



December 2, 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,

Enclosed please find the **Supplemental Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** to the Secretarial Letter dated November 4, 2016 in the captioned proceeding.

Copies are being served on the individuals listed in the attached Certificate of Service. Please feel free to contact me directly should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrick M. Cicero".

Patrick M. Cicero  
*Counsel for CAUSE-PA*

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day, December 2, 2016, served copies of the **Supplemental Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in accordance with 52 Pa. Code § 1.54 and the Commission's Secretarial Letter dated November 4, 2016.

**VIA EMAIL ONLY**

Amanda Gordon, BCS  
[amgordon@pa.gov](mailto:amgordon@pa.gov)

James Farley, BCS  
[jafarley@pa.gov](mailto:jafarley@pa.gov)

Joseph Magee  
Bureau of Consumer Services  
[jmagee@pa.gov](mailto:jmagee@pa.gov)

Sarah Dewey  
Bureau of Consumer Services  
[sdewey@pa.gov](mailto:sdewey@pa.gov)

Louise Fink Smith, Esq.  
Law Bureau  
[finksmith@pa.gov](mailto:finksmith@pa.gov)

**VIA EMAIL and FIRST CLASS MAIL**

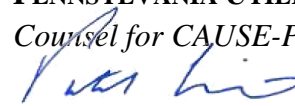
Tishekia Williams, Esq.  
Managing Counsel, Regulatory  
Duquesne Light Company  
411 Seventh Avenue, 15<sup>th</sup> Floor  
Pittsburgh, PA 15219  
[twilliams@duqlight.com](mailto:twilliams@duqlight.com)

Christy M. Appleby, Esq.  
Assistant Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101  
[cappleby@paoca.org](mailto:cappleby@paoca.org)

Richard Kanaskie, Esquire  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265  
[rkanaskie@pa.gov](mailto:rkanaskie@pa.gov)

Sharon Webb, Esq.  
Office of Small Business Advocate  
300 North Second Street, Suite 1102  
Harrisburg, PA 17101  
[swebb@pa.gov](mailto:swebb@pa.gov)

Respectfully submitted,  
**PENNSYLVANIA UTILITY LAW PROJECT**  
*Counsel for CAUSE-PA*

  
Patrick M. Cicero  
PA ID # 89039  
118 Locust Street  
Harrisburg, PA 17101  
717-236-9486  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)

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

---

**SUPPLEMENTAL COMMENTS  
OF THE COALITION FOR AFFORDABLE UTILITY SERVICES  
AND ENERGY EFFICIENCY IN PENNSYLVANIA TO THE  
NOVEMBER 4, 2016 SECRETARIAL LETTER**

---

*Submitted on behalf of CAUSE-PA*

**The Pennsylvania Utility Law Project**

Patrick M. Cicero, Esq.  
Elizabeth R. Marx, Esq.  
Joline Price, Esq.

118 Locust Street  
Harrisburg, PA 17101  
Tel.: 717-236-9486  
Fax: 717-233-4088  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)

Dated: December 2, 2016

## **I. BACKGROUND**

On October 31, 2016 Duquesne Light Company (“Duquesne” or “the Company”) filed an Amended 2017-2019 Universal Service and Energy Efficiency Conservation Three Year Plan (“Amended USECP”). In the Amended USECP, Duquesne eliminated its proposed auto-enrollment of LIHEAP recipients into the CAP program. (*See* Duquesne’s October 31, 2016 cover letter to Amended USECP.) The Amended USECP also included other amendments to clarify income verification processes and CAP default policies; provide for biannual recertification of all CAP customers and an update of enrollment and budget projections; and to correct grammatical errors. *Id.*

On November 4, 2016, the Pennsylvania Public Utility Commission (Commission) issued a Secretarial Letter asking Duquesne to respond to certain questions that its Bureau of Consumer Services had about the Company’s filing. Duquesne’s response was due by November 18, 2016 and the Secretarial Letter provided that other parties had until November 28, 2016 to file comments in response, with reply comments to be submitted no later than December 5, 2016. *See* Secretarial Letter dated November 4, 2016 at Docket No. M-2016-2534323 (“November 4th Secretarial Letter”). At the request of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Commission extended the comment period for other parties until Friday December 2, 2016, and the Reply Comment period until Monday, December 12, 2016. *See* Secretarial Letter dated November 15, 2016 at Docket No. M-2016-2534323. The Commission’s November 4<sup>th</sup> Secretarial Letter asked Duquesne to provide additional clarification on the following issues:

1. Explain why Duquesne is eliminating its CAP auto-enrollment process for LIHEAP recipients?
2. Clarify Duquesne’s amended CAP recertification policy.

