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May 8, 2019

Rosemary Chiavetta, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

Re: Order and Staff Report Regarding Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711

Dear Secretary Chiavetta:

Enclosed for filing please find the comments of the Energy Association of Pennsylvania to the Commission's January 17, 2019 Order at the above-referenced docket.

Sincerely,

Nicole W. Grear
Manager, Policy & Research

Enclosure

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Energy Affordability for Low-Income Customers	:	Docket No. M-2017-2587711

COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA
TO JANUARY 17, 2019 ORDER

I. INTRODUCTION

On January 17, 2019 pursuant to a prior order issued at this docket[1], the Pennsylvania Public Utility Commission ("PUC" or "Commission") released a staff report prepared by the Commission's Bureau of Consumer Services ("BCS") and Law Bureau – titled "Home Energy Affordability for Low-Income Customers in Pennsylvania" ("Report") – that summarized and analyzed certain data submitted by the eight major National Gas Distribution Companies ("NGDCs")[2] and seven major Electric Distribution Companies ("EDCs")[3].[4] The stated purpose of the energy burden and affordability study at this docket is to "determine what constitutes an affordable energy burden for Pennsylvania's low-income households and, based on this analysis, whether any changes in the Commission's Customer Assistance Program ("CAP") Policy Statement or other Universal Service and Energy Conservation Program guidelines are necessary

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[1] Order Re: Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711 (entered on May 5, 2017).
[2] Columbia Gas of Pennsylvania, Inc.; National Fuel Gas Distribution Corp.; PECO Energy Company; Peoples Natural Gas Company LLC; Peoples Gas Company LLC; Philadelphia Gas Works; UGI Central Penn Gas, Inc.; and UGI Penn Natural Gas, Inc.
[3] Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; PPL Electric Utilities; UGI Utilities, Inc.-Electric Division; and West Penn Power Company
[4] The data was submitted in response to a Secretarial Letter dated October 16, 2017 that surveyed NGDCs and EDCs regarding energy burdens, CAPs and residential customer payment patterns for 2012 through 2016.

to bring these programs into alignment with any affordability recommendations."[5] As noted in the Order releasing the Report, " '[e]nergy burden' refers to the percentage of household income that is dedicated to paying utility bills."[6]

In addition to describing various energy assistance programs available in Pennsylvania to eligible low-income households, the Order releasing the Report detailed "significant staff observations" based on utility data supplied; directed the utilities to provide supplemental information and data; scheduled a February 2019 stakeholder meeting and established an additional, separate working group to standardize universal service reporting protocols for data definitions and the tracking and reporting of such data. Neither the Order nor the Report provided any analysis or recommendations regarding the definition of an affordable energy burden for Pennsylvania's low-income households; a point underscored in the Report's Executive Summary and by Commissioner Place in a statement issued concurrently with the release of the Report.[7]

The Commission – via the Natural Gas Choice and Competition Act[8] and the Electric Generation Customer Choice and Competition Act[9] ("Competition Acts") – is charged with maintaining, at a minimum, the customer assistance policies, practices, and services that were in place at the time of the respective effective dates of the Competition Acts. The Commission is further tasked with ensuring that utility Universal Service and Energy Conservation Plans ("USECPs") are appropriately funded, available, and cost-effectively managed in each service territory.[10] Universal Service Programs are understood to incorporate utility Customer Assistance

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[5] Order, *Energy Affordability for Low-Income Customers*, Docket No. M-2017-2587711 (entered on January 17, 2019), p 7.
[6] Order at p. 2, fn. 2.
[7] *See,* Report at pp. 5 – 6 and Statement of Commissioner Andrew G. Place Re: Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711 at p. 1.
[8] 66 Pa. C.S. §§ 2201-2212.
[9] 66 Pa. C.S. §§ 2801-2815; 66 Pa. C.S. §2203(7) and 2802(10).
[10] 66 Pa. C.S. §§ 2203(8) and 2804(9).

Programs ("CAPs"), the Low-Income Usage Reduction Program ("LIURP"), Customer Assistance and Referral Evaluation Services ("CARES") and utility Hardship Funds. These programs are primarily made available to low-income customers, where low-income is defined by 52 Pa. Code §54.72 and §62.2 as those residential customers whose household income is at or below 150% of the Federal Poverty Income Guidelines ("FPIG"). Some assistance may be made available to qualifying non-low-income customers as well.[11] The purpose of these programs is to help make utility service more affordable for low-income households while balancing program costs for non-participating residential customers; however, the Competition Acts did not define the term "affordable" as it relates to retail electric or natural gas service.

The Energy Association of Pennsylvania ("EAP" or "Association") respectfully submits these comments to both address a number of the staff observations and to assist the Commission in its efforts to determine whether changes to the current CAP Policy Statement may be warranted. These comments do not purport to suggest or recommend a specific energy burden as affordable for low-income households and instead set forth facts and information for the Commission to consider in its review of universal service programs and, in particular, utility CAPs. These comments supplement those filed individually by EAP's member EDCs and NGDCs.[12]

The Commission began this study of energy burdens and affordability nearly in tandem with its review of USECPs more broadly under Docket No. M-2017-2596907. EAP and its

[11] Select utilities have petitioned and received approval for a portion of their USECP budgets to go to services for those households with up to 200% of FPIG, e.g. weatherization services via LIURP. See 52 Pa. Code §§ 58.1, 58.2 and 58.10(c) which states that "A covered utility may spend up to 20% of its annual program budget on eligible special needs customers as defined in § 58.2".

