify specifically whether a customer moving within the service territory must reenroll to retain CAP benefits.

As a general matter, CAUSE-PA supports allowing CAP customers to move within the service territory without interruption to their CAP benefits. Low income families are often in frequent transition, which can add even more stress and hardship to an already difficult situation. Allowing CAP benefits to move with a customer removes a significant administrative burden on low income households, and ensures that these vulnerable customers can maintain stable service at an affordable rate throughout their transition.

That said, given Duquesne was ordered to provide more information about its process for relocating CAP customers in its initial comments, CAUSE-PA reserves further comment for its Reply Comments.

**v. One Year Stay-Out Provision for Customers that Default from CAP**

With regard to program default/removal and subsequent stay-out periods, the Commission summarized Duquesne's proposal, noting Duquesne plans to "initiate collection activity on a CAP account if the monthly payment is not received within five business days of the due date. If service is terminated and not restored within 14 days, the customer will be defaulted from CAP. Customers defaulted from CAP 'may not be permitted to re-enroll for a

period of one year, or until the cause of default has been satisfied at the Company's discretion.'" (TO at 12; USECP at 7).

The Commission noted its approval for a one year stay-out for CAP customers who *voluntarily* remove themselves from CAP, explaining that this is an acceptable measure to prevent program churn. (TO at 12). However, it raised concerns over application of the one year stay-out after service termination, explaining: "This stay-out provision **does not appear to serve any purpose except to make it harder for low-income customers to obtain assistance in maintaining monthly payments after service restoration.**" (TO at 13 (emphasis added)).

CAUSE-PA does not support a one-year stay out for CAP enrollment, even for those customers who voluntarily remove themselves from CAP. It is worth noting that there is not information about how prevalent this practice is, the reasons why individuals choose to do so, or the percentage of customers who once removed seek re-entry into CAP before a year from their voluntary removal. All of this information should be made available to the Commission and interested parties prior to any such policy determination being made.

Although no concrete information is available, counsel for CAUSE-PA has recently been made aware of the fact that many seniors residing in low-income high rise in Pittsburgh have recently been informed that their rent will be increased because of their receipt of CAP benefits. This is the case because of complicated interaction of housing and utility policy. Many of these households have informed Duquesne's CAP enrollment CBO that they wish to be removed from CAP to avoid this rent increase. This is but one of the reasons why a household may choose to voluntarily remove themselves from CAP. Advocates in the housing and utility world are beginning to try to work to resolve this issue, but if Duquesne's stay out remains in place it would prevent these households from receiving the assistance that they require.

Additionally, Duquesne's CAP customers are currently not permitted to shop for competitive electric supply and remain on CAP. While this issue is being litigated in Duquesne's currently pending default service proceeding<sup>11</sup>, the outcome of that proceeding is uncertain. CAP customers who wish to shop for EGS-supplied service must remove themselves from CAP prior to doing so. These customers should not be subjected a one-year stay-out if they want to return to default service and re-enroll in CAP.

CAUSE-PA submits that the one-year stay out does not appear to serve any useful purpose. While there is some oblique reference to avoiding "churn", there is no evidence as to what this means or what this implies. In fact, CAUSE-PA submits that like the stay out for customers who default, the stay out for customers who remove themselves from CAP **does not appear to serve any purpose except to make it harder for low-income customers to obtain assistance** in maintaining monthly payments after service restoration." (TO at 13 (emphasis added)). Before adopting this punitive measure, the Commission should require additional information.

Regarding the stay out for customer default, CAUSE-PA shares the Commission's concern, and further notes that it is unclear from Duquesne's USECP whether other default categories are subject to the stay-out provision, and under what conditions a customer may cure their default and reenroll in CAP within the same year. The APPRISE Report explains that customers can be removed from CAP for **any** of the following reasons:

- CAP customer account is terminated for nonpayment and service is not restored within 14 days
- Failure to recertify income and household information
- Failure to complete an energy conservation visit
- Failure to apply for LIHEAP assistance
- Fraud

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<sup>11</sup> See Petition of Duquesne Light Company for Approval of a Default Service Program for the Period of June 1, 2017 through May 31, 2021, at Docket No. P-2016-2543140.

