

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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

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

October 16, 2017

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

Re: Review of Universal Service and Energy
Conservation Programs
Docket No. M-2017-2596907

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Comments in the above-referenced proceeding.

Respectfully Submitted,

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

Enclosure

cc: Louise Fink Smith, Esq., Law Bureau (e-mail only: finksmith@pa.gov)
Tiffany Tran (e-mail only: tiftran@pa.gov)
Joseph Magee, BCS (e-mail only: jmagee@pa.gov)
Sarah Dewey, BCS (e-mail only: sdewey@pa.gov)
(e-mail only: RA-PCLAW-LIURP@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Review of Universal Service and Energy : Docket No. M-2017-2596907
Conservation Programs :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Reply Comments in the manner and upon the persons listed below:

Dated this 16th day of October 2017.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Richard A. Kanaskie, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

John R. Evans
Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101

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

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

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Review of Universal Service and :
Energy Conservation Programs : Docket No. M-2017-2596907

REPLY COMMENTS
OF THE
OFFICE OF CONSUMER ADVOCATE

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

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

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

Dated: October 16, 2017

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I. INTRODUCTION

On May 10, 2017, the Commission issued an Order for the Review of Universal Service and Energy Conservation Programs. Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907, Order (May 10, 2017). In its Order, the Commission identified the following categories for Comments: (1) program design; (2) program implementation; (3) program costs; (4) program cost recovery; (5) program administration; (6) program report; and (7) program evaluation. Order at 3-4. The Order also directed Law Bureau to prepare a Staff Report. On July 14, 2017, the Commission issued a Secretarial Letter and its Staff Report. Pursuant to the Commission's May 10, 2017 Order, the Staff Report outlines the statutory, regulatory, and policy frameworks of existing universal service and energy conservation programs and the processes required to initiate the proposed changes. The Secretarial Letter accompanying the Staff Report and the May 10, 2017 Order requested Comments from interested stakeholders on August 8, 2017. A two-day stakeholder meeting was held on September 13th and 14th; and these Reply Comments 30 days thereafter, on October 16th, 2017.

The Commission has also initiated two parallel proceedings. On December 16, 2016, the Commission issued a Secretarial Letter requesting comments regarding the scope of a future rulemaking to update the Commission's existing Low Income Usage Reduction Program (LIURP) regulations at 52 Pa. Code §§ 58.1- 58.18. The Secretarial Letter requested written responses thirty days after publication in the *Pennsylvania Bulletin* and written reply responses thirty days thereafter. The Secretarial Letter was published in the *Pennsylvania Bulletin* on Saturday, December 31, 2016. The OCA filed Comments in that proceeding on January 30, 2017 and Reply Comments on March 1, 2017.

The Commission has also opened a proceeding at Docket No. M-2017-2587711 to address Energy Affordability for Low-Income Customers. By Order entered May 15, 2017, the Commission initiated a study by its Bureau of Consumer Services (BCS) regarding home energy burdens in Pennsylvania. The Order anticipates that the study will be concluded by the Bureau of Consumer Services (BCS) by February 5, 2018 and that BCS will report its finding to the Commission by May 5, 2018. Thereafter, the Commission will make public the final report and may provide for Comments and Reply Comments.

On August 8, 2017, Comments were filed in this docket by the following organizations: the Office of Consumer Advocate (OCA); Commission on Economic Opportunity (CEO); Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Tenant Union Representative Network (TURN), and Action Alliance of Senior Citizens of Philadelphia (Action Alliance) (collectively Low Income Advocates); Columbia Gas of Pennsylvania, Inc. (Columbia); Duquesne Light Company (Duquesne); Joint Comments of the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors (collectively Industrial Customers); Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), and West Penn Power Company (West Penn) (collectively FirstEnergy Companies); National Fuel Gas Distribution Corporation (National Fuel); PECO Energy Company (PECO); Pennsylvania Energy Marketers Coalition; Peoples Natural Gas Company LLC and Peoples Gas Company LLC, f/k/a Peoples TWP (collectively Peoples Companies); Pennsylvania Service Providers¹; Philadelphia Department of Human Services (DHS); Philadelphia Gas Works

¹ Signatories to Comments of the Pennsylvania Service Providers include: AARP Pennsylvania; ACTION Housing, Inc.; Community Justice Project; Disability Rights Pennsylvania; Health, Education, and Legal Assistance

(PGW); PPL Electric Utilities Corporation (PPL); UGI Utilities, Inc. – Gas Division (UGI-GD), UGI Utilities, Inc. –Electric Division (UGI-ED), UGI Penn Natural Gas, Inc. (UGI-PNG), and UGI Central Penn Gas, Inc. (UGI-CPG) (UGI Distribution Companies or UGI); United Way of Pennsylvania (United Way); Weatherization and Conservation Collaborative; and Weatherization Works!

The OCA supports the development and improvement of the universal service programs for low-income customers. The OCA’s recommendations in its Comments and these Reply Comments are focused on improving the effectiveness of the existing programs to meet the needs of low-income customers in a cost-effective manner. As the CAP programs are re-examined, the Commission should evaluate how best to direct resources to those low-income customers who are most in need of ratepayer support while balancing the needs and burdens of those customers who must pay for these programs.

In these Reply Comments, the OCA will address the positions and proposals of some of the Companies and Organizations who submitted Comments in this matter.² The OCA’s Comments are divided into two sections: (1) those areas where Comments were specifically requested by the Bureau of Consumer Services at the September 13th and 14th stakeholder collaborative and (2) the larger policy issues that were raised in the Comments of other stakeholders.

Project: A Medical-Legal Partnership; Homeless Advocacy Project; Interim House, Inc.; Laurel Legal Services; Legal Aid of Southeastern Pennsylvania; MidPenn Legal Services; Neighborhood Legal Services Association; North Penn Legal Services; Pennsylvania Coalition Against Domestic Violence; Pennsylvania Council of Churches; Pennsylvania Institutional Law Project; Pennsylvania Legal Aid Network; Philadelphia Legal Assistance; Regional Housing Services; SeniorLAW; Southwestern Pennsylvania Legal Services, Inc.; The Women’s Center, Inc.; The Women’s Resource Center; Stephen R. Krone (in his personal capacity); and Medha D. Makhlof (in her personal capacity).

² The OCA was assisted in the preparation of these Reply Comments by Roger D. Colton. Roger Colton is a principal in the firm of Fisher Sheehan & Colton, Public Finance and General Economics. Mr. Colton provides technical assistance to a variety of public utilities, state agencies and consumer organizations on rate and consumer service issues for telephone, water/sewer, natural gas and electric utilities. Mr. Colton’s work focuses on low-income energy issues, and he has testified and published extensively in this area.

Given the breadth and scope of the Comments, the OCA was not able to address all issues raised in all of the Comments filed by the stakeholders, and its silence on a particular issue should not be deemed to be assent. The OCA appreciates the careful examination of the issues raised by the stakeholders in their Comments, and the OCA submits that it looks forward to a continuing dialogue with the stakeholders. The OCA requests that these Reply Comments be read in conjunction with its Comments filed on August 8, 2017 that address these and other issues in greater detail.

II. REPLIES TO BUREAU OF CONSUMER SERVICES IDENTIFIED ISSUES

A. Introduction

At the stakeholder meeting, the Bureau of Consumer Services specifically identified issues to be addressed by the stakeholders in Reply Comments. The OCA has addressed the following issues as requested by BCS at the stakeholder meetings: (1) income documentation, including annualized income, the earned income disregard, and the required income documentation for non-traditional sources of income; (2) a minimum threshold for hardship program funding; (3) Needs Assessment; (4) LIURP participation as a pre-requisite for CAP participation; (5) health and safety issues in the LIURP program; (6) the statewide administration of CAP; (7) minimum payments; (8) CARES; (9) reinstatement in CAP; and (10) the use of LIURP for cooling purposes.

B. Income Documentation

1. Annualized Income

With respect to the annualized income method and its use in determining CAP eligibility, at the stakeholder meeting UGI questioned whether annualizing income will “work both ways,”

meaning can a Universal Service Provider annualize a CAP participant's recently acquired income for the purposes of removing them from the CAP program. In our initial Comments, the OCA recommended that the policy statement reflect that a 30-, 60-, or 90- day annualized income be an appropriate basis for establishing CAP eligibility. OCA Comments at 23. For instance, an individual can have a high yearly income for that taxable year, but may have recently lost their job. Under the annualized income method, the USP would multiply the income that the recently unemployed individual has made in the past 30-, 60-, or 90- days by a like number of periods to determine their annual income as if that current level of income were to continue for a year. Under these circumstances, while their gross income for the year may not adequately demonstrate their need and eligibility for the CAP program, annualizing their current income would.

There are several reasons why the annualized income method is appropriate. First, for practical purposes, the OCA's understanding is that the state LIHEAP office allows households to use an annualized income (30-, 60-, or 90-day income) or an annual income, whichever provides the greater benefit. In the absence of compelling reasons to diverge from that practice, the OCA urges that the CAP income eligibility determination be reconciled with the LIHEAP income eligibility determination to the extent feasible. Second, while the use of tax returns can be a sufficient basis to establish annual income, it can be problematic for self-employed individuals. For one, low-income, self-employed individuals may not be required to file a tax return under the law. Further, that individual's income is likely to have much more dramatic changes of income from year to year. As such, the tax return information may be outdated. Third, with respect to seasonal laborers, those individuals may have a low total annual income, but will have monthly variations in income that when viewed in isolation may look different than their

annual income or income at the time of their initial application. These reasons support the use of flexible standards for determining CAP eligibility based on current income.

Yet while the annualized income method is an important tool to sufficiently address need, it should not ‘work both ways.’ It is important to understand that it is not sufficient for a household simply to ‘begin working.’ The wages earned by a household would need to be sufficient to offset the additional expenses associated with work. A one-parent family with children, for example, would not only lose assistance from Temporary Assistance for Needy Families (“TANF”), Food Stamps/SNAP, and Medicaid as wages increased, but that one-parent would also begin to incur expenses such as child care and transportation associated with wage earning. In contrast, however, it is not uncommon at all for income to go the ‘other way’ for households. Often times a family with a single wage earner may lose that source of income due to illness, disability, death, or divorce. For the reasons above, allowing the annualized income method to ‘work both ways’ would be impractical.

The OCA, therefore, recommends the use of annualized income to determine CAP eligibility consistent with LIHEAP but not the “two way” approach inquired about at the meeting. Annualizing recently acquired income should not be a consideration when determining whether to remove someone from the CAP program due to the need for the household to recover from a period of lost income.

