



January 22, 2019

Via Electronic Filing
Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

Re:
**Joint Petition of Metropolitan Edison Company,
Pennsylvania Electric Company, Pennsylvania Power
Company, and West Penn Power Company for
Approval of their Default Service Programs for the
period commencing June 1, 2019 through May 31, 2023**

Docket Nos. P-2017-2637855
P-2017-2637857
P-2017-2637858
P-2017-2637866

Dear Secretary Chiavetta:

Enclosed please the Comments of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA) to the Pennsylvania Public Utility Commission's December 20, 2018 Tentative Order in the captioned proceeding. Copies are being circulated to the parties consistent with the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kadeem Morris".

Kadeem Morris
Counsel for CAUSE-PA

CC: Mr. Daniel Mumford (OCMO): (via email only dmumford@pa.gov)
Kriss Brown, Esq. (Law Bureau): (via email only kribrown@pa.gov)
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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I hereby certify that on January 22, 2019, I have served true and correct copies of the Comments of CAUSE-PA via email and/or first-class mail upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA FIRST CLASS MAIL & EMAIL	
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January 22, 2019



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On Behalf of CAUSE-PA

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COMMENTS OF THE COALITION FOR AFFORDABLE UTILITY SERVICES AND
ENERGY EFFICIENCY IN PENNSYLVANIA (CAUSE-PA) TO THE
DECEMBER 20, 2018, TENTATIVE ORDER



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**On behalf of the Coalition for Affordable Utility
Services and Energy Efficiency in Pennsylvania**

January 22, 2019

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its attorneys at the Pennsylvania Utility Law Project, respectfully files these brief comments in response to the Public Utility Commission's (Commission) December 20, 2018 Tentative Order (TO), which – in relevant part – sets forth proposed guidelines for implementation of approved shopping parameters for customers enrolled in the Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, FirstEnergy) Customer Assistance Program (CAP).

At the outset, in designing appropriate guidelines for implementation of the approved CAP shopping parameters, it is imperative to remember that the Commission approved these parameters to put a stop to the substantial and indisputable financial harm to low income consumers and other residential ratepayers. Over a nearly five-year period, unrestricted CAP shopping caused a *net* financial harm of \$18.3 million to residential ratepayers and CAP customers. The protections the Commission approved, if appropriately implemented, will allow CAP customers the ability to select a third party supplier without unnecessarily jeopardizing the effectiveness of the fixed credit provided to economically vulnerable consumers through CAP or increasing the cost of CAP for other ratepayers.

CAUSE-PA generally supports the guidelines set forth in the TO. Specifically, CAUSE-PA supports the proposed requirement that suppliers offer rate-ready billing and a percentage off the Price to Compare (PTC) product, appropriately named a “CAP Program Product”; the prohibition on *all* additional fees or charges in excess of the PTC, including but not limited to early termination or cancellation fees; and the requirement that FirstEnergy engage in ongoing training and education for both CAP customers and suppliers. See TO at 10, 13, 15 and 21. These

implementation guidelines will allow FirstEnergy to properly administer its CAP, and will preserve the ability for FirstEnergy – and ultimately the Commission – to provide appropriate oversight of CAP shopping activities. Appropriate oversight is necessary to ensure that FirstEnergy’s CAP remains cost-effective, appropriately funded, and capable of achieving the overarching program goal of providing universally accessible service to those in need. Indeed, this is not only good policy; it is also consistent with the Commission’s and FirstEnergy’s obligations under the Choice Act.¹ At the same time, the proposed timeframes and required notices with respect to the transition of existing and future contracts appear to strike a reasonable and appropriate balance to ensure that the contractual rights of suppliers are preserved. Thus, with limited exception, CAUSE-PA generally supports the Commission’s proposed CAP shopping guidelines.

That said, CAUSE-PA is concerned about the suppliers’ request to institute a 30-day “safe harbor” for supplier contract renewal, as it may erode the effectiveness of the CAP shopping restrictions.