- Material misrepresentations
- Meter Tampering
- Theft of Service

(APPRISE Report at 11)

The APPRISE Report goes on to separately explain:

CAP customers who do not pay their bill within five days of the due date may be placed in the collections process. If the account is terminated, the customer may be required to pay the entire past due balance to have service restored, unless they are eligible for a payment agreement.

Customers who have their accounts terminated and do not have service restored within 14 days are defaulted from CAP and required to reapply. The customer may not be permitted to reenroll for one year or until the cause of default has been satisfied.

(APPRISE Report at 11). This is somewhat different, though similar description in Duquesne's

Plan:

If a CAP account is terminated and service is not restored within 14 days, the customer will be defaulted from CAP and required to reapply. Once defaulted from CAP, the customer may not be permitted to re-enroll for a period of one year, or until the cause of default has been satisfied at the Company's discretion.

It is not clear from the APPRISE description – or from Duquesne's description - whether the stay-out provision applies to *all* of the default categories, or just CAP customers who are terminated. As a practical matter, defaulting from CAP – in and of itself – can and often does lead to termination and, in accord with the descriptions in both the APPRISE Report and Duquesne's Plan, could result in a one-year stay out from CAP.

Duquesne's CAP default procedure not only fails to serve a program purpose other than to serve as a barrier to reconnection (as the Commission noted in its TO), it also appears to contradict Chapter 14 billing and collections standards. Pursuant to Chapter 14, a "customer" "includes a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility." Allowing a 30-day period before a terminated

customer reverts to applicant status recognizes the reality that vulnerable households may not have the ability to reconnect to service right away, and that the resources and protections available to customers through their utility should remain available for at least 30 days to allow households a reasonable opportunity to connect with critical services (such as CAP and other universal service programs) to help them reconnect. But under Duquesne’s USECP, that customer would have just 14 days to reconnect and avoid the stay-out, rather than the full 30 days envisioned by Chapter 14.

CAUSE-PA asserts that CAP customers who default from CAP for curable issues, including failure to recertify, failure to submit to an energy conservation audit, failure to apply for LIHEAP, and termination for nonpayment, should be allowed to cure the defect and reenroll in CAP immediately. In the case of non-payment, curing the defect should require only that the household pay the past-due, billed CAP amounts. Allowing a clear and unobstructed reentry to CAP is not only beneficial to the low income household, but to ratepayers as a whole through reduced uncollectible expenses and termination-related costs and to the general public through improved health, safety, and welfare. It also fulfills the Commission’s statutory obligation to ensure that assistance programs are accessible to low income households in every service territory.<sup>12</sup>

As a final point with regard to Duquesne’s CAP default policies, Duquesne’s Plan provides: “All applicants and CAP customers may appeal denials for default dismissals.” (USECP at 7). CAUSE-PA supports the provision of due process protections for CAP customers. But to ensure this provision is properly implemented, **CAUSE-PA urges the**

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<sup>12</sup> Coalition for Affordable Util. Servs. & Energy Efficiency in Pa, et al. v. Pa. Pub. Util. Comm’n, 120 A.3d 1087, 1103-1104 (2015), appeal denied, 2016 WL 1383864 (Pa. Apr. 5, 2016); 66 Pa. C.S. §§ 2802 (7), (9), (10), (14), (17), 2804(9).

**Commission to require Duquesne to provide additional details about how a CAP applicant or customer may exercise their appeal rights, as well as how Duquesne ensures that CAP applicants and customers are notified of their right to appeal.** The right to an appeal must always contain notice and a meaningful opportunity to be heard, but Duquesne’s Plan lacks any information about whether these critical aspects of due process are provided to customers who default from CAP.

**vi. Removing Customers from CAP Based on Income Information from a PUC Complaint**

Duquesne’s Plan proposes to remove customers from CAP if it obtains information that a household’s income is greater than originally reported. (TO at 13; Plan at 7). Duquesne explains that the income information may come from any number of sources, including “a received PUC complaint, court records, factual testimony, company records, or other reputable source.” (TO at 13; USECP at 7). Once removed, these customers “may be back-billed for months spent in the program at the full residential tariff rate.” (Id.)