2. Earned Income Disregard

TURN recommends that ‘all low-income households should be assessed for eligibility in CAP based on something closer to actual expendable income – not gross pre-tax income.’ More specifically, TURN recommends “adoption of a standard earned income disregard of 20% of income.” It finally recommends that “households with fixed income sources – such as Social

Security – be permitted to deduct from income their mandatory Medicare premiums that are deducted from benefits.” The standard earned income disregard would help place working families on level footing,” TURN asserts, “and would ensure that needy families are able to access the relief they need to meet their monthly expenses.” The OCA, however, would not recommend the use of ‘income disregards’ into the income eligibility determination for CAP.

First, TURN’s assertion that the earned income disregard is to “account for discrepancies between employment and assistance income” is not completely accurate. Within the context of Temporary Assistance for Needy Families (“TANF”), its earned income disregard cannot be separated from TANF’s new Work First program policy. The federal Deficit Reduction Act of 2005 re-established work requirements for the states. The minimum overall work participation rate is 50% as of Fiscal Year 2015. This means that 50% of all families receiving TANF in Pennsylvania must meet work requirements. The minimum work participation rate for two-parent families is 90% as of Fiscal Year 2015. To meet this participation rate, TANF’s earned income disregard provides an additional incentive (i.e. disregarding 50% of earned income) for TANF recipients to seek jobs and eventually remove themselves from TANF. No such policy justification can (or should) be attached to utility CAP programs.

Second, TURN’s recommendation has no reciprocity to it. While a family with a wage earner unquestionably has additional payment obligations as noted by TURN (i.e. tax withholdings and other deductions), it also has access to benefits not available to persons with assistance income. For example, working families have access to the child and dependent care tax credit. Working families also have access to the Earned Income Tax Credit (“EITC”), an income source not available to households with assistance income. It would be difficult for CAP to equitably decide which disregards to recognize and incorporate particularly if one were to

state that if income disregards were to be incorporated, income supplements should be incorporated as well.

Third, using an earned income disregard is certainly not universal and TURN does not explain why CAP in particular should implement an earned income disregard. Just this year, the federal Government Accountability Office (“GAO”) (formerly known as the General Accounting Office) examined the eligibility requirements for six different federal programs: the EITC, Medicaid, the Housing Choice Voucher program, Supplemental Nutrition Assistance Program (“SNAP”), Supplemental Security Income (“SSI”), and TANF. GAO noted that “[t]he six programs also vary in what income is and is not counted when determining an applicant’s eligibility. For example, certain programs, such as SNAP, disregard a portion of earned income, while others do not. GAO stated in relevant part:

The programs we reviewed also differ in how they treat an applicant’s earned income—or income earned from working—for the purposes of eligibility determination, according to our analysis of agency documentation, as confirmed by the agencies, with some programs structuring their earned income rules to incentivize work, as we have previously reported. . .”³

TURN asserts that an earned income disregard would “set low income families on equal footing. . .”, but this would be impossible. As GAO noted, “[i]n calculating an applicant’s income levels to determine eligibility, some programs also have provisions to deduct certain types of expenses. These deductions include allowances for certain medical, shelter, or child care expenses of applicants. In other programs, no deductions or exclusions may apply.”⁴ The OCA would urge the Commission to refrain from beginning the journey down the slippery path of trying to adapt CAP to meet the various policy objectives (some of which are consistent with

³ 2017 GAO, at 16, citing GAO (November 2001). Means-Tested Programs: Determining Financial Eligibility is Cumbersome and Can be Simplified, GAO Report No. GAO-02-58 (reviewing eleven federal programs) (hereafter 2002 GAO).

⁴ 2002 GAO, at 17 – 18.

each other and others of which are not) of the many federal income-supplement programs. TURN has proposed one income disregard (i.e., earned income disregard) and one income deduction (i.e., mandatory Medicare premiums). Insufficient reasons have been provided to select these two particular income adjustments from amongst the entire multitude of those possible income adjustments identified by GAO to incorporate into CAP income determinations.

Fourth, TURN does not make clear why households receiving earned income should have their incomes adjusted for taxes while households receiving benefit income should not. The payment of income taxes is not limited to earned income. For example, one recent study by the U.S. Social Security Administration (“SSA”) concluded:

Since 1984, Social Security beneficiaries with total income exceeding certain thresholds have been required to pay federal income tax on some of their benefit income. Because those income thresholds have remained unchanged while wages have increased, the proportion of beneficiaries who must pay income tax on their benefits has risen over time. A Social Security Administration microsimulation model projects that an annual average of about 56 percent of beneficiary families will owe federal income tax on part of their benefit income from 2015 through 2050. The median percentage of benefit income owed as income tax by beneficiary families will rise from 1 percent to 5 percent over that period. If Congress does not adjust income tax brackets upward to approximate the historical ratio of taxes to national income, the proportion of benefit income owed as income tax will exceed these projections.⁵

Finally, the Commission would need to accept that, were it to adopt a proposed earned income disregard and/or income deduction for mandatory Medicare premiums, it would, in fact, be relaxing its long-time definition of “low-income,” which references 150% of the Federal Poverty Level. By definition, Federal Poverty Level is tied to gross household income unadjusted in the ways proposed. Should the Commission adopt proposed income adjustments, CAP participation would extend to some households with

⁵ Patrick Purcell (December 2015). Income Taxes on Social Security Benefits. SSA Issue Paper 2015-2, U.S. Social Security Administration (“SSA”). Patrick Purcell is with the Office of Retirement Policy, Office of Retirement and Disability Policy, Social Security Administration.

income exceeding 150% of Poverty Level while not extending to other households with income exceeding 150% of Poverty Level. For these reasons, OCA does not recommend implementing earned income disregards into the CAP program.⁶

3. Income Documentation For Non-Traditional Sources Of Income

TURN/CAUSE-PA recommends that “the Commission set forth flexible yet consistent and transparent regulatory guidelines for income documentation that account for varied and non-traditional sources of income.” TURN/CAUSE-PA Comments at 37. TURN recommends that a working group develop a “consistent and fair policy” to deal with different types of income. TURN/CAUSE-PA Comments at 37. The OCA agrees with this recommendation. The OCA submits, however, that the Commission should look to the income documentation requirements imposed by Pennsylvania’s LIHEAP program for guidance. If the income documentation is sufficient to establish income eligibility to receive LIHEAP assistance, the OCA submits that the same documentation should be sufficient to establish income eligibility for CAP assistance.

C. Hardship Program Funding Minimum Threshold

The Bureau of Consumer Services requested information in Reply Comments regarding whether there should be a minimum threshold for Hardship Fund funding. The OCA submits that it is not possible to establish a minimum threshold for Hardship Funds as Hardship Funds are largely supported by voluntary contributions by ratepayers, employee, and shareholders. This has resulted in differences in the amount of Hardship Funds across utilities based on the size of the utilities, the communities they serve, and the extent of the outreach to generate

⁶ An issue that is set aside with TURN/CAUSE-PA’s proposal is how an affordable bill would be calculated. While program eligibility would be based on adjusted household income under TURN/CAUSE-PA’s proposal, TURN/CAUSE-PA does not address whether program benefits would be based on that adjusted income as well.

contributions. The OCA submits that the Hardship Fund is ultimately a voluntary charitable donation, and it is a long-held principle of ratemaking that charitable donations may not be recovered through rates. As such, the OCA does not support including these contributions in utility rates as a means of establishing a minimum threshold.

Instead of requiring a minimum threshold, the OCA recommends that utilities should be required to drive the fundraising efforts. See, OCA Comments at 50-51. The OCA recommends that the Commission's CAP Policy Statement should, at a minimum, provide that companies include a monthly check-off option to the Hardship Fund. Particular attention should be paid to ensuring that those customers who pay electronically have the ability to easily contribute to the Hardship Fund. The OCA also submits that the companies should consider holding fundraising events beyond on-bill donations. The OCA also supports allocation of refunds, such as pipeline refunds towards the Hardship Fund. The OCA submits that EDCs and NGDCs should redouble their efforts to encourage ratepayer, employee, community, and shareholder contributions to these funds.

D. Needs Assessment

BCS requested Reply Comments regarding the Needs Assessment. The Commission's regulations identify the information to be included in the Needs Assessment. The OCA submits that questions were raised at the stakeholder meeting about how to determine whether a customer is a "confirmed low-income customer," including whether self-declarations should be permitted, how long such a designation should last, and the accuracy of the Census data on the determination of a customer as "confirmed low-income." The OCA has found that utilities have defined "confirmed low-income" customers in many different ways. The OCA recommends that the definition should be interpreted broadly. OCA Comments at 59-60. The OCA submits that

the Commission should specifically modify its regulatory definition of “confirmed low-income” customer status to further define the types of information that utilities must accept as adequate to “reasonably place the customer in a low-income designation,” including self-declarations. OCA Comments at 60. The OCA recommends that the time period for which that designation applies to the customer should be longer than a year. OCA Comments at 60.

BCS also requested Reply Comments regarding the usefulness of the Census data to determine the estimated number of low-income customers required in the Commission’s Needs Assessment. See also, EAP Comments at 18. In particular, Commentators focused on the application of the Census data to LIURP needs analyses as too aggregated and did not focus on those customers that are payment-troubled. EAP Comments at 18. The OCA recommends that a collaborative be developed to address issues with the use of Census data.

The OCA submits that the Census data can be particularly helpful to be able to understand the needs in the service territory. The OCA submits, however, it is important to use the right Census database for the needs analysis. The aggregated data may not be as useful to the utilities as more disaggregated data. The DataFerrett system may prove to be more useful to allow the user to identify specific variables to provide the most useful data set information.⁷ Through that data, for example, the Companies can identify the following needed characteristics and limit the search parameters to: (1) income at or below 150% of the Federal Poverty Level; (2) the use of a particular home heating fuel, such as natural gas for heating; (3) customers that are direct-billed for their utility bill (*i.e.*, the low-income customer receives a bill directly to the customer and the bill is not included in the rent or a master-metered building); and (4) the

⁷ DataFerrett is an on-line way to access and cross-tabulate Census data through the Census Bureau’s website. DataFerrett can be accessed at the following url address: <https://dataferrett.census.gov/GettingStarted.html> The system allows variables to be added or subtracted in order to cull the data to specifics desired.

number of customers that have a natural gas bill greater than \$0.⁸ The OCA recommends that the Commission develop a collaborative to discuss the best practices regarding the data sought to be included in a needs analysis, the appropriate use of the Census data and the databases that are the most useful to capture the needed data. There may also be a need to collaboratively map the Public Use Micro-data Areas (PUMAs). This will allow the stakeholders to overlay the utility service territories on top of the Census data in order to appropriately apply the Census data to an individual service territory.