In short, the proposed “safe harbor” would require suppliers to check a customer’s CAP status once, 30+ days prior to the expiration of the contract. See TO at 19-20. At that time, if the customer is not enrolled in CAP, the supplier would be able to renew the customer’s contract at a price higher than the applicable PTC when the contract actually expires 30 days later – even if the customer has since enrolled in CAP. Id. CAUSE-PA asserts that the supplier’s attempt to institute

¹ Coalition for Affordable Util. Servs. & Energy Efficiency in Pa. v. Pa. PUC, 120 A.3d 1087, 1103 (Pa. Commw. Ct. 2015) (“[W]e conclude that the PUC has the authority under Section 2804(9) of the Choice Act, in the interest of ensuring that universal service plans are adequately funded and cost-effective, to impose, or in this case approve, CAP rules that would limit the terms of any offer from an EGS that a customer could accept and remain eligible for CAP benefits. *The obligation to provide low-income programs falls on the public utility under the Choice Act, not on the EGSs. Moreover, the Choice Act expressly requires the PUC to administer these programs in a manner that is cost-effective for both the CAP participants and the non-CAP participants, who share the financial consequences of the CAP participants’ EGS choice.*” (emphasis added)).

such a lengthy safe-harbor provision is unreasonable, and does not represent a “good faith effort to check the customer’s CAP participation status.” TO at 19. As noted in the TO, information about a customer’s CAP status will be made available to suppliers via three different lists.² Given the significance of the issues involved and the very real possibility of harm, it is reasonable to require a supplier to check any or all of these lists on the contract renewal date – not before – to ensure that newly enrolled CAP customers do not begin their CAP participation bound to a potentially lengthy and high-cost contract for service. Indeed, the suppliers’ proposed “safe harbor” could work to undermine the critical pricing protections for CAP customers and other residential ratepayers by locking newly enrolled CAP customers into potentially long-term contracts for prices above the PTC and/or with additional fees and charges.

The Commission has proposed to make a customer’s CAP status readily available to suppliers through three separate lists – customer sync lists, the Eligible Customer Lists, and account number access portals. TO at 16. At least two of these lists – the sync lists and the account number access portals – are comprehensive (without exemptions), and FirstEnergy has agreed that it will “routinely update” all three of these lists to provide timely information to suppliers about a customer’s CAP status. TO at 16. Given that CAP customer status information will be readily available to suppliers, and the known harm to CAP customers and other ratepayers when CAP customers pay more than the price to compare, there is no justifiable reason to allow suppliers over 30 days to check a customer’s CAP status – an act which should take a few minutes at most to complete.

The suppliers argued at the Collaborative meeting that the safe harbor is necessary to avoid having to send a second options notice if the customer were to enroll in CAP after the options

² See TO at 16.

notice is sent but before the contract expires. But this potential issue is more appropriately resolved by simply including language in the *initial options* notice that would notify customers of what would happen if they were to enroll in CAP before the expiration of the existing contract (namely, that they would either be enrolled in a CAP Program Product or returned to default service). Modification of the language in the options notice would ensure that newly enrolled CAP customers are adequately informed of their shopping options without exposing them to unnecessary harm.

CAUSE-PA asserts that suppliers should be obligated to check for CAP status within three (3) days of the *date of the contract expiration* – not more than 30 days before – and, if the customer is enrolled in CAP, should act accordingly to either return CAP customers to default service or enroll those customers in a CAP Program Product. Unlike the safeguard proposed by the suppliers, this resolution is consistent with consumer expectations and the Commission’s order, and will adequately shield against unnecessary and excessive generation costs to CAP customers and other residential consumers. Indeed, the options notice may be what prompts some customers to look into other more affordable options in the first place. By enrolling in CAP during the 30-day option window, a customer may reasonably believe they are acting in response to the 30-day notice, and opting for the most advantageous price available to them through CAP.

As the record in this proceeding has clearly demonstrated, when low income CAP customers engage with the competitive market and shop for a third party supplier, they are often billed at prices that exceed the price to compare. This not only affects their ability to maintain service, it also exacerbates their existing financial crisis.³ These consumers may justifiably believe that enrolling in CAP will provide them with a stable and affordable bill and arrearage forgiveness.

³ See CAUSE-PA St. 1 at 23; Recommended Decision at 16-17, 68.

But if the suppliers' request for a lengthy "safe harbor" were approved, customers who enroll in CAP within 30 days of the expiration of an existing contract could continue to face excessive prices and costly cancellation or termination fees simply because the suppliers find it too onerous to cross-reference readily available customer lists immediately before enrolling a customer in a new contract. Such a result is unreasonable, and directly undermines the purpose of the approved protections to stem well-documented and persistent harm.

For these reasons, CAUSE-PA respectfully requests that the Commission adopt the guidelines set forth in the Commission's December 20, 2018 Tentative Order, with the exception of the supplier's proposal to implement a 30-day "safe harbor". Consistent with these comments, the Commission should reject the 30-day safe harbor period to verify a customer's CAP status. Rather, the Commission should require suppliers to check CAP status within three (3) days of the date that an existing contract expires, and should only be allowed to process a non-CAP compliant contract renewal upon verification that the customer is not enrolled in CAP within this short window of time.

Respectfully Submitted,
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