The Commission raised concerns in its TO about Duquesne using information from a PUC complaint as a basis for CAP removal, and ordered Duquesne to provide more information about how PUC complaint information is used in the removal process, and what rights the customer has to dispute.

CAUSE-PA agrees that the use of PUC Complaint information for CAP removal is inappropriate and should not form the basis of a CAP removal. CAUSE-PA also supports the Commission’s inquiry into the dispute rights of consumers who are in the removal process. As

explained above, CAUSE-PA believes more details are necessary to outline the rights of customers to appeal a CAP removal decision.

In addition to underscoring the Commission's concerns, CAUSE-PA further asserts that the other broad and undefined categories of information upon which Duquesne may rely are equally specious. It is unclear what is included under "other reputable sources" – or how that information – such as "factual testimony" – may come to Duquesne. Thus, in addition to requiring Duquesne to provide information about its use of PUC complaints – and its process for customer dispute rights -- Duquesne should also be required to further define all of the categories of information it relies on in removing someone from CAP. CAUSE-PA reserves further comment on this issue for its Reply Comments, and requests that the Commission allow additional comment from interested parties should the Commission honor its request to require Duquesne to disclose additional information about the sources it uses to collect income information about CAP participants.

**vii. Minimum CAP Payments**

The Commission ordered Duquesne to explain its minimum payment requirements, consistent with section 69.265(3)(i). CAUSE-PA reserves comment on this issue for its Reply Comments.

**viii. Zero Income Verification Procedure**

The Commission ordered Duquesne to clarify the government agencies used to verify a statement of zero income, the actions taken once unreported income is discovered, and what rights a customer has to dispute and/or clarify this information." (TO at 15). CAUSE-PA reserves comment on this issue for its Reply Comments.

**ix. Other CAP Issues Not Identified by the Commission in its TO**

The following issues were not specifically addressed by the Commission in its TO, but are issues that CAUSE-PA asserts are critically important for the Commission to consider with respect to the structure and delivery of benefits through Duquesne's CAP.

**(a) Duquesne's Use of CAP Budget Billing Should be Subject to Clarification**

In calculating CAP benefits, CAP customers are first enrolled in Duquesne's Budget Billing program, and are then asked to pay a percentage of their budget bill based on their income level. Duquesne's Plan explained:

Budget billing allows customers to pay approximately the same amount on their Duquesne Light bill each month based on historical usage. The budget amount is recalculated periodically in accordance with the regulations to reflect more current usage. The CAP budget bill payment is calculated by taking the customers' estimated monthly budget bill amount and multiplying it by the appropriate percentage based on income.

(USECP at 3).

Section 56.12(7) provides the following with respect to budget billing calculations:

A gas, electric and steam heating public utility shall provide its residential customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated public utility service costs over a 10-month, 11-month or 12 month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The public utility shall review accounts at least three times during the optional billing period. At the conclusion of the budget billing year, a resulting reconciliation about exceeding \$100 but less than \$300 shall be, at the request of the customer, amortized over a 6-month period. Reconciliation amounts exceeding \$300 shall be amortized over at least a 12-month period at the request of the customer. Shorter amortization periods are permissible at the request of the customer.<sup>13</sup>

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<sup>13</sup> 52 Pa. Code § 56.12

It is unclear from Duquesne's Plan how Duquesne handles the periodic budget bill "true-up"/"catch-up" calculation component of budget billing, and whether CAP customers are billed or credited an additional amount when this recalculation occurs.

CAUSE-PA supports the integration of budget billing and CAP to provide greater stability and continuity; however, the addition of a charge above and beyond a budgeted CAP bill may cause undue harm on CAP participants. CAUSE-PA urges the Commission to require Duquesne to provide additional information about how its budget billing program interacts with CAP, and asks that the Commission subsequently provide an additional comment period to allow interested parties – including CAUSE-PA – to respond.