E. LIURP Participation As A Prerequisite To CAP Participation

BCS requested Comments regarding whether LIURP participation should be a prerequisite for CAP participation. The OCA does not support a requirement that LIURP be a prerequisite for CAP participation. The OCA submits that requiring LIURP participation would limit the population eligible for CAP participation.

For example, in 2015, more than 285,000 electric customers and nearly 161,000 natural gas customers participated in CAP. BCS 2015 Report at 42.⁹ In contrast to the CAP participation number, during 2015, the LIURP programs across Pennsylvania treated 6,295 natural gas customers and 21,680 electric customers. BCS 2015 Report at 39. The number of jobs for both electric and natural gas was projected to decrease in 2016. LIURP is capable of treating only a fraction of those customers. In other words, even if CAPs were to require participants with the highest 30% of usage to participate in LIURP, insufficient LIURP capacity would exist to actually provide LIURP services to those participants. The OCA submits that it

⁸ Similar information can be determined for electricity usage.

⁹ The OCA notes that while there is some duplication in the number of customers that participate in the both the electric and gas programs, there is not 100% duplication. The number of unduplicated accounts out of the total population of 446,000 low-income accounts is not known.

would be fundamentally unfair to require a CAP customer to participate in LIURP when LIURP is unable to provide the service to all those agreeing to participate.

Moreover, the lack of adequate resources does not take into consideration the fact that CAP serves a small fraction of eligible customers. The OCA submits that just as LIURP participation should not be a prerequisite for CAP participation, neither should the converse be true that CAP participation should be a prerequisite for LIURP participation. The lack of resources available to serve the entire CAP population is even more acute when considering the fact that much of the LIURP resources can and should be directed to income-eligible households not participating in CAP.

The OCA recommends that with minor modifications, Pennsylvania utilities should continue to be allowed to target CAP participants with LIURP. The OCA does not recommend that the current utility practice of targeting high usage customers needs to be modified. The OCA also does not think that the utilities need to have identical targeting criteria, given the potential differences in housing stock in a service territory. The OCA recommends two proposed modifications that utilities should allow (but not require): (1) allow utilities to target high burden households receiving high amounts of CAP credits whether or not the household is otherwise in the highest use tier of customers¹⁰ and (2) allow utilities to target CAP participants who are at or approaching the CAP credit ceiling (whether or not the household is otherwise in the highest tier of customers). One way that a CAP customer may fail to achieve an affordable energy burden is if the customer, due to high consumption or extremely low income, exceeds the maximum CAP credit.

¹⁰ For example, a high burden, high CAP credit customer may be in the category because of an extremely low income rather than extremely high usage.

Utilities should also be allowed to use LIURP to further affordability in addition to furthering usage reduction for its own sake. For example, utilities may target individually-metered residents in multi-family buildings based on whether such units are high usage amongst all multi-family units. An inefficient, high-use multi-family unit may still have consumption that is lower than the consumption of single-family homes. Not only does this disproportionately exclude multi-family residents from LIURP, but in addition, Census data documents that there is an association between low-income status and multi-family residency. The lowest income households, in other words, tend not to live in single family homes. Multi-family usage should be compared to other multi-family usage for targeting purposes.

F. How LIURP Should Address Health and Safety Issues

BCS requested that Reply Comments address how LIURP should address health and safety issues. Section 58.1 of the Commission's regulations provides that "the programs should also result in improved health, safety and comfort levels for program recipients." 52 Pa. Code § 58.1. In general, the OCA supports the use of some portion of the LIURP budget for the categories of health, safety, and incidental expenditures. The OCA addressed this issue at greater length in its Comments and Reply Comments filed in the on-going Initiative to Review and Revise the Existing Low-Income Usage Reduction Program (LIURP) Regulations at 52 Pa. Code §§ 58.1-58.18, Docket No. L-2016-2557886 (OCA LIURP Comments). See, OCA LIURP Comments at 27-28; OCA LIURP Reply Comments at 8-9.

The OCA submits that there should be a limitation, either on an audit-by-audit or overall project basis, on the percentage of LIURP funds that can be utilized for such measures, and the Commission should allow, but not require, utilities to use a limited amount of LIURP funds on health and safety issues. See OCA LIURP Reply Comments at 8; PECO LIURP Comments at

11-12. The OCA submits, as identified by EAP at the stakeholder meeting, health and safety measures should not be a replacement for housing rehabilitation needs. For housing rehabilitation needs, customers should be referred to the appropriate agency or program. Ratepayer dollars should primarily be used to address energy related issues and not housing repair or rehabilitation issues.

G. Statewide Administration Of Programs

In response to the TURN/CAUSE-PA Comments, the Bureau of Consumer Services requested Reply Comments regarding whether the utility-administered CAP programs should be operated as a statewide administered program. TURN/CAUSE-PA Comments at 67-68. The OCA does not have a position at this time as to whether a statewide administrator would be feasible or would improve the overall effectiveness of the programs. The OCA will review the Reply Comments on this issue.

If a statewide administrator is used, however, the OCA is concerned about preservation of funding for a statewide program. Some other statewide operated low-income programs, such as those in Texas and Illinois, have experienced budgets that were decreased or zeroed out because the state needed to allocate the budgeted funds to other purposes. The OCA would be concerned that if addressed on a statewide level, the low-income programs could be potentially diminished. To the extent that a statewide administration proposal might be adopted, the OCA recommends that the statewide administrator: (1) be a private entity and (2) hold funding collected in support of universal service programs in trust for low-income ratepayers with the associated duties to the trust protecting the funds.

H. Minimum Payments

BCS also requested Comments regarding the need for minimum payments. The CAP Policy Statement provides for minimum monthly payments for gas heating, electric heating, and non-heating electric accounts. For a gas heating account, the CAP Policy Statement identifies a range for a minimum payment of \$18-\$25 per month. 52 Pa. Code § 69.265(3)(i)(A). The OCA supports the continued use of minimum payments in CAP program design. As the OCA discussed in its Comments, minimum payments are important to control the overall costs that non-participants. The monthly minimum payment requirement also requires the customer to establish the habit of paying the electric bill on a monthly basis and to conserve the maximum CAP credits for a month when the credit is needed. OCA Comments at 13-15. The OCA submits that the Commission, however, should reconsider its minimum payment requirements such that: (1) minimum payments are set based on an objective balancing of affordability and minimum payment responsibility and (2) minimum payments are set based on a uniform basis between utilities, or in the alternative, based on an objective set of factors.

At the stakeholder meeting, the stakeholders discussed potential factors to be used to calculate the minimum payment. Commentators proposed that the minimum payment should be used to cover the customer charge. The OCA has concerns with the proposal to specifically tie the minimum payment to a particular component of the costs, such as the distribution costs or the customer charge. Tying the minimum payment towards a particular component of the costs would disaggregate the minimum payment from its purpose.

The minimum payment should be tied to CAP customer affordability and to establishing routine payments. The customer charge is not tied to a customer's ability to pay the bill. The

OCA submits that certain principles should be included in the determination of a minimum payment, including the following:

- The minimum payment should impose an obligation to make some payment toward utility bills.
- The minimum payment obligation should not be so high as to materially impede achieving the affordability objectives of CAP.
- The minimum payments should reflect some empirical reality about utility service territories (i.e., there should be range for minimum payments).
- The minimum payments should reflect the affordability ranges otherwise adopted by the Commission for the Tier 1 Poverty Level (0-50%). In the current CAP Policy Statement, the affordable burdens for 0-50% of Federal Poverty Level are as follows:

	Minimum	Maximum
Electric non-heating	2%	5%
Gas heating	5%	8%
Electric heating	7%	13%

- The minimum payment should reflect the income for a three-person household living with income at 25% of the Federal Poverty Level because the average household sizes in Pennsylvania are between two persons and three persons per household. A household receiving Temporary Assistance for Needy Families (TANF) lives at 25% of the Federal Poverty Level. A person receiving SSI lives with income higher than 25% of the Federal Poverty Level.

The OCA submits that with these factors in mind, the utility should set its minimum payments to most closely reflect the average household size in its service territory. Changes to the minimum payments should reflect the household composition at the time of the triennial filing of the USECP. The OCA recommends that, to the extent the Commission modifies the affordability ranges in the future, the minimum payments should be modified consistent with the above-identified principles.

I. CARES

BCS asked stakeholders to provide Comments regarding the services that should be offered by CARES. As discussed in the OCA's Comments, the CARES program is designed to help customers to maximize their income and resources available to help customers pay their bills. See, OCA Comments at 53-58. The regulations define CARES as:

A program that provides a cost-effective service that helps selected, payment-troubled customers maximize their ability to pay utility bills. A CARES program provides a casework approach to help customers secure energy assistance funds and other needed services.

52 Pa. Code § 62.2 (for natural gas distribution companies); see also, 52 Pa. Code § 54.72 (for electric distribution companies). CARES programs vary widely across utilities. The OCA submits that the CARES should still include three basic components of: (1) case management; (2) a network of service providers; and (3) referrals to services that provide assistance. Per the question raised at the stakeholder meeting, the OCA does not believe that it should be required for the CARES program to be staffed with licensed social workers, but the programs would likely benefit if some of the CARES workers were licensed social workers.

The OCA recommends that CARES should be targeted towards those customers with very clear and the most significant problems (*i.e.*, high usage despite LIURP, high incidence of non-payment despite CAP) that intense case management would be able to provide a measurable impact. The OCA recommends that CARES be designed as a skills-based CARES Assistance Unit for intense case management. See, OCA Comments at 54-55. A program would include the following elements: (1) direct CARES (*i.e.*, case management); (2) case management to those customers, including one-on-one counseling along with assisted efforts to connect customers with external assistance; (3) target the case management services based on indicators of program

risk (*e.g.*, very high usage; very high PIP credits; very high arrearages; failure to respond with positive bill payment improvement after being offered bill credits (under a PIP).

J. Reinstatement In CAP

BCS requested Comments regarding the reinstatement of CAP customers who have voluntarily removed themselves from CAP. In its Comments, the OCA recommended that if CAP customers voluntarily remove themselves from CAP, a stay-out for at least twelve months should apply. The purpose of the stay-out is to avoid the CAP customer, in particular a natural gas customer, cycling on and off the CAP program as usage decreases in the summer. At the stakeholder meeting, some utilities explained that it is often more effective to allow the customer to return to CAP if they encounter payment difficulties rather than enforce a 12-month stay-out. After considering this information, the OCA agrees that such flexibility should be allowed.