3. Identify what rights a customer has to dispute and/or clarify information gathered from government agencies.
4. Clarify whether Duquesne has developed health and safety guidelines and/or allowance thresholds to give contractors some flexibility when encountering repairs needed to provide weatherization services and provide a description of its parameters for incidental repairs and/or household disqualification.
5. Provide documentation that the Company's budget billing and CAP rate discounts have been properly applied.

On November 18, 2016, Duquesne Light filed its supplemental response providing additional information addressing each of the Commission's five questions. *See* Response of Duquesne Light Company to Commission Request for Add'l Information, dated November 18, 2016 at Docket M-2016-2534323 ("Duquesne's November 18<sup>th</sup> Response").

CAUSE-PA thanks the Commission for the opportunity to provide additional comments in response to Duquesne's supplemental filing and its responses to the Commission's November 4<sup>th</sup> Secretarial Letter, as well as the extension of time to file these comments in light of the Thanksgiving holiday. For the sake of brevity, CAUSE-PA will build upon - but will not reiterate at length - the extensive comments and recommendations it made in its initial and reply comments. Except where noted herein, the positions and recommendations made in its initial and reply comments remain unchanged after reviewing the Amended USECP and Duquesne's November 18<sup>th</sup> response.

## **II. SUPPLEMENTAL COMMENTS**

### **A. Duquesne Light Has Provided Insufficient Reasons why it seeks to discontinue Automatic Enrollment of LIHEAP Recipients into CAP**

In its August 11, 2016 Tentative Order (TO), the Commission raised questions about Duquesne's then-filed plan "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). Specifically, the Commission noted that CAP customers must understand the terms of the program and the consequences of default because "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).

In its initial and reply comments, CAUSE-PA supported the Commission's request for clarification about how Duquesne would inform customers about the benefit and responsibilities of CAP and specifically noted in its reply comments, after additional information was provided by Duquesne in its comments:

More information continues to be necessary to ensure that this critical enrollment mechanism remains intact as proposed and that customers subject to auto-enrollment are adequately apprised of their rights and obligations under the program. Therefore, CAUSE-PA continues to request that the Commission refer this matter to the Office of Administrative Law Judge to establish a record from which BCS can make a more informed decision. **In the alternative, CAUSE-PA urges the Commission to – at the very least – order Duquesne to disclose data about its current auto-enrollment customers – including the number of auto-enrolled customers who respond to outreach from Duquesne, as well as sample outreach and educational documents used to solicit income verification from auto-enrolled CAP customers.** In turn, CAUSE-PA requests that the Commission allow parties the opportunity to provide additional comment after review of this information.

This additional information – the outreach and education materials and the numbers of customers acting on the information provided in those materials – is critical to determining whether Duquesne's efforts to inform auto-enrolled customers about their rights and obligations under CAP are successful. **CAUSE-PA asserts that any decision by the Commission to curtail auto-enrollment, to disallow initial auto-enrollment at the highest discount level, or to order changes to Duquesne's current educational efforts should not be made in a vacuum and must be informed by this additional information.**

CAUSE-PA Reply Comments at 2-3 (emphasis added).

It appears that in response to the push by the Commission and CAUSE-PA for additional information about auto-enrollment, which was designed to address the Commission's concerns about customers being adequately informed about their rights and responsibilities, Duquesne decided that it would simply be easier to discontinue the practice. This is a mistake. The Commission should not permit Duquesne to discontinue LIHEAP auto enrollment without an analysis of the effect that this practice (which has been in place since 2011) has had on increasing CAP participation rates, as well as an assessment how many customers, if any, have been adversely affected by auto-enrollment.<sup>1</sup> An assessment should also be made of the efforts Duquesne undertakes to solicit auto-enrolled customers to verify their income.