[12] Electric Utility Members: Citizens' Electric Company; Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Pike County Light & Power Company; PPL Electric Utilities; UGI Utilities, Inc.-Electric Division; Wellsboro Electric Company; and West Penn Power Company. Gas Utility Members: Columbia Gas of Pennsylvania, Inc.; Pike County Light & Power Company; National Fuel Gas Distribution Corp.; PECO Energy Company; Peoples Natural Gas Company LLC; Peoples Gas Company LLC; Philadelphia Gas Works; UGI Central Penn Gas, Inc.; UGI Penn Natural Gas, Inc.; UGI Utilities Inc.; and, Valley Energy Inc.

member utilities have participated in the Commission's stakeholder meetings relative to that investigation and have provided extensive comments on USECPs in general.[13] At that time, EAP encouraged the Commission to delay any action to change USECPs until such time as the energy affordability study could be conducted, reviewed, and vetted.[14] EAP presumed that the study would provide an objective (academic) analysis of utility energy burdens for low-income customers, but no such analysis was done. Instead, the data submitted by utilities and interpreted in the Report lends itself more to a review of utility CAPs than of energy burden. As outlined below, EAP maintains that:

- The Report has not answered the fundamental questions of whether the current CAP Policy Statement energy burden guidelines are "affordable," nor did it conclusively determine an otherwise more appropriate or affordable energy burden for low-income Pennsylvanians.
- The Report indicated that, on average, utility CAP assistance is helping to lower low-income energy burdens and are within the current parameters set forth in the Commission's CAP Policy Statement.
- Pennsylvania's energy assistance programs are among the broadest and far-reaching in the country – no limit on the number of dollars spent, number of enrollees, or requirement of other state or federal program participation. Pennsylvania is also one of the few states whose utilities – and not state government – charge and collect for as well as administer their state's assistance program.

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[13] *See,* EAP Comments and Reply Comments to Opinion and Order, *Review of Universal Service and Energy Conservation Programs,* Docket No. M-2017-2596907.
[14] EAP Comments to Opinion and Order, *Review of Universal Service and Energy Conservation Programs*, Docket No. M-2017-2596907, p. 21.

- The Report failed to address other major factors affecting energy burden, such as the general cost of living in Pennsylvania, cost of energy (including costs of non-utility sources of energy), the impact of retail choice, the lack of state support for energy assistance, impact of changes in the U.S. economy, or the impact of energy usage patterns or jurisdictional territories.

EAP and its member utilities understand the importance of affordable utility bills for Pennsylvania customers but maintain that meeting an overall objective "energy affordability" standard for low-income households is primarily the function of government first. While utility customer assistance programs may be a part of the solution, such programs alone can never fully address the overall need. As evidenced by the breadth and depth of universal service programs, Pennsylvania's utilities are committed to ensuring that assistance is available to help low income customers maintain their service and good payment habits, be energy efficient, and have access to additional help in crisis situations.

II. ESSENTIAL REPORT FINDINGS

The Report goes into detail summarizing and analyzing the data submitted by the EDCs and NGDCs. Initially, EAP notes that while the bulk of the data requested and analyzed did not further the objective of the study sought by the Commission in its May 2017 order, it did provide some basis for assessing current CAPs and determining whether the utility programs adhere to the current guidelines established in the Commission's CAP Policy Statement. EAP will focus in this section on what the Commission, in its Order, described as the "significant staff observations"[15] from the Report and offer comments on the strength of staff observations:

[15] Order, p.8.

A. "Despite receiving assistance... CAP customers have a higher energy burden in comparison to non-CAP residential customers."

While the summary indicates that CAP households in the 0-50% FPIG level often had energy burdens exceeding the CAP Policy Statement guidelines, the Order clarifies in a footnote that these customers "may have high energy burdens because they pay the minimum bill, not because they are necessarily under-subsidized." EAP contends this is an essential point and presents a difficult policy determination. Should the Commission adjust the minimum bill amounts or CAP maximums in order to further reduce the energy burden for households in the 0-50% FPIG, it will be doing so by either increasing the burden on the rest of the residential ratepayers in order to fund the additional subsidization to account for these individuals with little-to-no income, or it will reduce the subsidization for the 50-100% and 101-150% FPIG level households who currently receive benefits.