If, in the months the customer is ‘off’ the CAP, the customer incurs bills at standard rates that are lower than what they would have been billed under CAP, the OCA does not have a concern with the CAP customer being returned to the CAP program so long as the customer pays the full amount of what would have been the CAP bills had the customer remained on the CAP for the month in which they were off the program. Utilities such as Columbia maintain a CAP balance when the customer exits the program and requires the customer to pay the CAP balance, if greater than the amount paid under residential retail rates. In this situation, it has the effect as if the customer never left CAP in the first place. Under these conditions, the OCA agrees that there can be flexibility in the 12-month stay-out requirement.

K. Use of LIURP for Cooling Purposes

BCS also requested Comments regarding the use of LIURP for cooling measures. As the OCA discussed in its Reply Comments regarding the LIURP regulations at Docket No. L-2016-

255786, it appears that many electric utilities already address cooling needs within the LIURP program. See, OCA LIURP Reply Comments at 11-12; PPL LIURP Comments at 8; Duquesne LIURP Comments at 8-9; FirstEnergy LIURP Comments at 8. The LIURP regulations allow for, but do not require, utilities to address cooling. The OCA would encourage electric distribution utilities to continue to address cooling measures within LIURP as well as within the low-income portion of their Act 129 programs. The OCA submits that efforts to address cooling needs should also be coordinated between the natural gas and electric distribution companies. To the extent that the natural gas utility becomes aware of a situation where cooling needs should be addressed, the OCA submits that the natural gas utility should coordinate with the electric utility to see if the situation can be addressed.

L. Prioritization Of De Facto Heating Customers For LIURP Assistance

BCS requested Comments regarding coordination of utility services and whether *de facto* heating customers should be prioritized for assistance. The OCA would recommend prioritizing *de facto* heating customers for assistance. As discussed in the OCA's LIURP Comments at Docket No. L-2016-2557886, *de facto* space heating has been identified as a problem in several EDC service territories. OCA LIURP Comments at 16-18. The problem arises when a household is without its main source of heat. This can occur because of a broken furnace, termination of natural gas service or insufficient funds by the household to obtain deliverable fuel. The solution to the *de facto* space heating problem is not simple. OCA LIURP Comments at 17. The OCA submits that a *de facto* heating program, by necessity, will need to coordinate many different sources of assistance. Coordination between NGDCs and EDCs as a first step will help to address the root cause of the use of *de facto* space heating. The OCA submits that coordination should be prioritized.

The LIURP regulations are currently silent on this issue, and the OCA submits that the LIURP regulations should work to address the issues presented for both electric and natural gas distribution companies. Addressing the problem of *de facto* space heating will ultimately help to make customer bills more affordable because CAP electric customers will use less of their maximum CAP credits and will be able to maintain bills in a more affordable range. The OCA submits that the LIURP regulations should specifically identify measures to address *de facto* space heating and direct EDCs and NGDCs to work together on these initiatives. Consideration should also be given to the cost-effectiveness of the measures so as to enable the necessary measures.

III. REPLIES TO SPECIFIC ISSUES RAISED BY COMMENTATORS AND ISSUES IDENTIFIED AT STAKEHOLDER MEETING

A. Energy Burdens

In Comments to the Commission in this docket, several Commentators including TURN/CAUSE-PA, Philadelphia Department of Human Services, PA Energy Efficiency For All Coalition (PA-EEFA), and the coalition of Pennsylvania Service Providers identified concerns with the energy burdens in the Commission’s regulations. TURN/CAUSE-PA Comments at 13-19; Philadelphia DHS at 3-4; Pennsylvania Service Providers Comments at 1-3; PA-EEFA Comments at 6. In particular, the Commentators have proposed that the definition of “affordable” bill should mean that the total bill burden should not exceed six percent (6%) of income.¹¹ Philadelphia DHS at 3-4. This recommendation is accompanied by two additional

¹¹ The term “bill burden” is a term for bills as a percentage of income. For example, a customer with an annual income of \$10,000 and an annual utility bills of \$1,000 has a “burden” of 10% ($\$1,000 / \$10,000 = 0.10$). A customer with an annual income of \$8,000 and an annual utility bill of \$2,000 has a bill burden of 25% ($\$2,000 / \$8,000 = 0.25$).

recommendations. The total affordable bill burden should equitably be allocated between electric non-heating bills and natural gas heating bills.¹² Commentators also have proposed to allow uncapped participation and uncapped expenditures on bill affordability assistance.

The OCA submits that it is premature to delve too deeply into the energy affordability issues at this time. The Commission has opened a proceeding, Energy Affordability for Low-Income Customers, at Docket No. M-2017-2587711 in order to examine energy affordability burdens for the CAP programs. By Order entered May 15, 2017, the Commission initiated a study to be conducted by BCS regarding home energy burdens in Pennsylvania. The Order anticipates that the study will be concluded by February 5, 2018 and that BCS will report its findings to the Commission by May 5, 2018. Thereafter, the Commission will make public the final report and may provide for Comments and Reply Comments.

The OCA submits that once the BCS study is complete and the stakeholders have the opportunity to conduct a full analysis of the issues further discussions on this issue will be necessary. As Commentators have raised issues that may bear on the BCS study, the OCA will provide some brief response to further develop the issues. Below, the OCA has addressed the three energy burden issues raised in Comments and at the stakeholder meetings. The OCA notes that these Comments are preliminary at this time. The OCA looks forward to reviewing the Energy Affordability Study to be completed by the Bureau of Consumer Services in 2018, and the further Comments based on the findings of the Energy Affordability Study.

¹² When a home has electric heating, the total energy burden is allocated to the electric bill.

1. The Level Of The Energy Affordability Burden.

Commentators propose a 6% energy affordability burden be used for all Customer Assistance Programs. TURN/CAUSE-PA Comments at 13-19; Philadelphia DHS at 3-4; Pennsylvania Service Providers Comments at 1-3. In support of the proposed 6% energy burden, the Commentators have cited to OCA consultant Roger Colton's studies regarding the general home energy affordability. See, Pennsylvania Service Providers at 3, citing Fisher, Sheehan & Colton, The Home Energy Affordability Gap: Pennsylvania (April 2017).¹³ Commentators argue that Mr. Colton has recommended a 6% energy burden. When considering these Comments, however, there are some key factors which must be recognized before reaching any conclusions. Key among these is the fact that there is no precise formula for affordability and decisions must always be made about the burdens placed on other customers from any ratepayer-funded programs.

Mr. Colton, a nationally recognized expert on low-income programs, has presented a more nuanced analysis of home energy burdens than has been presented to the Commission thus far by the Commentators. Mr. Colton has argued that the reasonableness of the energy burden to be paid for by ratepayers is a policy-based decision. Mr. Colton explained this distinction to the Ontario Energy Board:

The energy burden represented by a combined heating and non-heating energy bill should not generally exceed six percent (6%) of income. It is generally accepted that a household's "shelter burden" (rent/mortgage plus taxes plus utilities) should not exceed 30% of income. In addition, a household's home utility bill should not exceed 20% of the household's shelter costs. Combining those two yields an affordable home energy burden of six percent (6%). Clearly, however, the reasonableness of an energy burden is a range and not a point. Ultimately, whether an affordable burden should be set as 6% or as 8% (or some other figure) is a policy decision. The percentage of income burden that triggers

¹³ For example, Fisher, Sheehan & Colton publishes the Home Energy Affordability Gap (www.HomeEnergyAffordabilityGap.com) which uses the 6% figure to determine the "affordability gap." The Affordability Gap, however, does not indicate what resources should be relied upon to fill the gap.

significant payment-troubles (e.g., service disconnections) appears to be in the range of 10% to 12% of annual income.

Colton (2006). A Ratepayer Funded Home Energy Affordability Program for Low-Income Households: A Universal Service Program for Ontario's Energy Utilities, at 4 – 5, presented on behalf of Advocacy Centre for Tenants Ontario. (emphasis added) (internal footnotes omitted).

In his Ontario Comments, Mr. Colton acknowledged the need to be conscious of total budgets for the rate affordability program. Mr. Colton stated:

If, because of budget constraints, it does not appear that an entirely “pure” affordability program can be implemented, modest changes can be made to affordable burden. One reasonable response to a strict budget constraint would be to modestly increase the percentage burden that a customer is required to pay.

Universal Service for Ontario Utilities at 6.

Although affordability is an important consideration to develop a low-income program, affordability must be considered in context of all other factors. In particular, the costs to other ratepayers who pay the costs of the program must also be considered. Wherever the affordable percentage is set, the total program expenditures need to be passed on to non-participant ratepayers. At some point, total expenditures simply become too much for non-participant ratepayers to bear.

Any changes to the energy burdens would need to be thoroughly analyzed to determine the cost that would have to be borne by any non-participant ratepayers as well as the impact on any payments by CAP customers. At this time, the OCA does not have sufficient information to conduct a complete analysis.

PECO did calculate the cost impact for its program of moving to a 6% affordability target. PECO stated that:

For every 1% decrease (e.g., if the maximum contribution of a low-income customer is reduced from 5% of his or her income to 4%), PECO estimates that its

residential customers will experience a \$16 million (20%) increase in costs. If that \$16 million were recovered through the USFC as part of the CAP shortfall (i.e., CAP costs not otherwise recovered through base rates), the average non-CAP residential customer would pay an additional \$0.91 per month or \$10.92 per year.

PECO Energy Comments at 8. PECO identified at the stakeholder meeting that changing its energy burden to 6% would double the cost of the program based on its current participation levels (an increase of approximately \$80 million) and increase the costs to non-participating customers by 5%.

The OCA submits that an analysis of energy affordability burdens must also consider the impact on residential ratepayers that pay the costs of the program. Changes to the energy affordability burdens can have a significant impact on the total costs of the CAP program. Other changes such as to the maximum CAP credit, minimum payments, and participation levels also have a cost element that must be considered as well. All of these factors should be analyzed in determining a cost-effective program design and energy burden.