**(b) Duquesne's CAP Benefit Calculation Should Incorporate Energy Burdens to Ensure Affordability**

According to APPRISE, Duquesne's CAP is not generating affordable bills for those living at the deepest level of poverty. (APPRISE Report at 65, T.VII-12B) The APPRISE report revealed that 86% of non-heating and 77% of heating CAP customers with income at or below 50% of the federal poverty level (FPL) are asked to pay electric bills which exceed Commission affordability guidelines, often by a significant amount. (Id.) In fact, the **mean** energy burden for this class ranges from 21% to 39% -- meaning that half the CAP customers within this extremely vulnerable subset of low income customers pay 40% or more of their entire income on electricity alone, leaving very little to pay for other basic life necessities. (Id.) Those with income between 51-100% FPL are also paying charges which greatly exceed the Commission's affordability guidelines, with 49% of non-heating and 16% of heating CAP customers paying more than the PUC energy burden target. (Id.) The chart is recreated below for convenient reference (Id.):

Non-Electric Heating				Electric Heating		
Poverty Level	Mean Energy Burden	PUC Energy Burden Target	Percent with Burden Above PUC Target	Mean Energy Burden	PUC Energy Burden Target	Percent with Burden Above PUC Target
≤ 50%	21%	2%-5%	86%	39%	7%-13%	77%
50-100%	7%	4%-6%	49%	11%	11-16%	16%
101-150%	5%	6%-7%	17%	7%	15%-17%	2%

(APPRISE Report at 65, T.VII-12B). The APPRISE Report recommended the following:

Benefit Design: Duquesne Light’s CAP design provides greater discounts for lower poverty level customers but does not explicitly consider energy burden. The data analysis showed that while CAP reduced energy burden for program participants, the lower poverty level participants were still likely to have burdens above the PUC targeted level. Duquesne Light should consider factoring energy burden into the formula for determining the customer’s discount.

CAUSE-PA urges the Commission to pursue the APPRISE recommendation, and refer this matter to the Office of Administrative Law Judge to conduct a litigated proceeding to explore why the energy burdens of Duquesne’s most economically vulnerable customers remain exponentially higher than Commission guidelines, and to craft a workable solution in the form of a revised CAP benefit structure to produce improved levels of affordability for those in each income tier.

**(c) Duquesne Should Further Define What Constitutes a “LIURP Refusal” for the Purpose of CAP Default**

Duquesne’s Plan provides that it removes customers from CAP if they refuse to submit to a LIURP audit. (USECP at 6). However, Duquesne does not specify what behavior may be construed as a “refusal” – nor does it set forth the process through which a customer may dispute their removal for this reason. It is also unclear, as mentioned above, whether customers who

default for failure to submit to a LIURP audit are subject to a stay-out. (See USECP at 6-7; APPRISE Report at 11).

APPRISE reports that failure to comply with a LIURP audit is the second most common reason for CAP default: In 2014, 620 CAP customers defaulted from CAP “because they did not receive Smart Comfort.” (APPRISE Report at 12). But most CAP customers do not know about their requirement to reduce energy usage and/or participate in the usage reduction program. When CAP customers were asked about their responsibilities under the program, only 8% cited energy conservation or usage reduction. (APPRISE at 41, Table VI-14). Just 3% cited energy services or energy education as an important program benefit. (APPRISE at 41, Table VI-15). While energy conservation and education are of course a critical component to the universal service portfolio, the point is that CAP customers do not recognize that this is a required component of CAP participation. As such, CAUSE-PA asserts that it is unreasonable to harshly penalize those who fail to participate in a LIURP audit by imposing a stay-out or requiring the customer to wait until the audit is complete to reenroll.

More information is needed with regard to how CAP customers are solicited for participation in LIURP to understand whether the CAP removal provision is just and reasonable. Some of the many unanswered questions include:

- How is “refusal” defined?
- Does it include landlord refusals?
- How are CAP customers informed and educated about CAP’s LIURP participation requirements?
- What forms of communication is sent to customers about scheduling a LIURP appointment?
- What times of day or days of the week are LIURP audits offered?

CAUSE-PA recommends that the Commission require Duquesne to respond to these additional questions, and to extend an opportunity for interested parties to submit additional comment in response to the additional information.