As was indicated in our comments and reply comments, CAUSE-PA strongly supports LIHEAP auto-enrollment at 85% of budget billing. (CAUSE-PA Comments at 6-8; CAUSE-PA Reply Comments at 1-3). Indeed, auto-enrollment – and the provision of a 15% discount off budget billing (85% of budget billing), along with the other benefits of CAP – is a critical tool that helps Duquesne to bridge the gap between eligibility and enrollment, creates programmatic efficiencies and economies of scale, and streamlines enrollment and the delivery of assistance for

---

<sup>1</sup> The way this process has occurred shows the significance of allowing proceedings like this to be litigated before an ALJ in the context of an evidentiary proceeding. The Commission raised concerns about the LIHEAP auto-enrollment process in its TO, and the parties, including Duquesne, each commented on this process. However, in the face of questions and pressure concerning information about whether any customers were adversely affected by the process, Duquesne unilaterally decided to propose a discontinuation of the practice. Had this proceeding been before an ALJ, parties – like CAUSE-PA and the Office of Consumer Advocate – could have asked interrogatories which would have compelled the Company to produce information in response to these requests, as well as ask questions in cross examination, that would have required the Company to justify its decision. Instead, we are left with asymmetric communication through comments, which may or may not be heeded. Moreover, the parties could have assisted in the negotiation of a practice that may have ameliorated concerns. Fortunately, it is not too late. Indeed, CAUSE-PA continues to assert that this proceeding still can and should be referred for hearings.

vulnerable households that are already identified as being interested in and in dire need of assistance.

In response to the November 4<sup>th</sup> Secretarial Letter, Duquesne asserts that it seeks to eliminate auto-enrollment process for two reasons: (1) so that CAP can be a “needs based program”; and (2) to ensure customer consent. (Duquesne’s November 18<sup>th</sup> Response at 1-2.) Neither of these is a convincing nor compelling reason for Duquesne to eliminate auto-enrollment. As to the first issue, Duquesne suggests that the Company’s prior proposal to automatically enroll customers at 85% of their full budget amount, “in some cases, will not accurately reflect customers’ need or ‘affordable payment’ because at the time of enrollment the customers income (and therefore ability to pay) is unknown.” (Duquesne’s November 18<sup>th</sup> Response at 1.) Duquesne goes on to suggest that “the purpose of providing a discount from full tariff rates is to provide customers with an affordable payment” and that “[t]o the extent that a customer is entitled to a more favorable discount, providing a 15% discount does not fulfill the customer’s need for an affordable bill.” (*Id.*)

While CAUSE-PA certainly agrees that providing targeted discounts meant to address households inability to pay is the purpose of CAP, Duquesne’s solution to discontinue auto-enrollment would exacerbate this problem rather than ameliorate it. The Company’s original proposal was to auto-enroll non-CAP, LIHEAP customers in CAP at 85% of the final budget bill. This is the highest budget bill amount that a CAP customer could possibly pay under the Company’s CAP program. This is significant because there would be no concern that through auto-enrollment households would be provided too large of a subsidy once they verify their income. It may, of course, be the case that the household would not be receiving enough of a subsidy. However, it is illogical to suggest, as Duquesne does, that this somehow means that it

should *not* auto-enroll customers at the minimum discount level. Without auto-enrollment, these customers would be asked to pay their full bill, without any discount. Surely providing some discount – *as an initial step until the household verifies their precise income* – would allow the household to get closer to a bill that is affordable. This is no small thing. Available data for Duquesne’s service area<sup>2</sup> demonstrates that CAP-eligible households who do not receive a CAP discount have untenably high energy burdens:

Percentage of Federal Poverty Level	Average Energy Burden Allegheny County	Average Energy Burden Beaver County
0-49%	35.8%	29.2%
50%-99%	14.8%	15.5%
100%-124%	12.7%	10.4%
125%-149%	8.1%	8.5%

Source: Fisher, Sheehan & Colton, *2015 Home Energy Affordability Gap*, County Level Report. Published April 2016. Available at: [http://www.homeenergyaffordabilitygap.com/03a\\_affordabilityData.html](http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html)

While providing an insufficient discount certainly is not enough to mitigate the unconscionably high energy burdens faced by Pennsylvania’s poorest households, it is a start. Providing immediate financial relief in the form of the minimum program discount allows these households to begin the process of providing Duquesne with the information necessary for the Company to appropriately target the correct discount.