Without the hoped-for guidance on an affordable energy burden that the Commission and all stakeholders anticipated that the study would have provided, EAP believes that the starting point must be an accurate assessment of current energy burdens for CAP customers based on CAP Policy Statement guidelines. The PUC's 2016 Report on Universal Service Programs and Collections Performance attempted to assess energy burdens for CAP participants in two charts that purported to compare the average annual income for CAP participants against an estimated annual residential bill so as to calculate the estimated energy burden. Unfortunately, these charts omit an important data point resulting in an inaccurate determination of energy burden for CAP participants. Most utility CAP participants do not pay the "estimated annual residential bill" set forth in the charts; rather, CAP participants pay a reduced amount based on a number of factors dependent on individual company program design. That information was also included in the 2016 Report.[16,17] The correct label for the last column in the 2016 charts[18] would be "Estimated Energy Burden for Low-Income Customers." An additional column could then be added to depict the estimated energy burden for CAP participants, see chart below. The average annual electric and natural gas CAP bill information / column was calculated from the average monthly CAP bills contained elsewhere in the 2016 report and multiplying by twelve to arrive at an annual number.[19]

Company	*Annual Average Income for CAP Participants*	*Estimated Annual Residential Bill*	*Estimated Energy Burden for Low-Income Customers**	*Estimated Annual CAP Bill*	*Estimated Energy Burden for CAP Participants*
Duquesne	$12,380	$1,272	10.3%	$948	7.7%
Met-Ed	$14,832	$1,464	9.9%	$816	5.5%
PECO-Electric	$13,332	$2,000	15.0%	$816	6.1%
Penelec	$13,945	$1,368	9.8%	$672	4.8%
Penn Power	$13,818	$1,872	13.5%	$756	5.4%
PPL	$17,241	$1,999	11.6%	$1,080	6.2%
West Penn	$14,538	$1,392	9.6%	$924	6.3%
Total / Industry Average	**$14,298**	**$1,624**	**11.4%**	**$858**	**6%**

[16] Public Utility Commission's 2016 Annual Report on Universal Service Programs and Collections Performance p. 53.

[17] For example, some programs' lowest / most affordable payment option is based on a percent of income payment calculation, while others may pay an average or budget bill amount.

[18] This subsection of the Report, "Average Household Income and Energy Burden," only appeared in the 2016 edition. *See* p.44. It had not been included in prior annual reports and was not included / updated in the 2017 report. The 2018 annual report is still pending at this time.

[19] Public Utility Commission's 2016 Annual Report on Universal Service Programs and Collections Performance, p. 53.

Company	***Annual Average Income for CAP Participants***	***Estimated Annual Residential Bill***	***Estimated Energy Burden for Low-Income Customers****	***Estimated Annual CAP Bill***	***Estimated Energy Burden for CAP Participants***
Columbia	$14,418	$2,011	13.9%	$612	4.2%
NFG	$15,089	$1,748	11.6%	$624	4.1%
PECO-Gas	$15,017	$1,844	12.3%	$576	3.8%
Peoples	$14,929	$1,839	12.3%	$816	5.4%
Peoples-EQT	$12,790	$1,801	14.1%	$792	6.1%
PGW	$9,828	$2,080	21.2%	$876	8.9%
UGI-Gas	$13,779	$1,770	12.8%	$768	5.6%
UGI-Penn Nat	$13,540	$1,997	14.7%	$864	6.4%
Total / Industry Average	**$13,674**	**$1,886**	**13.8%**	**$741**	**5.4%**

*This column was depicted as "Estimated Energy Burden for CAP Participants" in the PUC 2016 Report

This more accurate depiction of the data available to assess energy burdens for CAP participants demonstrates that CAPs are, in fact, helping to reduce energy burdens for low-income customers who participate in CAP and follow the current parameters of the Commission's CAP Policy Statement.

B. "Payment behavior of CAP customers did not appear to have been strongly or definitively correlated to household income."

The data revealed that fewer EDC CAP heating customers at the 101 to 150% FPIG level paid their bills in comparison to the percentage of bills paid by customers at the 51 to 100% FPIG level.[20]

[20] Order, p. 9

The Report concluded that variation in payment behavior within and between FPIG groups of the various utilities "may indicate that other factors – beyond income – may have had an impact on whether CAP utility bills were regularly paid in full."[21] The Report goes on to say that while additional information would be necessary to confirm this hypothesis, staff postulates that its likely NGDC CAP bills were more affordable over the years of the study as compared to the EDC CAP bills given the relative low cost of natural gas across Pennsylvania. The lack of an actual cost comparison to support this hypothesis diverts the analysis to the CAP itself, ignoring the reality that the commodity cost is not set by the utility.

Payment behavior of CAP households may also vary dependent on whether or not the house is enrolled in both their NGDC and EDC CAP programs (should they be a gas heat customer) or data may show that low-income customers prioritize the lower bills in order to have fewer bills outstanding rather than spread their limited income and not fully satisfy either their electric or natural gas (or other household) debt. Data may also show that one utility's bills is prioritized dependent on the time of year, for example gas in the winter to maintain heat and electric in the summer to maintain air conditioning. Further, no analysis has been done as addressed *infra* regarding the effects LIHEAP grants may have in altering payment behavior of CAP customers. These unanswered questions and lack of analysis undercut the assumption that spending more money on these programs will create affordability.

[21] Report, p. 62.

C. "Total amount of additional discounts… that would have been needed to establish maximum energy burdens of 6% for gas heating, 4% for electric non-heating, and 10% for electric heating would have been approximately $102 million annually on average… in an average annual increase of $15 to non-CAP residential ratepayers' gas and electric bills."