**C. Low Income Usage Reduction Program (LIURP / Smart Comfort)**

**i. CFLs**

In its TO, the Commission requested that Duquesne consider replacing CFLs with LEDs as a standard LIURP (Smart Comfort) measure. (TO at 16). CAUSE-PA supports this request, and asks that the Commission require rather than request the change to ensure that low income households are not left behind in the rapid evolution of energy efficient products.

**ii. Incidental Repair and Health & Safety**

In its TO, the Commission required Duquesne to provide information about its treatment of incidental repairs and/or health and safety measures. (TO at 17). CAUSE-PA reserves comment on this issue for its Reply Comments, after the details of Duquesne's health and safety program are provided as ordered in its initial comments.

As a general matter, however, CAUSE-PA supports Duquesne's targeted focus on de facto heating (USECP at 17) – which presents a dangerous and persistent utility-related health and safety matter in many low income households across the state. Likewise, CAUSE-PA agrees with the Commission that there are a large number of households disqualified from services as a result of health and safety conditions at a residence, and commends the Commission for its attention to this important programmatic aspect of LIURP. CAUSE-PA asserts that Duquesne's contractors should be empowered to perform incidental repairs and remediation to ensure that LIURP is reaching the households which are likely most in need of significant usage reduction

services, while at the same time reducing operating costs incurred when a household is unable to be remediated due to minor health and safety issues.

**iii. Other LIURP Issues Not Identified by the Commission in its TO**

**(a) LIURP Jobs**

According to APPRISE, Duquesne’s heating jobs decreased from 210 in 2012 to just 107 in 2014 – a 49% decline. (APPRISE Report at 30). While the number of baseload jobs over the same period increased, the increase was not proportionate to the decline in heating jobs.

Duquesne performed 2,797 baseload jobs in 2012 and 3,192 baseload jobs in 2014 – amounting to a 14% increase. There is no explanation for the decline in heating jobs, nor is there any information or data available to explain it. Though, APPRISE did note that “savings for heating jobs are low and Duquesne Light should review the quality of the work provided by the weatherization subcontractors.” (APPRISE at 31). Looking to measure penetration, one can see the effect of Duquesne’s overwhelming focus on baseload jobs. Nearly all LIURP participants receive lightbulbs (98% in 2014), and many received a smart strip (22% in 2014) or a refrigerator (11% in 2014). (APPRISE Report at 31). However, other measures – including weatherization – are rarely provided to LIURP recipients. (APPRISE Report at 31).

CAUSE-PA is troubled by these numbers, and notes that Duquesne Light did not indicate any targets for jobs (heating / baseload) and/or installed measures in its USECP. CAUSE-PA recommends that this issue be referred to the Office of Administrative Law Judge to further explore Duquesne’s LIURP, and ensure that participants are receiving meaningful usage reduction assistance.

## **(b) LIURP Coordination**

Duquesne explains in its Plan that it is actively engaged in efforts to coordinate LIURP services across utilities:

When possible, a common weatherization contractor performs an integrated electric and natural gas energy audit at the customer's home. The cost of the audit is shared and measures installed are financed by the utility benefiting from the energy efficient measure installed.

(USECP at 19).

CAUSE-PA commends Duquesne for its efforts to coordinate LIURP services with other utilities within its service territory. Effective coordination creates lasting economies of scale, reduces the burden on customers of participating in multiple programs, and leverages resources to reach more customers. CAUSE-PA recommends that the Commission order Duquesne to provide periodic reports on its coordination efforts – as it would for other pilot programs. Information sharing is critically important, and would allow replication of best practices to enhance intra-utility LIURP coordination across the state.