Duquesne also asserts that providing a 15% discount through auto-enrollment may actually lessen a customer’s incentive to complete the application process because it provides

---

<sup>2</sup> Duquesne is not alone in this regard. Statewide, the energy burdens for low-income households who do not receive bill payment assistance through CAP are exorbitant. See Fisher, Sheehan & Colton, *2015 Home Energy Affordability Gap*. Published April 2016. Available at: [http://www.homeenergyaffordabilitygap.com/03a\\_affordabilityData.html](http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html)

some, albeit insufficient, relief. (Duquesne’s November 18<sup>th</sup> Response at 2.) However, the Company provides no support for this assertion. As explained above, data and information from Duquesne -- including the number of customers impacted and the efforts Duquesne undertakes to solicit income verification – is critical to this decision, and would allow the Commission to make an informed decision, rather than relying on Duquesne’s unsupported speculation on the motives of CAP customers. Again, while providing an insufficient level of discount is per se insufficient to mitigate the staggering energy burdens low-income households face, this fact should not be used to justify providing *nothing* to these households. Rather, the Company should provide the smaller discount while engaging in robust outreach to ensure that a proper discount level can be provided.<sup>3</sup>

Duquesne’s second stated rationale for eliminating LIHEAP auto-enrollment is that, because CAP participation provides “both benefits and drawbacks,” it should eliminate auto-enrollment “to avoid confusion customers should have the option of to accept or decline CAP enrollment based on an informed weighting of the benefits and drawbacks.” (Duquesne’s November 18<sup>th</sup> Response at 2.) CAUSE-PA agrees that customers should be informed about the positive and negative aspects of CAP enrollment and commented at length about this in its comments and reply comments. (CAUSE-PA Comments at 7-9; CAUSE-PA Reply Comments at 2-3). Notwithstanding these concerns, as suggested throughout its comments and reply

---

<sup>3</sup> In its comments to the Company’s original proposal, the OCA explained that it supports the continuation of auto-enrollment and does not oppose Duquesne’s plan to increase the auto-enrollment rate discount from 100% of budget billing to 85% of budget billing and to continue offering other CAP benefits – including arrearage forgiveness and priority LIURP treatments. (OCA Comments at 4). However, the OCA limited its support for auto-enrollment, noting that it “supports continuation of Duquesne’s current process of requiring that LIHEAP recipients provide further income verification within 6 months.” (OCA Comments at 4). CAUSE-PA opposed this 6-month restriction in reply comments and indicated that more information is needed to ensure that this length of time is sufficient. If the Commission is concerned that the Company’s provision of a discount would provide a disincentive to provide income information for the reasons articulated by Duquesne then CAUSE-PA asserts that a 6 month restriction on the auto enrollment discount would be a more appropriate approach.

comments, CAUSE-PA believes that a robust opt-out process would be a better and more targeted approach than a complete repudiation of the auto-enrollment program itself. As indicated in CAUSE-PA's comments:

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. 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.

(CAUSE-PA Comments at 6-7) (internal citations omitted). Based on CAUSE-PA's experience, few, if any, customers who are fully informed and aware of CAP and its benefits intentionally and knowingly determine that they are not interested in the program. In the absence of evidence that customers are refusing CAP enrollment in other contexts, it is unlikely that customers would decline the assistance of CAP when presented with meaningful information about its benefits, and an opt-out would better target those few cases where individuals elect not to participate.