The Report attempted to analyze the impact on non-CAP residential ratepayers should a lower maximum energy burden be instituted across the board. The initial staff modeling did not account for utility administrative or programmatic costs incurred to switch CAP customers to new energy burdens; maintaining or expanding CAP credit maximums and the impacts on program costs; nor the impacts on affordability for those customers who currently pay less than the new energy burden levels. Even without these additional costs, the Report indicates a weighted average of just under $15 per year per customer; however, for those customers with gas heat, the annual increase would be $15 to their annual electric bill and another $13 annually to their natural gas bill.[22] The Report also indicates that over the study period, "NGDC non-CAP residential customers have paid between $10 and $145 annually" and "EDC non-CAP residential customers have paid between $15 and nearly $80 annually" to cover CAP costs.[23] Another $15 annually represents anywhere from a 10% to 150% increase in annual costs for CAP programs (not including costs of other Universal Service Programs, costs for energy efficiency programs, and other utility programs in addition to the cost of service) to non-CAP participants, some of whom are over income eligibility for this assistance by a few dollars.

Overall, the Report totals an estimated $102 million in additional annual costs to establish energy burden maximums of 6% for gas heating, 4% for electric non-heating, and 10% for electric heating. In 2017, utilities spent $331 million on CAP; another $102 million would be a 30% increase in the cost of this program just to lower energy burdens, not accounting for any other

[22] Report, p. 107, Table 10-13.
[23] Report, p. 107

potential program cost drivers – such as increases in enrollment or in the cost of electricity or natural gas. One hundred and two million dollars also represents nearly half of Pennsylvania's annual allocation from the federal government for LIHEAP grants.[24]

The Commission, in its Order, asked the NGDCs and EDCs for updated cost information to account for the programmatic costs and other missing factors as outlined in the staff Report relative to the cost impacts of lowering the energy burden thresholds inside utility CAPs. The initial Report estimate of an increase statewide of $102 million per year may be low. In PECO's filing, the Company estimated an additional $53 million in annual costs to their service territory alone; Duquesne Light Company's calculations found a range around $30 million per year, plus an additional ongoing $1.7 million in administrative costs; and Columbia Gas estimated between $9 and $19 million each year in additional costs to their CAP program. EAP does not believe this increase to residential ratepayers to be insignificant, given the amount already being spent on CAP and other Universal Service Programs. EAP asks the Commission to carefully weigh these costs, particularly in light of the fact that, on average, energy burden levels are already significantly lowered by the assistance provided by CAP as indicated *supra.*

III. MISSING FACTORS IMPACTING PENNSYLVANIA'S ENERGY BURDEN

A. Variation Among Low-Income Households

As mentioned in previous EAP comments, not all low-income customers are necessarily equally burdened by their utility bills either within utility customer assistance programs or outside of them.[25] As noted by Vice Chairman Sweet in his statement, "a relatively small subset of

[24] Pennsylvania received $214.7 million in FY2018, the second most in the country.
https://www.acf.hhs.gov/sites/default/files/ocs/comm_liheap_finalappropdcltable_statesterrs_fy2018.pdf

[25] EAP Comments to Opinion and Order, *Review of Universal Service and Energy Conservation Programs,* Docket No. M-2017-2596907, pp.18-20; EAP Reply Comments to Opinion and Order, *Review of Universal Service and Energy Conservation Programs,* Docket No. M-2017-2596907, p. 6

confirmed low-income households actually apply for and receive LIHEAP cash or crisis grant benefits."[26] This could be due to a myriad of factors, e.g., customers not being aware of the program or their eligibility OR customers budgeting to ensure payment toward essential utility service and making sacrifices elsewhere. Application for, and receipt of, a LIHEAP payment only shows that a particular customer is especially concerned about paying his or her utility bill. For example, the customer might face higher than average bills due to living in poorly insulated housing, or may have accumulated arrears and is at risk for termination. There are similarly many reasons why a customer might *not* apply for a benefit. The Report itself indicates that "not every household in poverty or with high energy burdens will automatically experience energy bill payment problems."[27]

The number of occupants per home, housing type, and home ownership can greatly impact energy usage patterns. The energy burden Report makes no mention of average usage within or across service territories or how that might compare to the rest of the residential class and therefore impact relative energy burdens. Nor does the Report address the relative cost of living in various service territories (or within a given service territory) that might make any one household's energy bills more or less affordable relative to their other living expenses.

The Report also does not address the impacts the cost of energy itself has on energy burden. The Report makes no mention of the relative prices of electricity and natural gas; how those prices compare to costs for other heating fuels; or how low energy costs might be making utility bills more "affordable" in relation to higher costs for food, medical care, school, etc., therefore impacting which bill(s) low-income households are more likely to pay.

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[26] Statement, p. 1.

[27] Report, p. 92

B. The Impact of Choice

Many comparable states do not allow their CAP-participating low-income customers to shop for their electric or natural gas supplier, as is currently permitted in some service territories in Pennsylvania. For example, electric and natural gas choice is not available to low-income Ohio households who participate in their assistance program.[28] If a low-income household is participating in a customer choice program, and then becomes eligible for and elects to participate in the Ohio CAP, they will automatically be switched to the utility, subject to any early termination fees assessed by the supplier.