## **D. CARES Program**

The Commission did not identify any proposed changes to Duquesne's CARES program. CAUSE-PA notes here that Duquesne's USECP is extremely light on CARES program details, and it is unclear what services are actually provided through the program, how someone can apply for CARES assistance, and who ultimately receives CARES services. CAUSE-PA also finds it noteworthy that Duquesne went from serving 26,170 customers through CARES in 2012 to serving 12,725 customers in 2014. (APPRISE Report at 23). The sharp decline in service numbers is striking, but was attributed in the APPRISE Report to the retirement of two CARES staff people. (APPRISE Report at 23). If this is indeed the reason for the decline, it would mean

that each of the two retired employees handled approximately 6,000 cases each year (the difference between the prior CARES service level of 26,170 and the current CARES service level of 12,725, divided by two); 500 cases each month; 125 cases each week; and 25 cases each day (not accounting for holidays, vacations, sick time, etc). This is an incredible feat by any account, but is especially noteworthy given the heightened level of attention and care that CARES participants are to be provided. More information is needed to understand the processes and procedures involved in a CARES case and, thus, to allow for a thorough review of the program.

## **E. Hardship Fund**

### **i. Requiring Social Security Numbers**

Duquesne's Hardship Fund requires applicants to provide a Social Security Number (SSN) for every member of the household in order to qualify for assistance. (TO at 20; USECP at 14). In its TO, the Commission encouraged Duquesne to allow for alternative documentation; however, it did not explicitly require Duquesne to do so.

The Commission should do more than encourage, it should require Duquesne to accept alternative forms of identification for applicants to its Hardship Fund program, as well as to expand its alternative document policy to include other appropriate identification. Many immigrants do not have an SSN, and are not eligible to get one. SSNs are used to report an individual's wages to the government and to determine a person's eligibility for Social Security

benefits. Many foreign-born individuals are not eligible for a SSN because they do not have authorization from the Department of Homeland Security to work in the United States.<sup>14</sup>

Many other immigrants may have pending applications for status, and may be unable to produce the requisite documents for several months or years while their applications are processed. For example, immigrant domestic violence, sexual assault, and trafficking victims and their family members are able to establish legal status and obtain work authorization by filing for a Violence Against Women Act (VAWA) self-petition, U visa, or T Visa. But these applications take time, sometimes many years, and do not immediately or necessarily lead to the issuance of a SSN.<sup>15</sup> While applications are pending, this vulnerable class of foreign-born individuals do not have work authorization or legal status and, without the ability to access basic and essential services, may be forced to choose to return to an abuser or trafficker. Requiring applicants for service to provide a SSN would bar this extremely vulnerable population from accessing a critical service at a time when they are most in need of assistance.

CAUSE-PA notes here that, while the acceptance of a driver's license or other government issued identification as an alternative to a Social Security Number is a good start to having an inclusive policy, such a requirement is still likely to foreclose many individuals from accessing critical assistance. To obtain a Pennsylvania state identification card or driver's license, individuals must meet onerous identification requirements.<sup>16</sup> Likewise, the fee for a state identification card – \$28.00 – can also be prohibitive at a time when the family is experiencing an acute hardship such that they would be eligible for Hardship Fund assistance. It

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<sup>14</sup> One example would be the spouse of an F-1 (student) visa holder. The spouse's visa type is F-2. Although authorized to be present in the US, an F-2 visa holder is not authorized to work in the United States and would not be able to apply for a SSN.

<sup>15</sup> USCIS Processing Time Information for the VT Service Center, <https://egov.uscis.gov/cris/processingTimesDisplay.do>

<sup>16</sup> Pa. DMV, Identification Cards in Pennsylvania, <http://www.dmv.org/pa-pennsylvania/id-cards.php>.

is not only inconvenient, but takes away dollars which the household may need to pay for other necessities (including their utility service).

CAUSE-PA asserts that acceptable alternative identification – for all of Duquesne’s Universal Service programs – should include Individual Tax Identification Number (ITIN), foreign-issued government identification, employment identification, county welfare identification, student identification, a work visa, or a student visa. Each of these documents can prove that the person is who they claim to be, and should thus be acceptable as identification for the purpose of applying for utility assistance programs.