CAUSE-PA's support for LIHEAP auto-enrollment is not just because it makes good sense to do so, but also because Duquesne is also arguably *required* to auto-enroll any customers who receive a LIHEAP Crisis grant. Section 601.61 of the LIHEAP State Plan requires that “[a]ll participating energy vendors **shall enroll** a crisis recipient in a CAP or establish a budget plan, if the monthly CAP or budget plan amount is the most advantageous rate for the household.” See Commonwealth of Pennsylvania, Low-Income Home Energy Assistance Program, Fiscal Year 2017, Final State Plan, § 601.61. This obligation on the part of Duquesne is not permissive. Rather, it is a mandatory obligation of all LIHEAP vendors who agree to receive a crisis grant from DHS on behalf of a customer. Duquesne's supplemental proposal to conduct outreach to these households is insufficient to meet this requirement.

CAUSE-PA urges the Commission to reject Duquesne's late-stage reversal of its auto-enrollment position and require it to develop a process whereby it can continue to auto-enroll LIHEAP recipients who are not enrolled in CAP, while bolstering efforts to ensure that auto-enrolled customers are informed about the program and effectively solicited to complete the enrollment process.

**B. Duquesne must provide additional clarification about CAP recertification, and should specifically clarify its processes to ensure that its customers understand their obligations.**

In response to the November 4<sup>th</sup> Secretarial Letter, Duquesne clarified that its practice is to *request* income information from all CAP customers annually, regardless of whether those customers receive a LIHEAP grant or not, but that it only *requires* actual recertification on a biannual basis. (Duquesne's November 18<sup>th</sup> Response at 2.) That is, the Company will not default customers from CAP for failure to recertify unless they do not provide income information on a biannual basis.

CAUSE-PA supports biannual recertification in principle because it is less burdensome on clients and less administratively taxing on Duquesne. However, given the significant difficulties that Duquesne has been having with the application of CAP discounts and the calculation of appropriate CAP credits – as detailed in length in Duquesne's response to the Commission (*see* Duquesne's November 18<sup>th</sup> Response at 3-5) – CAUSE-PA believes that more information is needed to determine whether Duquesne's decision to request information every year, but only require it every other year, is contributing to customer confusion and is part of the reason for customers not recertifying when they need to do so. For instance, it is unclear from Duquesne's description if a customer enrolls in "year 1" in CAP and provides actual information

in “year 2” – based on the request of the Company – does the customer also have to provide information in “year 3” or can she wait until “year 4”?

Telling customers that they should provide information, which sometimes is permissive and sometimes is mandatory, may cause more confusion than simply requiring customers to recertify every year. This is particularly true given the complicated nature of Duquesne’s CAP program and the Company’s assertion that one of the reasons why a customer may not be receiving his or her full CAP credit is that their “account has not been recertified.” (Duquesne’s November 18<sup>th</sup> Response at 3). At the very least, the Commission should require the Company to clearly spell out these obligations – in plain and simple terms – to all CAP customers so as to avoid any further confusion.

**C. Duquesne should be required to provide its final position and notice of dispute rights in writing for all default dismissals from CAP.**

In its Amended USECP, Duquesne clarified that “all applicants and CAP customers may appeal denials for default dismissals,” and that “[u]pon receipt of a dispute related to a default or removal from CAP, the Company will investigate and provide the customer with its final position and rights to file a complaint with the Commission.” (Amended USECP at 7). CAUSE-PA thanks the Company for clarifying this process in its Amended USECP, but respectfully submits that additional information is needed. For example, although the Company asserts that both applicants and customers may appeal default dismissal, it indicates that it will investigate only “defaults or removals from CAP” – which are two categories that only apply to CAP customers. CAUSE-PA submits that the Company must also commit to investigate denials of enrollment into CAP for those customers who were denied at the application stage. Furthermore, the Company commits only to “provide the customer” with its final position. Again, CAUSE-PA believes that this information should also be provided to applicants who were denied entry

into CAP. Finally, although it may be implied, the Company should be required to make explicit the fact that notice of Duquesne's final position and of the consumer's rights to file a complaint with the Commission should be provided *in writing* to the customer in plain, understandable language.