The impact of Pennsylvania's choice program on utility-run CAPs was not mentioned or addressed in the Report, nor has the overall effects of retail competition on consumers been holistically investigated by the Commission. In part, the Commission has found through individual EDC default service plan proceedings that harm is in fact occurring to some CAP customers permitted to shop. PPL provided data that showed of the 49% of CAP participants that were shopping, 55% of them were paying more than PPL's Price to Compare ("PTC"), costing the program $2.7 million and putting those higher-paying CAP customers at risk of program removal due to quicker exhaustion of their CAP credits. Similarly, the First Energy Companies submitted data that indicated 65% of shopping CAP participants were paying more than the First Energy PTC, at a net impact of $18.3 million in increased program costs.[29] The Commission, in its findings, has issued a Proposed Policy Statement with the ultimate goal of setting guidelines for CAP shopping to limit such harm, however this critical issue is not addressed in the staff Report on energy burdens. EAP recommends the Commission consider the impacts of the current

[28] https://www.puco.ohio.gov/be-informed/consumer-topics/energy-assistance-programs-help-with-paying-your-utility-bills/

[29] Electric Distribution Company Default Service Plans – Customer Assistance Program Shopping, Proposed Policy Statement Order, February 28, 2019, M-2018-3006578, p.3-4.

paradigm of CAP shopping not only on CAP participants, but on residential ratepayers who are asked to pay for these programs.

C. Societal Factors Impacting Energy Affordability Should Be the Responsibility of the Commonwealth, Not Just Ratepayers

While the goal of addressing energy affordability via utility-ratepayer funded programs is a laudable one, the scope of this issue is beyond the jurisdiction of the Commission and includes a variety of societal factors that cannot be remedied by utility efforts alone. Low income programs must allocate a finite amount of dollars for assistance, and no amount of available funding is likely to meet the total needs of all eligible households. Commission Staff noted in the Executive Summary of the Report that "utilities that were queried for this study were unable to identify or provide income information on low-income households that did not participate in customer assistance programs or other universal service programs."[30] Utilities are not required to – nor should they be required to – collect and maintain income data for all their customers. Customers provide income information to utilities on a voluntary basis. Customers can always choose to provide or withhold that information as a part of weighing whether or not to apply for an assistance program. Given, then, that income data will always be voluntary and incomplete, utilities should not be required to track and/or report it.

It may be informative to understand energy usage patterns across various income groups to capture how usage influences energy burden. Energy usage may also be a factor of the housing stock in communities and service territories across the Commonwealth or there might be a difference in usage patterns between those who heat with natural gas versus electricity versus fuel oil. The Commission's Report does not mention, nor does it provide any data or statistics,

[30] Report, p.4.

regarding average energy usage for residential customers and low-income residential customers (both those enrolled and not enrolled in utility CAP programs). Utility Universal Service Programs recognize the interplay between usage reduction and increased affordability and have designed and maintained Low Income Usage Reduction Programs ("LIURPs") concurrent with their CAPs.

IV. COMMISSIONER QUESTIONS & CLARIFICATIONS

A. Vice Chairman Sweet's Questions Re: LIHEAP and CAP

Vice Chairman Sweet issued a statement at the January 17, 2019 Public Meeting concurrent with the release of the Report, asking interested parties to consider a few additional issues. Primarily, Vice Chairman Sweet's concerns in his statement concern the interplay between LIHEAP – the federally-funded, Low-Income Home Energy Assistance Program that provides grants to participants– and utility CAPs. The Vice Chairman notes that "a relatively small subset of confirmed low-income households actually apply for and receive LIHEAP cash or crisis grant benefits." Given this observation, he asks the following questions:

- How, if at all, are LIHEAP applications encouraged at the time of CAP enrollment? Are there ways the intake process could be improved to ensure dual enrollment in both programs?

EAP, along with its member utilities and representatives from PUC staff are currently working to address the Vice Chairman's first question regarding the intake process. Collaboration with DHS staff began last year to determine the best way for utilities and DHS to share information (e.g., household size and income information) so as to facilitate enrollment both in utility CAP programs and for LIHEAP. These conversations remain ongoing, but progress is being made toward streamlining in order to ease the administrative burden on all parties, but particularly customers.

- What are the known or perceived barriers to LIHEAP enrollment (administrative or otherwise), if any?

EAP defers to its member companies and any comment from DHS relative to the barriers to LIHEAP enrollment at this time.

- What are the advantages or disadvantages of requiring a LIHEAP application in order to receive CAP benefits?

Initially, EAP notes that the current CAP Policy statement does encourage LIHEAP participation as a prerequisite for CAP participation.[31] The CAP Policy statement also explicitly addresses the coordination of CAP and LIHEAP by allowing for a penalty on CAP participants who do not apply. Utilities very rarely, if ever, impose this penalty on their low-income customers so as to avoid creating additional burdens on CAP customers.[32]

EAP maintains there are some disadvantages to consider in requiring a LIHEAP application in order to receive CAP benefits.[33] First, until such time as the streamlining between utilities and DHS is complete – and the logistical and privacy concerns are addressed therein – the required application for another program may deter households from applying for either form of assistance. Further, some households, while income-eligible for both programs, may only need the temporary assistance of the cash or crisis LIHEAP grant, and not the additional thousands of dollars of ratepayer-funded benefit available through CAP enrollment. Providing benefit to all income-eligible households should be weighed against the costs. Automatic enrollment in CAP for all LIHEAP recipients may not work for all households, particularly without serious consideration regarding education of the program and the risks surrounding program removal. For those customers with both gas and electric service, each utility would only be made aware of a LIHEAP application if that customer applied for and assigned his grant to that utility. A customer may currently participate in both electric and natural gas CAPs, but a singular LIHEAP grant can only be assigned to one utility.