2. An Analysis Of Other States' Energy Burden Must Also Include An Analysis Of The Differences From Pennsylvania's Program.

a. Introduction

The Commentators have also identified programs in several other states, including Illinois, Colorado, and New Jersey, with a 6% energy burden as support for their recommendation. TURN/CAUSE-PA Comments at 16-18; Philadelphia DHS Comments at 4. Citations to other state programs should be considered with a full understanding of the context in which the program is operated. Just as in Pennsylvania, knowing only affordability ranges would not fully inform one about the scope and limitations of the programs. The OCA's initial Comments in this matter attached Appendix B, *CAP Programs Across the States*, that identifies

significant funding and design differences in state programs. See, OCA Comments at Appendix B, *CAP Programs Across the States*. Below, the OCA identifies some of the key differences between the programs identified in Illinois, Colorado, and New Jersey that Commentators primarily rely upon for the 6% affordability targets.

b. Illinois

Illinois has a 6% energy burden, but the definition of affordability is not the exclusive factor that is used in the design of Illinois's percentage of income plan. See, TURN/CAUSE-PA Comments at 18, fn. 46. The Illinois statute creating the state's percentage of income program provides, in relevant part:

The Department shall establish the percentage of income formula to determine the amount of a monthly credit, not to exceed \$150 per month per household, not to exceed \$1,800 annually, that will be applied to PIP Plan participants' utility bills based on the portion of the bill that is the responsibility of the participant...

305 ILL. COMP. STAT 20/18(c)(2). Illinois limits its benefits in two distinct ways. First, Illinois provides both an annual and a monthly limit on the benefits that it will pay regardless of the 6% target. Second, the affordable burden is calculated not based on a participant's entire bill, but rather "based on the portion of the bill that is the responsibility of the participant." 305 ILL. COMP. STAT 20/18(c)(2). In Illinois, participation is limited to LIHEAP recipients, and LIHEAP benefits are subtracted from the customer's bill before the state determines whether the remaining "portion of the bill" exceeds 6% of income. 305 ILL. COMP. STAT 20/18(c)(3)-(c)(4). The PIPP participant is responsible for "all charges for utility service in excess of the PIPP credit." 305 ILL. COMP. STAT 20/18(c)(4). Illinois must establish a "PIPP credit" such that (consistent with the monthly and annual limits), the portion of the bill remaining after the credit (i.e., "all actual charges for utility service in excess of the PIPP credit") doesn't exceed the 6% energy burden. See, 305 ILL. COMP. STAT 20/18(c)(4).

The Illinois PIPP is also funded through a combination of federal LIHEAP funds and what the state refers to as its Supplemental Fund, set by statute. The Supplemental Funds monthly charge for residential accounts is \$0.48 for both electricity and gas service. 305 ILL. COMP. STAT 20/13(b). The Supplemental Funds monthly charge for non-residential customers is \$4.80 (electric customers with less than 10 mW of peak demand and gas customers with less than 4,000,000 therms of use). Industrial customers pay \$360/month. 305 ILL. COMP. STAT 20/13(b). In Illinois, while the state defines an affordable burden to be 6% of income, the program is limited by the budget. The total CAP assistance provided in Illinois in 2015 was \$72.7 million. See, OCA Comments at Appendix B, *CAP Plans Across The States*. When the budget that is generated by the statutory financial payments is exhausted, enrollment in the Illinois PIPP stops.

c. Colorado

Colorado has also been cited in support of the proposition that other states use 6% as the definition of an affordable bill. TURN/CAUSE-PA Comments at 18, fn. 45. The OCA submits that the characterization presented in the Comments of Colorado's program is not accurate.¹⁴ The regulations of the Colorado Public Utilities Commission state:

Program cost recovery: (a) Program cost recovery shall be based on a fixed monthly fee; (b) The maximum impact on residential rates shall be no more than \$0.31 per month.

CPUC Regulation 3412(g)(electric); CPUC Regulation 4412(g) (gas). Like in Illinois, while Colorado defines an affordable burden to be 6%, the state also places a hard ceiling on those costs that will be imposed on ratepayers. See also, OCA Comments at Appendix B, *CAP Plans*

¹⁴ The OCA notes that its consultant, Roger D. Colton, has worked extensively on Colorado's universal service programs.

Across The States. When the budget that is generated by those financial payments is exhausted, enrollment stops. In Colorado, the total assistance provided for CAP in 2015 was \$10.6 million. See also, OCA Comments at Appendix B, *CAP Plans Across The States*. Even if a program applicant has a home energy burden that exceeds 6%, the program applicant is not able to gain access to bill affordability assistance once the budget cap is reached. Colorado also limits program eligibility to LIHEAP recipients, and the calculation of the 6% energy affordability burden is set based upon LIHEAP and ratepayer dollar contributions.

d. New Jersey

Commentators have also cited to New Jersey's 6% energy burden. TURN/CAUSE-PA Comments at 17. The OCA submits that reliance upon New Jersey ignores critical elements of the New Jersey Universal Service Fund (USF) program.¹⁵ The 2010 evaluation of the New Jersey Universal Service Fund explained how ratepayer-provided benefits are calculated as follows:

The USF benefit screening process includes the following steps...Electric Energy Burden/Gas Energy Burden – OIT [Office of Information Technology] requests information from the household's electric and gas suppliers regarding the household's expected energy bill for the next year. USF Benefit Determination – OIT determines whether the household's electric or gas burden, net of available assistance benefits, exceeds the 3 percent threshold (or 6 percent for electric heaters).

APPRISE Inc. (2010) Impact Evaluation and Concurrent Process Evaluation of the New Jersey Universal Service Fund: Final Report, at iii and 8, prepared for New Jersey Board of Public Utilities (APPRISE New Jersey Evaluation). The Evaluation goes on to state:

The USF program is targeted to reduce the client's net energy burden to 6 percent of income (3 percent for electricity and 3 percent of income for gas).

¹⁵ The OCA notes that its consultant, Roger D. Colton, has worked extensively on New Jersey's universal service program.

APPRISE New Jersey Evaluation at xvi. According to the APPRISE New Jersey Evaluation:

Net electric energy burden/Net gas energy burden – OIT computes the household’s net electric energy burden as the reported electric energy burden minus any assistance amounts (HEA or Lifeline) that were credited to the household’s electric account. The household’s net gas energy burden is computed as the reported gas energy burden minus any assistance amounts (HEA or Lifeline) that were credited to the household’s gas account. Annual USF Electric / Gas Benefit – OIT computes the annual USF electric benefit as the net electric energy burden minus the affordable electric bill. The annual USF gas benefit is computed as the net gas energy burden minus the affordable gas bill.

APPRISE New Jersey Evaluation at 8-9. New Jersey also incorporates the federal LIHEAP, or Home Energy Assistance (HEA), into its calculation of the 6% energy affordability burden.

Since 2009, Pennsylvania’s Department of Human Services does not permit Pennsylvania CAPs to use a “net burden” process similar to that used in New Jersey. While the OCA accepts this determination in Pennsylvania, it is an important distinction between the way a 6% energy burden would operate in Pennsylvania and the way it operates in New Jersey. Arguing that Pennsylvania should use a 6% energy burden because New Jersey uses a 6% energy burden would ignore important attributes of how New Jersey’s program determines the level of affordability for CAP customer.

The OCA notes that according to the most recent New Jersey Bureau of Public Utilities Order regarding the universal services program, the 2017-2018 budget for the Universal Service Fund was \$167 million. See, In the Matter of the Department of Community Affairs’ State Fiscal Year 2018 Universal Service Fund Administrative Cost Budget, Docket No. E17060687, Order Approving Budget at 2 (August 23, 2017). Conversely, the total cost of all universal service programs in Pennsylvania was more than double the New Jersey costs with a total of \$418,104,450 at the end of 2015, with \$363,243,322 of this amount representing the Customer

Assistance Programs (CAP). See, OCA Comments at 4, Appendix A, Colton White Paper at 3, 8.

e. LIHEAP Participation As A Limitation

Another important difference between Pennsylvania and some of the other states identified by Commentators is that many states also limit participation to LIHEAP recipients. See, TURN/CAUSE-PA Comments at 16-18. Pennsylvania does not provide such a limitation on enrollment in its CAP program. As presented in the OCA's Comments at Appendix B, universal service programs, including in New Jersey, Illinois, Rhode Island, Minnesota, Montana, Alabama, Indiana, Colorado, Delaware, limit CAP enrollment to either LIHEAP recipients, or in the case of Alabama, a limitation to SSI and Medicaid recipients. See, OCA Comments at Appendix B, *CAP Programs Across The States*. Consideration of comparability of the energy burdens in other states must also consider whether there are limitations on CAP enrollment.

f. Conclusion

Pennsylvania has approached the issue of balancing affordable energy bill burdens to program participants and the burdens placed on non-participating customers who must pay the costs of the affordability assistance in a way that is different from the ways used in other states. Pennsylvania has sought to have broad and inclusive programs that reach far more customers than most other states while balancing the impact on non-participating residential ratepayers. Pennsylvania also does not place a hard ceiling on non-participant financial payments to support the state's affordability program. Nor does Pennsylvania effectively impose, due to budget constraints, ceilings on the number of low-income customers who are permitted to enroll in the CAP program for each utility. Instead, universal service costs are passed through to non-

participants through a reconcilable surcharge. If the number of CAP participants increase, the additional cost of CAP is collected through the reconcilable surcharge. If CAP participation decreases, the reduction in costs will flow through the reconcilable surcharge.

The hard caps on non-participant payments (e.g., \$0.31 per month in Colorado (or about a total of \$3.72 per year; \$0.48 per month, or \$5.76 per year, in Illinois for residential non-participant ratepayers), such as is done by other states that have been cited in support of a 6% energy burden, stand in contrast to Pennsylvania’s current support for our larger scale programs. In Pennsylvania, for electric customers, the range of annual CAP costs per non-participant customer is from a low of \$28 per year for West Penn customers to a high of \$74 per year for PECO customers. For natural gas customers in Pennsylvania, the range of annual CAP costs per non-participant customer is from a low of \$8 per year for NFG customers to a high of \$137 per year for PGW customers. See, BCS 2015 Annual Report on Universal Services and Collections at 47.¹⁶ In many areas, non-participating customers will be both an electric and natural gas customer, and therefore, will be responsible for paying for both programs.

Each state has, in its own way, used the mechanisms it found most appropriate and has limited the exposure of non-participants to increased rates resulting from ratepayer-funded bill affordability assistance. States such as Illinois and Colorado have not adopted a “pure affordability program” for a limited number of customers with a limited budget. Pennsylvania has provided a broader and more universal program albeit with somewhat higher energy burdens.

¹⁶ The calculations are derived by dividing only the CAP costs by the total number of non-participant residential customers using the data cited at BCS 2015 Annual Report on Universal Services and Collections at page 47 and Appendix 5 of the BCS 2015 Annual Report on Universal Service and Collections (for the total number of non-participant residential customers). The OCA notes that this calculation differs from the calculations provided at Appendix 5 of the BCS 2015 Annual Report on Universal Services and Collections. Appendix 5 of the BCS 2015 Annual Report on Universal Services and Collections includes the total spending levels and cost recovery for all of the programs in each Company’s universal service program, including CAP costs, LIURP costs, and CARES costs.