**D. Further clarification is needed concerning Duquesne's requirements for providing supporting documentation from government agencies.**

In response to the Commission's request to identify what rights a customer has to dispute and/or clarify information gathered from government agencies where the customer has indicated that he or she has zero income, the Company indicates that it has never actually made such a request for third-party information. The Company explained that it "believes that its ability to verify customer information is critically important to preserving the integrity of the program." (Duquesne's November 18<sup>th</sup> Response at 2). Duquesne goes on to say that "[c]ustomers who report zero income may be asked to verify their income by providing an IRS transcript", and that [i]f the customer believes that the information provided by the IRS is incorrect, the customer will be given the opportunity to provide supporting/correcting documentation within 60 days prior to any adverse action." (Duquesne's November 18<sup>th</sup> Response at 2). Duquesne further states that "[i]f the customer fails to produce adequate information, he or she will be removed from the program and provided with a utility report which provides the customer's appeal right." (*Id.*).

On its face, this process does not seem unreasonable, but CAUSE-PA cautions that by their nature IRS transcripts are backwards looking (i.e. for years that have already occurred), whereas the income information requested for CAP certification and recertification is present income. There are countless situations in which someone may have had income in the past that they no longer have. As such, it is not clear how much value an IRS transcript would be in determining what a customer's then-present income is. The same is true of bankruptcy

proceedings. With the exception of perhaps Ch. 13 Plan proceedings – which are rarer – most bankruptcy proceedings are snapshots in time about a debtor’s income at the time of filing rather than ongoing certifications about their income at some point in the future. Thus, like IRS transcripts, it is unclear the value of this information.

Given the inherent uncertain value of the information, CAUSE-PA submits that Duquesne should be required to clearly notify customers of their ability to dispute not simply the accuracy of the information provided by the IRS (or through the bankruptcy proceeding) but also its relevance in determining whether their statements to Duquesne about income are or were accurate. To be clear, the information from the governmental agency may be accurate in that it was true at the time or for the period in question, but it may be nonetheless irrelevant to the question of whether a customer does or does not have any income at the time of their CAP application. Finally, like the notice that is provided for default for other reasons, Duquesne should affirmatively commit to providing its notice of adverse action and appeal rights to the customer *in writing* and in plain language.

**E. Duquesne has not provided sufficient information concerning health and safety in its LIURP program.**

In its TO, the Commission encouraged the development of an allowance for the installation of health and safety measures, and requested clarification from the Company about its recommended parameters for incidental repairs. TO at 17. In its comments, Duquesne simply indicated that its LIURP contractor has the discretion to disqualify households for health and safety reasons, and that it consults with Duquesne to determine if incidental repairs are needed to implement LIURP measures. (Duquesne Comments at 5.) As noted by CAUSE-PA in its reply comments, this provided scant detail. (*See* CAUSE-PA Reply Comments at 11-12.) Duquesne

provided no additional clarification on this in its Amended USECP. As such, the Commission asked for clarification in its November 4<sup>th</sup> Secretarial Letter. In response, Duquesne stated:

Duquesne Light has not developed health and safety guidelines or allowances thresholds to give contractors flexibility when encountering repairs needed to provide weatherization services[.] Contractors are not given the latitude to perform repairs beyond the scope of the work identified in their contract with Duquesne Light.

(Duquesne's November 18<sup>th</sup> Response at 3).

This response clarifies nothing and begs additional questions. For instance, does the fact that the Company has not set a threshold mean that it exercises its discretion to determine a reasonable amount on a case by case basis, or does it mean that if health and safety measures are identified that would inhibit weatherization work, that the job must be deferred no matter how *de minimis* the cost to remediate? What is the "scope of work identified "in [the] contract with Duquesne Light"? Furthermore, if this response is meant to signal that there is no discretion and no such incidental repairs may be made, it directly conflict with Duquesne's previous comments to the Commission in which it stated that "[Duquesne LIURP contractor] can make incidental repairs in order to facilitate LIURP measures in consultation with Duquesne Light." (Duquesne Comments at 5.)