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[31] § 69.265. CAP design elements. (6)(v) Application *for LIHEAP grants.* An application for LIHEAP grants, to the extent that is available, should be completed during the intake interview.
[32] § 69.265. (9) *Coordination of energy assistance benefits* (ii).
EAP notes that the CAP Policy Statement also directs utilities to apply the LIHEAP grant to reduce the amount of the CAP credit, which is currently prohibited by the Pennsylvania Department of Human Service's LIHEAP State Plan. EAP would encourage the Commission to discuss this discrepancy between the two programs.
[33] EAP Reply Comments to Opinion and Order, *Review of Universal Service and Energy Conservation Programs*, Docket No. M-2017-2596907, p. 9

In addition, customers on CAP who receive LIHEAP grants can also go months without paying any utility bill at all. For example, if a CAP customer's monthly bill has been subsidized to $25 and the household receives $150 LIHEAP grant, the household will not be asked to make a utility payment for six months. The staff Report cites a study that shows that CAP "participants who also received LIHEAP had a 14% lower average on-time payment rate than non-LIHEAP participants."[34] Utility CAP programs are designed to provide assistance, but also to encourage routine, on-time payment behavior. Generous LIHEAP benefits can sometimes undermine this goal, giving households a false sense of their ongoing obligations by giving them "off" months from paying a utility bill that can lead to an inability to pay once the grant is exhausted because the "utility" funds in their budget have been applied to other household needs. *See fn. 29 infra.*

Furthermore, LIHEAP is a seasonal program, whereas utility assistance programs are run year-round. LIHEAP is open for applications typically November 1 through March 30 of each year. If a customer were to be required to apply for a LIHEAP grant as a prerequisite to eligibility for ratepayer-funded assistance, such a requirement would potentially eliminate the opportunity for assistance for seven months of the year. EAP does not believe such a stipulation would inure to overall customer benefit.

B. Commission Directive for Monthly Customer Tallies for All CAP Customers Claiming Zero Income in 2016 and 2017

In the Commission's January 17, 2019 Order, NGDCs and EDCs were directed to "provide monthly customer tallies for all CAP customers claiming zero income in 2016 and 2017, broken out by heating type, if possible." The Commission indicated in the Order that this information should also be provided as a part of each utility's 2018 Universal Service Reporting in a separate spreadsheet. Order at Ordering Paragraph #15. However, the Commission's March 7, 2019 Secretarial Letter goes

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[34] Report, p. 89

further and proscribes "this monthly tally and annual reporting requirement shall continue yearly thereafter." EAP is troubled that the Commission is purporting to amend the Universal Service Reporting Requirements[35] outside the scope of a formal rulemaking. Ostensibly, the Commission is currently reviewing USECPs and their related reporting requirements under another docket[36] and, in its January 17, 2019 Order under this docket, directed Staff to convene a separate Working Group to, *inter alia*, standardize universal service reporting protocols for data definitions, tracking, and reporting, prior to July 31, 2019. Order at Ordering Paragraph #7. It is both confusing and thwarts the regulatory process to make a reporting requirement of EDCs and NGDCs in a Secretarial Letter.

V. PENNSYLVANIA LOW-INCOME ASSISTANCE COMPARED WITH OTHER STATE PROGRAMS

Contrary to the conclusions drawn by the Report, EAP contends that what works for other states is not directly comparable or even applicable to energy assistance programs in Pennsylvania, which currently provide \$386 million in benefits to low-income households.[37] Pennsylvania's energy utilities have consistently spent nearly \$400 million each year on their assistance programs – double the average \$200 million offered by the federal government's energy assistance program (Pennsylvania's allocation of LIHEAP dollars). The Report cites to neighboring states whose energy assistance programs have combined energy burden targets much closer to 6%, such as New York and New Jersey as possible models for Pennsylvania to emulate. In order to achieve these lower energy burden levels, however, these programs are by necessity much smaller in scope and cost than Pennsylvania's utility-funded programs.

In New Jersey, for example, the Universal Service Fund (funded by New Jersey utility ratepayers) is offered <u>only</u> to LIHEAP recipients (a co-application is necessary for enrollment) and

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[35] Universal Service Reporting Requirements, 52 Pa. Code §§ 62.1-62.8 (gas) and 54.71-54.78 (electric).
[36] Docket No. M-2017-2596907.
[37] PUC 2017 Report on Universal Service Programs and Collections Performance, p. 73.

the programs spent $157.6 million in 2014.[38] In addition, this program is run in conjunction with the state's LIHEAP and run not by utilities but by the New Jersey Department of Community Affairs (equivalent to Pennsylvania's Department of Human Services). For FY 2015 programs, New York utility companies budgeted nearly $136 million to assist over 1.1 million households.[39] In New York (in 2015), most assistance came in the form of discounts off the basic monthly service charge for electricity and/or gas that is funded through utility rates, administered by the utilities, and recovered from all customer classes. Funding from all customer classes is another major difference between states' programs that does not apply currently in Pennsylvania.