**ii. Other Hardship Fund Issues Not Identified by the Commission in its TO**

**(a) Payment Requirement**

Duquesne requires that, as a precondition to enrollment in the Hardship Fund, the applicant must have paid at least \$150 within the last 90 days or have made three consecutive CAP payments. (USECP at 13). CAUSE-PA is very concerned that this requirement undermines the purpose of the Hardship Fund, which is to assist customers who are in an acute financial crisis. Most often, customers do not seek assistance when they miss their first bill. When an acute crisis is occurring – such as the loss of a job, a death in the household, serious health conditions, domestic violence – utility service is often not the first thing that comes to mind. The Hardship Fund is designed to help families who can no longer ignore their utility needs. This should not be seen as a negative. All families occasionally find themselves in a situation where the need to handle other pressing life issues trumps their need to handle utility bill non-payment. Households should not be penalized and prevented from accessing needed hardship funds because they have not reached an arbitrary payment amount (\$150) within the last arbitrary

timeframe (90 days). Instead, CAUSE-PA suggests that the language be amended to be contextual and fact specific. Households should only be required to demonstrate that they have made good faith efforts to pay their utility bills within the last 90 days or they have excusable reasons why they were unable to do so.

If the Commission requires a specific dollar figure, then CAUSE-PA asserts that Duquesne should be required to provide a justification for the prerequisite payment requirements, and requests that an additional comment period be provided for interested parties to comment on the issue.

#### **F. Program Eligibility Criteria**

CAUSE-PA's comments with respect to program eligibility are contained above.

#### **G. Projected Needs Assessment**

CAUSE-PA asserts that the Commission should inquire further into Duquesne's practices for confirming its low income population, as the Company's rate of confirmed low income customers has a direct and substantial bearing on Duquesne's projection of need for each of its universal service programs. In 2014, Duquesne had the second lowest rate of confirmed low income customers compared to other EDCs across the state, with just 11.1% confirmed as low income.<sup>17</sup> The number of confirmed low income customers in Duquesne's service territory declined even further in 2015 – dropping from 58,792 to 51,374. (USECP at 8).

In addition to the impact on needs assessments – and ultimately program enrollment and budget targeting – Duquesne's low rate of confirmed low income customers suggests that

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<sup>17</sup> Pa. PUC, BCS, Report on 2014 Universal Service Programs & Collections Performance, at 7 (Oct. 2015).

Duquesne is also failing to request income information from customers for the purposes of universal service program referrals and/or security deposit waiver.<sup>18</sup> These are important protections for low income customers, and coincidentally provide a ready opportunity for Duquesne to inquire about low income status.

Duquesne's relatively low levels of confirmed low income customers form an inappropriate basis for approving targeted enrollment and budget levels for each of its universal service programs. Thus, CAUSE-PA strongly recommends that the Commission refer this issue to the Office of Administrative Law Judge to identify the reasons for Duquesne's low rate of confirmed low income customers and solutions to remedy the undercounting and improve Duquesne's identification and confirmation of low income status.

#### **H. Program Budgets**

As noted above, CAUSE-PA asserts that Duquesne should be required to improve its identification and tracking of confirmed low income customers. In turn, CAUSE-PA asserts that the approved program budgets should be reassessed after a full exploration of Duquesne's policies and procedures for identifying and tracking confirmed low income customers.

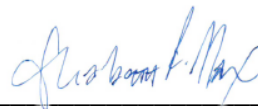
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<sup>18</sup> 66 Pa C.S. §§ 1404 (a.1), 1410.1(2).

### III. CONCLUSION

CAUSE-PA thanks the Commission for this opportunity to submit comments concerning the August 11, 2016 Tentative Order regarding the Duquesne Light Universal Service Plan for 2017-2019, and respectfully requests that the Commission, prior to final approval, direct that additional information be provided by Duquesne and provide for an additional comment period to allow interested stakeholders to respond. In addition, CAUSE-PA requests that the Commission refer several of the more factually complex questions – including LIHEAP auto-recertification, CAP default and the imposition of stay-out provisions, modification of Duquesne’s calculation of CAP benefits to include consideration of PUC energy burden targets, LIURP job rates, and Duquesne’s tracking of confirmed low income customers – to the Office of Administrative Law Judge (OALJ) to allow interested parties the opportunity to conduct discovery and present testimony on the record for the Commission to consider in issuing a Final Order.

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