The OCA supports Pennsylvania’s CAP programs and has strongly advocated for these programs. The OCA submits, however, that as we further consider energy affordability targets for CAPs, the reasonableness of rates for those customers bearing the costs of the program must always be considered.

3. Reduction of Energy Burden Will Not Necessarily Reduce The Level of Terminations

At the stakeholder meeting, BCS asked if reducing the energy burden will decrease the number of terminations of service. The OCA agrees with the stakeholders who suggested that reducing the energy burdens may reduce the terminations for nonpayment to participating customers, but it is not likely to reduce the total number of disconnections for a utility. As discussed below, the OCA submits that there are better metrics for assessing the impacts of the universal service programs than measuring the number of service terminations for non-payment.

In his evaluation of Colorado’s Pilot Energy Assistance Program (PEAP) and Energy Assistance Program, OCA consultant, Roger Colton, identified the following metrics to use in assessing the impact to low-income customers of affordable energy burdens:

“Sustaining bill payment” (referred to in this evaluation as “payment compliance”) involves the following payment attributes with respect to bills for current usage:

- **Complete Bill Payment:** The most common indicator of whether complete payment has been received from a utility customer involves measuring both the incidence and depth of arrears. The *incidence* of arrears considers the proportion of the total population in arrears. The *depth* of arrears considers the size of arrears at any given point in time. A bill coverage ratio (the proportion of current bills paid) should also be used (on a monthly, seasonal and annual basis) to consider complete bill payment over a period of time.
- **Prompt Bill Payment:** Prompt bill payment considers the timeliness of bill payment, not merely whether a customer pays his or her utility bill in full. If a utility renders a bill for \$100, that company wants a customer to pay the bill by the due date as well as paying the bill in full. Bill promptness is primarily measured through the use of a “weighted arrears” statistic called “bills behind.”

- **Regular Bill Payment:** The regularity of bill payment measures the extent to which customers make at least *some* bill payment each month. A customer may maintain a relatively low level of arrears by paying multiple months of bills on an infrequent basis. An examination of January arrears, for example, does not distinguish between the customer that has made his or her last twelve monthly payments on time and in full, the customer that has made \$0 in payments during August through October (perhaps waiting for a **Low Income Home Energy Assistance Program** (“LIHEAP”) benefit to pay those arrears), and the customer who makes three payments over the year, the sum of which equals the total annual bill. The *regularity* of bill payment measures the extent to which some payment is made in response to each bill rendered.

- **Unsolicited Bill Payment:** The extent to which bill payments are “solicited” considers the extent to which, if at all, a company is required to engage in collection activities to generate a bill payment. An *unsolicited bill payment* involves a payment that is made in response to a bill without any need for company collection contact with the customer. Measuring collection activities considers both the number and the intensity of collection activities. A more intense collection activity involves a more direct company-to-customer contact than does a less intense activity. Issuing a posted disconnect notice involves a more intense activity than issuing a computer generated “reminder” notice. The disconnection of service involves a more intense collection activity than does a call center contact.

Public Service Company of Colorado’s (PSCo) Pilot Energy Assistance Program (PEAP) and Electric Assistance Program (EAP): 2011 Final Evaluation Report, prepared for Public Service Company of Colorado: Denver (CO), by Roger D. Colton (February 2012).

In addition to the factors identified by Mr. Colton, PA Consulting, the evaluator for Maryland’s Electric Universal Service Program, also identified “continuity” of payments as an important factor. The Evaluation stated:

The good news for the program is that the payment behaviors of continuing participants improved on all six measures, and in five of the six cases the improvements were statistically significant. We attribute this to at least two factors. First, while short term improvements may be difficult for new participants for the reasons discussed above, it appears that sustained participation may allow participants to improve their behaviors. There is evidence of this from other studies as well.

Gloria Prettiman, *et al.* (May 2007). Electric Universal Service Program Evaluation: Final Evaluation Report, prepared for Maryland Public Service Commission. (“This is an indicator of

how consistently payments were made. For example, making nine payments in a row would yield a higher consistency score than making three payments in a row.” EUSP Evaluation, at I-8).

The OCA submits that consideration of these metrics in addition to termination statistics is necessary to properly evaluate the impact of program changes.

4. TURN/CAUSE-PA Additional Recommendation

The OCA supports the proposition that the Commission’s definition of affordability should first establish affordability for total home energy needs as discussed in TURN/CAUSE-PA’s Comments. Under the CAP Policy Statement, three groups are set forth: (1) natural gas (irrespective of whether gas service is heating or non-heating); (2) electric non-heating; and (3) all electric. 52 Pa. Code § 69.265(2)(i). The OCA submits that the Commission should continue to allocate the total affordable home energy between home heating and non-heating electricity.¹⁷

The OCA agrees that the home energy burden should be “allocated” between heating and non-heating electric. The OCA also agrees that the allocation should not be 50/50 (i.e., one half to heating fuel and the other half to electricity.) The most recent (i.e. 2009) Residential Energy Consumption Survey (RECS) published by the U.S. Department of Energy and Energy Information Administration (DOE/EIA) reports that the average home energy expenditures in Pennsylvania for natural gas heating are roughly 40% of total home energy expenditures. See, 2009 RECS, Table CE3.7, Household End Use Expenditures in the Northeast Region, Total and Averages, 2009 Dollars, Final. This is true for both households with annual income less than 100% of the FPL ($\$853 \text{ gas expenditure} / \$2,070 \text{ total energy expenditure} = 0.419$) and for

¹⁷ The categories do not separate out “water heating” customers or “secondary or supplemental heating” customers. Categorization of customers can be determined based upon the alignment of customers with the service tariff under which they are billed. If an electric utility does not have separate “heating” or “non-heating” tariffs, customer categorization should be aligned with how they would be treated for purposes of receiving LIHEAP benefits.

households with annual income between 100% and 150% of the FPL ($\$930 \text{ gas expenditure} / \$2,201 \text{ total energy expenditure} = 0.412$).

The OCA submits that deriving an affordable percentage for the allocation of the total affordable bill burden between electricity and natural gas is necessary to prevent cross-subsidization. If the allocation understates the contribution which electricity makes to a household's total home energy bill, in other words, that misallocation would effectively result in natural gas customers paying for some portion of electric bill affordability costs. Accordingly, the OCA agrees that both the total affordable bill burden should be allocated between natural gas and electric non-heating, and that the allocation should be on something other than a 50/50 basis.

B. Customer Assistance Program (CAP) Design

One of the over-arching issues identified in Comments and at the stakeholder meetings is what the design of the CAP should look like. The current CAP Policy Statement accommodates a variety of program designs. The OCA continues to support flexibility, but as discussed in the OCA's Comments, the OCA submits that programs that explicitly tie CAP bills to an affordable percentage of income may be more effective. The OCA urges that program designs should seek to ensure that, to the maximum extent practicable, CAP Bills are based on an affordable percentage of income. OCA Comments at 11-12.

As the OCA discussed in its Comments, other designs may still achieve affordable customer bills. Variations on the PIPP such as the Fixed Credit Option and other designs beyond the PIPP should be permitted. OCA Comments at 12. For example, Columbia has an option that bases the CAP program design on the average bill payment made by the customer in the year before entering CAP. Columbia Comments at 4-5; Columbia Gas USECP, Docket No. M-2014-2424462, Order (July 8, 2015). Columbia requested in its Comments to maintain the flexibility

to continue to offer this option. Columbia Comments at 2-5. As the OCA discussed in its Comments, the average bill payment program option that Columbia offers does not appear to generate bill payment patterns that are substantively worse than the bill payment patterns of CAP participants participating in percentage of income programs and should be permitted under the CAP Policy Statement. OCA Comments at 12.

The OCA recommends that the Commission articulate in its CAP Policy Statement that the percentage of income program is the preferred program design. The OCA agrees, however, that flexibility for other options should remain if the designs can improve bill payment and remain cost-effective. If program designs other than PIPP are in place, the OCA recommends that the bill payment patterns be monitored to ensure continued effectiveness.

C. Other Identified Universal Services Issues

1. USECP Review Process

a. Introduction

The Commission's regulations require that the Company must file a Universal Service and Energy Conservation Plan every three years and conduct an independent evaluation every six years. 52 Pa. Code §§ 54.77, 62.1-62.8. For several of the most recent USECP filings, BCS has held a meeting with the Company and interested stakeholders to identify concerns and questions about the Plan.¹⁸ Thereafter, the Commission issues a Tentative Order and may identify additional questions for the Company to answer. Interested stakeholders have a short period of time, usually 20 days, to file Comments and 10 days to file Reply Comments. Finally,

¹⁸ The OCA notes that it appreciates this opportunity to review the Plan and to identify concerns prior to the issuance of a Tentative Order.

the Commission will issue a Final Order, and the Company is directed to file a final Plan consistent with the Commission's Order.

In Comments and at the stakeholder meeting, many stakeholders including the OCA, addressed the current Universal Service and Energy Conservation Plan (USECP) Review process. TURN/CAUSE-PA Comments at 68-72; CEO Comments at 2; EAP Comments at 15-16. In particular, CEO recommends that triennial review process be submitted to ALJ for a Recommended Decision. CEO Comments at 2. TURN/CAUSE-PA recommend the following procedures: (1) the triennial USECP should be immediately referred to the Office of Administrative Law Judge; (2) the ALJ should oversee the exchange of discovery and admission of testimony; (3) the record should be certified to the Commission; (4) the certified record should be referred to BCS, the Office of Special Assistants, and/or Law Bureau for the issuance of a Tentative Order; (5) after the issuance of a Tentative Order, interested stakeholders would have the opportunity to provide Comments; and (6) a Final Order would be issued. TURN/CAUSE-PA Comments at 72. EAP recommended that the process should not be made "more judicial in nature." EAP Comments at 16. The OCA recommends that a collaborative be developed in order to discuss and address the issues and concerns with the process. The OCA offers some observations on some of the process issues below.

b. USECP Plan Review Process

The OCA agrees that a process should be developed to create an adequate "record" upon which to base the review. One critical element that is missing in the current process is the opportunity to exchange information before stakeholders are required to present their comments. There should be some requirement for the exchange of information and opportunity to request data on the Plan. The OCA recommends that, as a part of the process, it has also been important

to hear the BCS perspective and concerns about the Plan. Any process should allow for the stakeholders to review and to respond to BCS issues with the Plan.

c. Evaluation

Regarding the third party evaluation, the OCA submits that the evaluation and the Plan should be better coordinated. The OCA submits that the third party evaluation recommendations should be included as a part of the USECP filing. It is the OCA's experience that the third party evaluation recommendations, and the data developed in the evaluation, are not usually a part of the discussion of the USECP. The evaluations provide critical information to guide development of a plan, but are not coordinated with the process. Moreover, the OCA agrees with EAP that the start date of the Plan should begin when a Final Order is issued on the Plan. Under the current timing, a Plan may be well into its initial year before the Plan is approved.

d. Differences In Requirements For EDCs And NGDCs

It appears that due to the difference in timing and development of the regulations that differences exist between the electric and natural gas USECP regulations. The OCA agrees with Commentators that the requirements for EDC and NGDC USECPs and evaluations should be made consistent in the Commission's regulations.