In neighboring Maryland, the comparable universal service program and arrearage forgiveness is similarly limited. The current bill discount program is limited to state LIHEAP recipients and totaled just $38.3 million in 2015. Maryland ratepayers are only asked to pay $0.36 per month, or $4.32 per year, for this program. Arrearage forgiveness totaled $17 million during FY 2015 and is funded by federal LIHEAP dollars or the Regional Greenhouse Gas Initiative ("RGGI") funds. Originally, arrearage benefits were only allowed once in a lifetime but a modification has since allowed additional benefit after a period of seven years. No such limitation exists in Pennsylvania's programs. Other cold-weather states such as Michigan and Minnesota spent $77 million and $28 million of ratepayer dollars on their utility-funded energy assistance programs respectively.[40]

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[38] U.S. Department of Health and Human Services. Administration for Children and Families. LIHEAP Clearinghouse. "New Jersey Ratepayer Funded Programs." https://liheapch.acf.hhs.gov/dereg/states/njsnapshot.htm

[39] U.S. Department of Health and Human Services. Administration for Children and Families. LIHEAP Clearinghouse. "New York Ratepayer Funded Programs." https://liheapch.acf.hhs.gov/dereg/states/nyork.htm

[40] U.S. Department of Health and Human Services. Administration for Children and Families. LIHEAP Clearinghouse. "Michigan Ratepayer Funded Programs." https://liheapch.acf.hhs.gov/dereg/states/misnapshot.htm; U.S. Department of Health and Human Services. Administration for Children and Families. LIHEAP Clearinghouse. "Minnesota Ratepayer Funded Programs." https://liheapch.acf.hhs.gov/dereg/states/mnsnapshot.htm

The Commission, in its Order and throughout the Report, looked to Ohio as a neighboring state similar to Pennsylvania in demographics, geography, energy usage and energy burden profiles. However, again, the comparison fails to note that Ohio's program is not collected or administered by utilities as is done in Pennsylvania, but rather "the electric portion of the PIPP is administered by the LIHEAP grantee, the Ohio Development Services Agency's (ODSA) Office of Community Assistance. The Office of Community Assistance files for revised electric rider rates annually to keep pace with the cost of the PIPP and changes in utility rates and enrollment. The average number of electric PIPP Plus customers for January - December 2015 was 386,491; payments totaled about $304 million. Gas PIPP Plus customers received about $28 million in payments."[41]

Pennsylvania utility-ratepayer funded programs, on the other hand, had $253 million in electric CAP costs (serving 285,337 customers) and $110 million in gas CAP costs (serving 160,891 customers) in 2015.[42] While the electric CAPs between the states may be comparable in size and expense, the gas CAPs are not. Furthermore, the Ohio program is not comparable to the manner in which Pennsylvania's CAP programs are structured, administered, and monitored. About 51% of Pennsylvania households use natural gas as their primary home heating fuel, 22% rely on electricity, 17% use fuel oil, 4% use propane, and nearly 3% burn wood.[43] On the other hand, Ohio residential ratepayers heat their homes 65.5% with natural gas, 24.1% with electricity, 2.1% with fuel oil, and 5.2% with propane.[44] While arguably comparable in end-usage, it is

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[41] U.S. Department of Health and Human Services. Administration for Children and Families. LIHEAP Clearinghouse. "Ohio Ratepayer Funded Programs." https://liheapch.acf.hhs.gov/dereg/states/ohio.htm

[42] Pennsylvania Public Utility Commission Bureau of Consumer Services Report on 2015 Universal Service Programs & Collection Performance of the Pennsylvania Electric Distribution Companies & Natural Gas Distribution Companies.

[43] U.S. Energy Information Administration, State Profile and Energy Estimates, Pennsylvania, Profile Overview. https://www.eia.gov/state/?sid=PA#tabs-2

[44] U.S. Energy Information Administration, State Profile and Energy Estimates, Ohio https://www.eia.gov/state/print.php?sid=OH

noteworthy that Ohio's natural gas energy assistance program is one quarter the size of Pennsylvania's, even though more Ohioans heat with natural gas.

Further EAP is not certain that the Ohio program has a maximum energy burden of 10% as the Order and Report suggest and would not propose a change to Pennsylvania CAPs based on the Ohio example. The materials related to the Ohio program contained in the Report and the Order indicate that the Ohio utility payment assistance program has a maximum energy burden of 10%. However, the materials publicly available on the Public Utility Commission of Ohio's web site state that "Electric and natural gas customers who qualify pay $10 or 6 percent of their gross monthly household income, whichever is greater, to the utility company each month. If the utility provides both gas and electric services or if the customer has an all-electric home, the payment is $10 or 10 percent of the gross monthly income, whichever is greater."[45] Presumably, then, if a customer has electric non-heating service and gas heating service, and if the maximum energy burden for each is 6%, then the total maximum energy burden for non-electric heating households is 12%, not 10% as assumed throughout the Report. As indicated below, in 2016, the combined average (for all FPIG levels) electric and natural gas CAP customer energy burden in Pennsylvania would have totaled 11.4%, which is below Ohio's combined 12% and well within the current CAP Policy Statement range for the lowest FPIG level of 7-13%.