Duquesne's explanation is also insufficiently responsive to the Commission's inquiry, as it fails to set forth any information about the range of measures and repair that Duquesne will authorize, nor does it indicate the criteria it uses to determine whether to remediate health and safety concerns. CAUSE-PA continues to recommend that the Commission require Duquesne to provide details about the factors it uses to either reject or remediate health and safety concerns in a home in order to provide the home with LIURP services. In addition, Duquesne should

provide data showing the number of homes rejected for health and safety reasons as well as the number of homes whose health and safety concerns were remediated through the program.

#### **F. The Company's Budget Billing and CAP Rate Discounts**

In its November 4<sup>th</sup> Secretarial Letter, the Commission requested Duquesne to clarify whether all of the issues concerning the Company's implementation of its FOCUS billing system had been resolved, and specifically, whether "the system is now functioning properly and accurately calculating CAP customer budget bills and rate discounts." (November 4<sup>th</sup> Secretarial Letter at 3). In response, Duquesne set forth two and one-half pages of explanations concerning these issues. (Duquesne's November 18<sup>th</sup> Response at 3-5). The simple answer to the Commission's question is "no," the systems are not functioning properly or accurately calculating budget bills and rate discounts. Duquesne lists the following difficulties:

- (1) Some customers are not receiving their full CAP credit;
- (2) Customer payments are not being correctly applied to both the distribution and generation portion of the bill;
- (3) Customers are not being recertified;
- (4) A previously applied security deposit may not have been refunded to the customer;
- (5) Budget bill amounts may still be either under or overestimated for some customers;

(Duquesne's November 18<sup>th</sup> Response at 3-4).

Duquesne says that it has been diligently working on these problems and outlined various processes that it has in place to correct each of these issues and "will implement systems and process changes . . . by the second quarter of 2017." (*Id.* at 4.) Duquesne also asserts that it

“welcomes the opportunity to collaborate with the Commission and interested stakeholders” to simplify its future CAP. (*Id.* at 3, 5.)

After reviewing Duquesne’s response, it is apparent that a full investigation by the Commission into scope and nature of this problem is in order. Counsel for CAUSE-PA has been in touch with many affected Duquesne Light customers and it remains clear that the systems in place and fixes outlined by Duquesne have not yet occurred. Given how long these problems have been going on, there is little solace in the promise that the matters will be resolved by the spring 2017, which of course happens to coincide with the end of the winter moratorium and the start of spring terminations.

CAUSE-PA recommends that the Commission refer the matter of Duquesne’s CAP billing and program structure to the Office of Administrative Law Judge and its office of mediation for attempted resolution of these issues. In the past, when the Commission has expressed concern about the structure of a utility’s CAP program, whether it was functioning properly and whether it was appropriately calculating targeting discounts, the Commission referred the proceeding for a CAP redesign mediation. *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, April 25, 2014 Secretarial Letter. This is the most appropriate approach here. There are far too many issues to be dealt with that require ongoing dialogue that is not conducive to asymmetric comment proceedings or occasional stakeholder meetings. Instead, what is needed is a concerted focus to ensure that all of the issues related to the interrelationship between Duquesne’s billing system, its CAP program, its bill presentment, and its communication strategy with affected customers.

Referring the matter for mediation is a prudent course of action even in the absence of all the troubling billing issues that persist at the Company. As CAUSE-PA pointed out in its original comments, Duquesne's current CAP structure is ill equipped to target the Commission's energy burdens, and in fact has churned out bills which persistently fail to reach Commission-established affordability guidelines for the poorest of the poor:

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.)

...

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.

(CAUSE-PA Comments at 20-21).

In light of the information disclosed in the Company's November 18<sup>th</sup> Response, and the fact that Duquesne's CAP program does not adequately target the Commission's energy burdens, CAUSE-PA recommends that the Commission refer the matter of Duquesne's CAP billing and program structure to the Office of Administrative Law Judge and its office of mediation for attempted resolution of these issues.

THE PENNSYLVANIA UTILITY LAW PROJECT  
*Counsel for CAUSE-PA*



---

Patrick M. Cicero, Esq., PA ID: 89039  
Elizabeth R. Marx, Esq., PA ID: 309014  
Joline Price, Esq., PA ID: 315405  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101  
Tel.: 717-236-9486  
Fax: 717-233-4088  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)

December 2, 2016