2. Addressing Universal Service Issues In Base Rate Proceedings.

In Comments, PPL recommends that the Commission determine that universal service issues cannot be addressed in the context of a base rate proceeding and should only be addressed in a USECP filing. PPL Comments at 9-10. PPL argues that the USECP is the appropriate forum to address "low-income programs." PPL Comments at 9. While the OCA agrees that the structural policies regarding the Company's USECP are more appropriately addressed in the

USECP if there has been a recent evaluation, the OCA does not agree that parties should be prohibited from raising all universal service issues in a base rate proceeding and that all low-income customer issues would necessarily fall within the USECP. This incorrectly assumes that the universal service programs have no impact on a base rate proceeding.¹⁹ The limitations of the current USECP process do not provide adequate due process or allow interested stakeholders to have a full hearing and pursue discovery even though the Plan will impose costs that are recovered in rates. As discussed below, the OCA has several concerns regarding PPL's proposal.

First, such a prohibition incorrectly assumes that the proposed rate increase and the proposed rate structures in a base rate proceeding will not harm low-income customers because of the protection of programs such as CAP and LIURP. A prohibition against raising issues related to universal service, however, would essentially prevent the parties from evaluating the impact of the rate case on the poorest of the utility's customers.

Second, universal service cost recovery is always an issue in a base rate proceeding, in particular to address cost savings produced by the program and the impact on collection and termination costs, reductions in working capital, and bad debt expenses. In fact, in a base rate proceeding, all utility tariff provisions are at issue, including the surcharges through which universal service costs are passed on to ratepayers.

Third, Pennsylvania's universal service programs only reach a small portion of Pennsylvania's estimated low-income population. One issue, in particular, that should be evaluated as a part of the Company's overall quality of service is whether the utility is doing an adequate job of enrolling CAP customers into its program.

¹⁹ The converse is also true. As the OCA discussed in its Comments, the impact of base rate proceedings should also be addressed in the Company's USECP. OCA Comments at 43-44.

Finally, not all “low-income” programs are addressed through a USECP. For example, in a recent base rate proceeding, the OCA addressed the Company’s application of the definition of “confirmed low-income customer.” The “confirmed low-income customer” definition extends to the entire low-income population because not all “confirmed low-income customers” are enrolled in the Company’s universal service program. The way that the Company defines a confirmed low-income customer has an impact on the payment arrangements that a Company offers to low-income customers and the Company’s termination policies. The USECP does not present a forum to address these issues.

3. Funding Of 2-1-1 Through The Universal Service Surcharge.

At the stakeholder meeting and in Comments, the United Way on behalf of 2-1-1 requested funding through universal service dollars for its work. The 2-1-1 offers an important service to provide a single, easily remembered dialing point for social services assistance. See, United Way Comments at 2. As the United Way Comments state, the 2-1-1 serves 59 counties on the phone, through text and e-mails, and via its website. United Way Comments at 4. The OCA commends the United Way on its efforts to provide the community with a centralized referral service that callers can use to find resources to assist them. In the past, the OCA has supported efforts to implement 2-1-1 in Pennsylvania. In 2000, the OCA filed an Answer to United Way of Southwestern Pennsylvania’s Petition to have the 2-1-1 dialing code be assigned to United Way of Southwestern Pennsylvania, submitting that the Commission should grant the Petition and assign the 2-1-1 abbreviated dialing code to United Way of Southwestern Pennsylvania. See Petition of United Way of Pennsylvania for an Order of the Commission Assigning the 211 Abbreviated Dialing Code to the United Way of Southwestern Pennsylvania, Docket No. P-00001816, Answer of the Office of Consumer Advocate (July 13, 2000). In 2009

and 2010, the OCA filed two sets of Comments supporting United Way of Pennsylvania's Petition to have PA 2-1-1 designated the lead implementing agency for the 2-1-1 service in Pennsylvania. See Petition of the United Way of Pennsylvania for Information and Referral for the Assignment of 2-1-1 Abbreviated Dialing Code and the Designation of PA 2-1-1 as the Lead Implementing Agency for Pennsylvania 2-1-1 Service, Docket No. P-2009-2136921. The OCA also filed an Answer in a similar request made in the Petition of the United Way of Allegheny County and Southwest PA 211 for Approval of a Universal Service Partnership Pilot Program to Provide Information Concerning Utility Assistance Programs to Customers in Southwest Pennsylvania, Docket No. P-2013-2359539, Answer of the Office of Consumer Advocate (May 14, 2013).²⁰

The OCA continues to be supportive of the 2-1-1 service in Pennsylvania and recognizes the benefits that PA 2-1-1 provides to the community. It is important to note, however, that the OCA represents the interest of utility consumers, and must review the request for compliance with applicable statutes, regulations, and case law; and to ensure that any increase in rates resulting from funding of the program through the universal service charges and any related expenses are just and reasonable. The 2-1-1 services extend beyond utility services, and utility ratepayer dollars should not be used to address non-utility related issues. The OCA is unaware of any other state where utilities provide contributions to 2-1-1 with funds collected from ratepayers through utility rates. The OCA submits that there are issues raised by United Way's request that require further development. The Commission must ensure that any proposal is consistent with applicable law, fair to the ratepayers being asked to support the funding,

²⁰ The OCA notes that the Petition was withdrawn and the Commission issued an Order in the matter on October 2, 2013 granting the Petition for Leave to Withdraw.

beneficial to the participating utilities' ratepayers, and will result in rates that are just and reasonable.

4. Cooperation Amongst Utilities And State Agencies

Several Commentators address the need for greater coordination amongst the utilities, including coordination of programs, a uniform statewide application, and data sharing. TURN/CAUSE-PA proposes that utilities should coordinate enrollment in universal service programs. TURN/CAUSE-PA Comments at 41. Peoples Gas recommends that a uniform statewide application be used for CAP. Peoples Gas Comments at 10. Peoples Gas recommends that an application for CAP should explicitly include, or should be deemed to include, consent to share the underlying income and household information with other utilities servicing the same territory for purposes of establishing CAP eligibility for other utilities. Peoples Gas Comments at 10. The OCA submits that *so long as appropriate customer consent has been received*, it makes administrative sense to use a uniform application and share data across utilities. Moreover, it should streamline the application/recertification procedures to eliminate the need for CAP customers to verify information twice, particularly when it is with the same agency.

In cases such as with Dollar Energy, the same agency is often enrolling customers in the respective utility programs across Pennsylvania and is requesting very similar information from the customers for each program. The Commission has encouraged such information sharing initiatives with certain provisions that the information disclosed be limited to those entities with an information sharing agreement and only when necessary for program eligibility verification. For example, in Columbia's 2015-2018 USECP, the Commission approved the development of a data sharing agreement between Columbia and FirstEnergy to share income and data

information. Columbia USECP 2015-2018, Docket No. M-2014-2424462, Order at 32-33 (July 8, 2015). A similar strategy could be developed statewide.

A similar procedure could also potentially be extended to other public assistance programs. For example, the LIHEAP administrator, Food Stamp administrator, or any other public assistance program could include an express consent form allowing the sharing of income and household information with the CAP administrators providing gas and/or electric service in the service territory in which applicant lives for the sole purpose of establishing CAP eligibility.²¹

5. Commission Data Reporting

In TURN/CAUSE-PA's Comments, TURN/CAUSE-PA recommends two modifications to the Commission's data reporting: (1) that the Commission publicly disclose the data reported to the Commission pursuant to electric distribution and natural gas distribution reporting requirements at or near the time the information is submitted to BCS, or alternatively, file this data with its USECP and (2) that a closer look be given to the data that is disclosed by the utilities in the annual reports. TURN/CAUSE-PA Comments at 73-74. The OCA supports both of these recommendations.

With respect to the first recommendation, the OCA often requests this data through discovery in a base rate proceeding. That option is not currently available for the review of the USECPs. While the BCS reported data in its annual reports is helpful, it is a limited summary of the data. In addition, some of the data that is reported is not made publicly available. It is

²¹ The Commission, in the past, has explored the issue of inter-agency and inter-utility data sharing. The OCA recommends that the Commission continue this dialogue to allow for the sharing of specific information and the limitations of the use to shared information.

difficult to effectively evaluate the operation of the programs without access to all of the data that is reported to the Commission.

The OCA proposes that a collaborative be developed to discuss the data that is provided in the annual reports and the opportunity to discuss whether additional information could be reported. The OCA recommends that additional information be provided on CAP recertification, maximum CAP benefit levels, and periodic termination and reconnection information. The OCA would also like to see data on the incidence and depth of in-program arrears by CAP customers, information about the arrears subject to forgiveness (and arrearage forgiveness actually earned), information regarding confirmed low-income customers (particularly those in arrears that are not participating in CAP) and information regarding the extent to which CAP participant bills fall within the Commission's affordability guidelines.

6. Lost Revenues

In its Comments, PGW recommends that the Commission expand the definition of costs for purposes of LIURP to include lost revenues. PGW Comments at 22. The OCA does not support the collection of lost revenues for LIURP. The utilities are statutorily-mandated to implement a LIURP program, and the statute does not provide any mechanism for the recovery of lost revenues associated with LIURP. No reason exists to allow Companies to collect for low-income programs that which the legislature and the Commission do not permit for DSM programs.

The Natural Gas Choice and Competition Act defines universal service and energy conservation as:

Policies, practices and services that help residential low-income retail gas customers and other residential retail gas customers experiencing temporary emergencies, as defined by the commission, to maintain natural gas supply and distribution services. The term includes retail gas customer assistance programs,

termination of service protections and consumer protection policies and services that help residential low-income customers and other residential customers experiencing temporary emergencies to reduce or manage energy consumption in a cost-effective manner, such as the low-income usage reduction programs and consumer education.