The Report states that an examination of all 50 states (and the District of Columbia) reveals that Pennsylvania's average energy burdens for all energy sources were among the highest in the nation for those households at 150% FPIG or below.[46] However, the Report's own chart on the preceding page belies this finding. Table 9-3, "Energy Burden for Pennsylvania and Similar Starts,

[45] https://www.puco.ohio.gov/be-informed/consumer-topics/energy-assistance-programs-help-with-paying-your-utility-bills/

[46] Report, p. 87.

2016," shows that Pennsylvania has the lowest energy burden of the states listed for the 50-100%, 100-125%, and 125-150% FPIG household groups, and only Missouri has an energy burden lower than Pennsylvania for the below 50% FPIG group (27 percent vs. 28 percent).[47] The Report also shows that Pennsylvania is second to only New York in the number of heating or cooling bills completely "covered" by LIHEAP grants. EAP believes these numbers show the strength of Pennsylvania's energy assistance programs – including utility's collaboration and coordination with LIHEAP and other state-run assistance programs – and not that there are widespread deficiencies.

While EAP recognizes that improvements and efficiencies are achievable for these regulatory programs – and that we can often learn from neighboring states – Pennsylvania EDC and NGDC CAP programs are unique in the benefit they provide to low-income households and are achieving reductions in energy burden while balancing the costs borne by other ratepayers. The particular design of each utility's program, as codified in the Competition Acts, is an asset to the unique characteristics of each service territory and is impacted by the requirement that each program is run individually and not by a state agency. Should Pennsylvania seek to adopt a statewide or state-administered approach, the General Assembly would need to amend the current statute to supersede the language of the Competition Acts which directs utilities to maintain, run, and recover costs for these programs.

VI. CONCLUSION

Fundamentally, the staff Report did not meet its directive of determining what constitutes an affordably energy burden for Pennsylvania's low-income households.[48] No analysis was done that

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[47] Report, p. 86-87.
[48] "Staff noted that none of the literature reviewed in preparation of the Report revealed a generally accepted definition of 'energy affordability.' Staff did not identify a predominant best practice or consistent energy burden among the other states." Order at 11.

could inform whether any changes in the Commission's CAP Policy Statement or other USECP guidelines are warranted. The Report did confirm that utility CAP programs are helping enrolled low-income households lower their energy burdens and are meeting the goals set forth in the current CAP Policy Statement.[49] The Report's findings regarding CAP bills paid-in-full also indicate that "other factors beyond income" affect whether or not CAP enrollees regularly pay their utility bills in full.

As noted previously, any additional decrease in CAP participants' energy burden will inevitably increase the costs of these programs – among the most generous in the nation. The Office of Consumer Advocate previously concluded "it is clear that residential ratepayers do not have the capacity… to serve every low-income customer."[50] Nor, EAP would argue, do they have the capacity to further reduce or eliminate energy burdens when they are already paying upwards of $50 a year – or over $80 if they have natural gas service as well – for current levels of assistance. These fees are invisible to the average consumer as they are bundled into his or her utility rates. Customers are also asked to fund costs related to mandated Act 129 energy efficiency programs, DSIC and customer choice surcharges, and applicable state taxes.

The assessment done by BCS and reviewed by stakeholders throughout this process has been beneficial. Periodic review of these programs is warranted to ensure that they are meeting their goals and objectives. Utility USECPs have been created, changed, and improved over many iterations by third-party evaluation, review by BCS, and input by stakeholders both statewide and local to each utility's service territory. Each plan, both at the time of plan proposal and throughout its execution, is crafted to meet the specific needs of each utility's customer base while balancing all the factors

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[49] The Report found that average energy burdens for NGDC CAP customers were 7-8%. Order at 8. The current CAP Policy Statement recommends a range, dependent on FPIG, of 5-10%. The Report found that average energy burden for EDC CAP heating customers was 8-10%. Order at 8. The current CAP Policy Statement recommends a range, dependent on FPIG, of 7-17%.

[50] OCA Comments to Opinion and Order, *Review of Universal Service and Energy Conservation Programs,* Docket No. M-2017-2596907, pp. 8-9.

relative to the assistance provided and the cost of the programs. The review contained in the staff Report did not indicate widespread deficiencies or need for wholesale changes to these programs.

EAP contends any policy changes with regard to energy burdens and USECPs must continue to balance the benefits to participants with the costs to the rest of the residential ratepayers. EAP suggests that one potential change to the CAP Policy Statement that may help the lowest income group (0-50% FPIG) without unduly increasing costs would be to eliminate CAP maximum credits. In their comments to the USECP Opinion and Order, several utilities noted that only a small percentage (4-5%) of CAP customers ever reach their maximum credit, and for those that do utilities are typically willing to allow for exhaustion exemptions to accommodate those experiencing extenuating circumstances.[51] However, there is also concern that eliminating CAP maximums could reduce the individual customer's incentive toward conservation and energy efficiency in order to control their own utility bills. EAP recommends the Commission evaluate the costs of this proposal as a potential way to address the higher need of the lowest income tier.

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[51] EAP Comments to Opinion and Order, *Review of Universal Service and Energy Conservation Programs,* Docket No. M-2017-2596907, p. 8.