66 Pa. C.S. § 2202 (emphasis added); see also, 66 Pa. C.S. § 2804(9) of the Electricity Generation Customer Choice and Competition Act. By definition, low-income usage reduction programs are designed to help residential low-income customers to reduce or manage their energy consumption in a cost-effective manner. No provision in the statute provides for the recovery of lost revenues.

Electric utilities are specifically prohibited from the recovery of lost revenues for electric energy efficiency measures, and the statutorily-mandated LIURP program should not be treated differently. Section 2806.1(k) of the Public Utility Code states:

(2) Except as set forth in paragraph (3), decreased revenues of an electric distribution company due to reduced energy consumption or changes in energy demand shall not be a recoverable cost under a reconcilable automatic adjustment clause.

(3) Decreased revenue and reduced energy consumption may be reflected in revenue and sales data used to calculate rates in a distribution-base rate proceeding filed by an electric distribution company under section 1308 (relating to voluntary changes in rates).

66 Pa. C.S. § 2806.1(k). The OCA submits that if electric utilities are specifically not able to recover lost revenues for their mandated energy efficiency programs, utilities should similarly not be able to recover lost revenues for their mandated LIURP programs.

The Commission specifically denied PGW's request to recover lost revenues through its demand side management program for both its voluntary natural gas demand side management program and for its LIURP.²² The Commission stated in response to PGW's request:

²² At the time of the proceeding, PGW's LIURP was incorporated into its demand side management program. Pursuant to the Commission's directive in the proceeding, LIURP was moved to the Company's USECP.

We are of the opinion that the above-cited disposition provides a sound basis for the ALJs' conclusion in the matter before us. The General Assembly has decided that lost revenues are not synonymous with DSM program costs. Therefore, PGW should not be permitted to include its proposed CAM [Conservation Adjustment Mechanism] in its ECRS and USC [Universal Service Charge] Riders. Accordingly, we shall adopt the ALJs' ruling that the appropriate place for PGW to address its lost revenues is through a base rate proceeding and reject the proposed CAM.

We likewise find persuasive the arguments of the opposing Parties that Act 129 provides a policy foundation for the implementation of energy efficiency programs in Pennsylvania, regardless of the type of utility. Consequently, we must also reject PGW's attempt to distinguish gas and electric utilities in support of the CAM.

Petition of Philadelphia Gas Works for Approval of Demand-Side Management Plan for FY2016-2020, and Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014-2016, 52 Pa. Code § 62.4 – Request for Waivers, Docket No. P-2014-2459362, Order at 29-30 (August 4, 2016) (PGW DSM Order). The Commission specifically cited to its denial of UGI Electric's similar request for lost revenues in Petition of UGI Utilities, Inc. – Electric Division for Approval of its Energy Efficiency and Conservation Plan, Docket No. M-2010-2210316, Order at 60-61 (October 19, 2011) (UGI EE&C Plan Order).

While LIURP is designed to reduce CRP customer consumption (and thereby would decrease revenues), LIURP also *increases* revenues. LIURP helps to decrease customer payment delinquencies which impacts uncollectible accounts expense, collection costs and arrearage carrying costs. The Commission's regulations at Section 58.1 of the Public Utility recognize some of the revenue-increasing aspects to LIURP. 52 Pa. Code § 58.1. Section 58.1 provides:

This chapter requires covered utilities to establish fair, effective and efficient energy usage reduction programs for their low income customers. The programs are intended to assist low income customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs. The programs are also intended to reduce residential

demand for electricity and gas and the peak demand for electricity so as to reduce costs related to the purchase of fuel or of power and concomitantly reduce demand which could lead to the need to construct new generating capacity. The programs should also result in improved health, safety and comfort levels for program recipients.

52 Pa. Code § 58.1. As Section 58.1 describes, LIURP is a universal service program. The purpose of the program is to help low-income customers to improve affordability, to maintain service, and to manage their energy bills.

LIURP also has the effect of preserving the load of the low-income customer for the utility. With reduced usage, the low-income customer is better able to maintain service, is less likely to be terminated, and is less likely to be forced to move due to high energy bills. LIURP contributes to the utility's cost recovery because it helps to improve payment patterns, and therefore, helps to prevent disconnection of service.

As the Commission determined in its denial of PGW's request for lost revenues, traditional regulatory options, such as the filing of a base rate proceeding, can more effectively align the costs, sales and revenues. PGW DSM Order at 29-30. Moreover, allowing for lost revenues without considering other expenses and revenues would constitute single issue ratemaking by isolating out the single factor of lost revenues without considering other expenses and revenues that may impact the Company's revenue requirement.

The OCA submits that there is no basis in the law to adopt PGW's request for recovery of lost revenues for its LIURP program. For the reasons set forth above and in the Commission's determinations in the PGW DSM Order and UGI EE&C Plan Order, the OCA submits that PGW's request for lost revenues related to LIURP should not be adopted.

7. Integration of LIHEAP and CAP

As the OCA discussed in its Comments, the Commission has not fully addressed the relationship between the Low Income Home Energy Assistance Program (LIHEAP) and CAP since the Department of Human Services (DHS) changed its LIHEAP Policy in 2009. See, OCA Comments at 32-34. TURN/CAUSE-PA oppose the CAP-Plus. TURN/CAUSE-PA Comments at 23-24. Several other Commentators identify concerns with the interaction of the federal LIHEAP program with CAP. Columbia Gas Comments at 11; Duquesne Light Comments at 5. Both utilities note problems with applying the LIHEAP lump sum payment to the asked-to-pay amount billed to a CAP participant. The impact of the lump sum CAP payment is to reduce a CAP participant's bill to \$0 for a period of several months.

Columbia best describes the problem when it states:

The LIHEAP grant is often posted in full onto an account, relieving the customer of any payment for several months or longer. Columbia submits that this is at odds with a CAP design feature, whereby participants are provided with an affordable payment in order to help them to develop the habit of making timely and regular account payments. It is understandable that a customer who goes without any required utility payment for multiple months would find other uses for that money and then struggle to pay when suddenly required to make monthly payments again. Therefore, the original CAP designers intended to require twelve monthly payments to improve payment behavior and promote the maintenance of a monthly household budget. The current situation is counter to the original intent of CAP and instead increases non-payment.

Columbia Gas Comments at 11. The OCA agrees that this problem must be addressed and has been identified in the third party evaluations of the CAP programs and in other proceedings.

As Mr. Colton discussed in the White Paper attached to the OCA's Comments, the issue is unique to Pennsylvania. Pennsylvania has differed in the approach that it has taken to the integration of LIHEAP and CAP. Pennsylvania's CAPs do not limit enrollment to LIHEAP recipients as many other states do. See, OCA Comments at Appendix B, *CAP Programs Across*

the States. Unlike states such as New Hampshire, Maryland, Illinois and Colorado, where ratepayer-funded bill assistance is limited to those households who have first enrolled in LIHEAP, Pennsylvania's CAPs reach beyond LIHEAP participants. OCA Comments at Appendix A, Colton White Paper at 25. While the OCA continues to support Pennsylvania's approach of providing CAP benefits to a broader group of customers than LIHEAP recipients, it must be acknowledged that this will impact the benefits that can be provided to individual customers through the program.

As discussed in the OCA's Comments, the issue is complicated because the benefits provided to CAP customers must also be balanced by the costs to non-CAP ratepayers. As Mr. Colton discussed in the White Paper attached to the OCA's Comments, Pennsylvania may want to examine in its CAP Policy Statement as to integrating LIHEAP and CAP programs. Mr. Colton identified many issues that should be reviewed in a determination regarding the integration of LIHEAP and CAP including: (1) LIHEAP auto-enrollment; (2) expedited recertification; (3) balancing non-participant burdens with LIHEAP participation; (4) impact of applying LIHEAP to asked-to-pay amounts; (5) mandatory LIHEAP participation as a CAP prerequisite; and (6) LIHEAP crisis grants recipients targeted for CAP participation. OCA Comments at 34, Appendix A, Colton White Paper at 28. In addition, the Commission should also address how to resolve the \$0 payment problem identified in the Duquesne and Columbia Comments that occurs with the application of the LIHEAP grant to the asked-to-pay amount. Coordination with the State LIHEAP administrator may also be necessary to address how to resolve the problem.

8. Extension Of Cost Recovery For Master-Metered Buildings

In its Comments, Energy Efficiency for All – Pennsylvania (PA-EEFA) recommends that LIURP funding should be extended, not just to multi-family buildings, but also potentially to master-metered buildings. PA-EEFA's Comments discuss the integration of LIURP, WAP and Act 129 programs. The OCA notes that PA-EEFA does not specifically recommend that the funding be recovered from the universal service charge. If that is PA-EEFA's recommendation, the OCA does not support the use of LIURP funding for master-metered buildings. The issue is a question of whether a finite LIURP budget should be directed towards a low-income customer, with high usage and if CAP-eligible is payment-troubled, or a commercial landlord.

The OCA submits that the overriding objective of the LIURP program is to help low-income utility customers maintain their natural gas and electric service and manage their annual home energy bills. In a master-metered building, the customer is the landlord, and not the low-income resident. The focus of the programs should be on helping the individual utility customer to be able to better to afford utility service. The LIURP is designed to improve affordability directly for the low-income customer, and a master-metered program does not achieve this purpose.

Moreover, such funding is not necessary through the universal service program. Programs that address master-metered buildings through Act 129 or voluntary natural gas distribution programs are available. The OCA submits that master-metered multi-family programs should be appropriately addressed through the Act 129 programs or voluntary natural gas distribution company programs. The OCA does note that the energy efficiency programs draw a distinction between master-metered multi-family programs and individually-metered multi-family programs. Opportunities to improve the master-metered Act 129 programs should

be explored in those individual Plan proceedings.²³ At this time, no consideration should be given to a master-metered multi-family property for LIURP services.

²³ The OCA notes that there is a small exception regarding the treatment of master-metered buildings for PGW's Low-Income Multifamily Energy Efficiency (LIME) program. See, PGW DSM Order at 94-103. The LIME program is only a very small portion of the overall LIURP program. The budget for the program is \$120,000 out of PGW's \$7.8 million program. The Commission directed the implementation of a LIME program as part of its PGW USECP 2014-2016 Order because a portion of the funding for its universal service program was provided by firm service customers. PGW DSM Order at 102. In order to be 100% subsidized, at least 75% of the residents must be low-income, and then for other customers, there is a cost-sharing mechanism. For a complete description of the program, see, PGW DSM Order at 95.

IV. CONCLUSION

The Office of Consumer Advocate appreciates the opportunity to provide these Reply Comments. The OCA looks forward to working with the Commission and stakeholders in addressing these important issues.

Respectfully Submitted,

/s/ Christy M. Appleby

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

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

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

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