



VIA E-FILE

May 23, 2019

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, Filing Room
Harrisburg, PA 17120

Re: Energy Affordability for Low-Income Customers in Pennsylvania
Docket No. M-2017-2587711
Joint Reply Comments of the Low Income Advocates

Dear Secretary Chiavetta,

Please find the Joint Reply Comments of Tenant Union Representative Network (TURN), Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance), and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), (collectively, the Low Income Advocates), which are submitted for filing in the above noted proceeding.

Please do not hesitate to contact me at 717-710-3825, or by email at pulp@palegalaid.net with any questions or concerns.

Respectfully Submitted,

Elizabeth R. Marx
Counsel for CAUSE-PA

Enclosures.

CC: Joseph Magee, Bureau of Consumer Services, jmagee@pa.gov
Louise Fink Smith, Esq., Law Bureau, finksmith@pa.gov

Before the Pennsylvania Public Utility Commission

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

JOINT REPLY COMMENTS OF
TENANT UNION REPRESENTATIVE NETWORK (TURN),
ACTION ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA, AND
THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY
EFFICIENCY IN PENNSYLVANIA (CAUSE-PA)

Pennsylvania Utility Law Project
On Behalf of CAUSE-PA
Patrick M. Cicero, Esq.
Elizabeth R. Marx, Esq.
John Sweet, Esq.
118 Locust Street
Harrisburg, PA 17101
717-236-9486
pulp@palegalaid.net

Community Legal Services
On Behalf of TURN and Action Alliance
Joline R. Price, Esq.
Josie B. H. Pickens, Esq.
Robert W. Ballenger, Esq.
1424 Chestnut Street
Philadelphia, PA 19102-2505
215-981-3700
jprice@clsphila.org
jpickens@clsphila.org
rballenger@clsphila.org

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I. INTRODUCTION AND BACKGROUND

Tenant Union Representative Network (TURN) and Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance), together with the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) (collectively referred to herein as the Low Income Advocates), file the following reply comments in response to the comments filed by other parties to this proceeding.

The January 17 Order accompanied the release of the Home Energy Affordability for Low Income Customers in Pennsylvania Report (Report), in which the Commission's Bureau of Consumer Services (BCS) and Law Bureau looked at data provided by Pennsylvania's largest Natural Gas Distribution Companies (NGDCs) and Electric Distribution Companies (EDCs) regarding energy affordability and energy burdens of low income utility customers. The January 17 Order and March 7 Secretarial Letter also directed NGDCs and EDCs to provide supplemental information and data, including data on the estimated financial impact on ratepayers if Pennsylvania were to adopt a 10% maximum energy burden. The utilities provided supplemental information and data on April 8, 2019.

On May 8, 2019, the Low Income Advocates submitted Joint Comments, asserting that comprehensive universal service reform is necessary to achieve the mandates of the Electric and Natural Gas Competition Acts¹ and to fully address the energy affordability crisis facing low income households across Pennsylvania. We urged the Commission to take immediate action to lower energy burdens for CAP customers, many of whom are currently unable to afford their gas and electric bills. The Low Income Advocates emphasized that the available data makes it undeniably clear that low income households across the state cannot now reasonably afford to

¹ 66 Pa. C.S. §§ 2202, 2802.

maintain service, even with the assistance of CAP. The Low Income Advocates' Joint Comments also summarize the Low Income Advocates Universal Service Review Comments (Joint Universal Service Comments) and Reply Comments (Joint Universal Service Reply Comments) at Docket No. M-2017-2596907, which set forth comprehensive systematic and programmatic changes to universal service programs, including CAP.

Comments in this proceeding were filed by several other parties.² These Reply Comments are designed to clarify and respond, at a high level, to a number of issues raised by other stakeholders. Because of the significantly abbreviated timeframe in which to file reply comments, we have chosen not to respond to all of the other parties' assertions. This should not be misconstrued as agreement with the assertions of other stakeholders that are not addressed herein. After review of the positions of other parties, the Low Income Advocates continue to maintain that the Commission must act now to reduce energy burdens for CAP participants, and make the changes described in the Low Income Advocates' Joint Comments in this proceeding. The Commission should then proceed to restructuring universal service programs, state-wide, to implement the broad-based changes necessary to resolve the energy affordability crisis in Pennsylvania as submitted in the Low Income Advocates' Joint Universal Service Comments.

² In addition to the Joint Comments of the Low Income Advocates, initial comments were also filed in this proceeding by the Office of Consumer Advocate (OCA); Columbia Gas of Pennsylvania, Inc. (Columbia); Duquesne Light Co. (Duquesne); Peoples Natural Gas Company LLC and Peoples Gas Company LLC (Peoples); Philadelphia Gas Works (PGW); PPL Electric Utilities Corp. (PPL); Energy Association of Pennsylvania (EAP); Metropolitan Edison Co., Pennsylvania Electric Co., Pennsylvania Power Co., and West Penn Power Co. (First Energy); PECO Energy Co. (PECO).

II. REPLY COMMENTS

These Reply Comments address the following subjects and respond to related recommendations from other stakeholders:

- Areas of Alignment Among the Stakeholders
- Energy Affordability Challenges for the Lowest Income Households
- LIHEAP Integration Must be Consistent with Laws and Policies
- Cross-Class Universal Service Program Funding Is Consistent with the Law
- Prepaid Service is Irrelevant to Establishing an Appropriate Energy Burden
- Other State Programs Demonstrate that Pennsylvania’s Energy Burden is Unreasonably High

A. Areas of Alignment Among the Stakeholders

While there were some areas of substantial disagreement amongst the stakeholders, there were also issues where the stakeholders appeared to be in agreement. The Low Income Advocates believe that these areas of alignment are worth underscoring, and provide an initial starting point for the Commission in determining next steps in this proceeding.

No Spending Cap for Universal Service Program Assistance

None of the commenters supported the imposition of a cap on spending for universal service programming. The utilities provided data which shows that imposing a cost cap on CAP costs at 2% of jurisdictional revenue would result in significant cuts to CAP programs – in some cases by more than 50%.³

³ See, e.g., Low Income Advocates’ Comments at 34-35; Columbia Comments at 10 (“A 2% CAP on revenue would mean less than half of Columbia’s customers would be served through CAP or each customer would need to pay a higher CAP payment.”); Duquesne Comments at 5 (“[I]f the program were limited to 2% of the Company’s revenue, about one-third fewer customers would receive assistance.”); PPL Comments at 10 (“Implementing a 2% cost cap, when compared to PPL Electric’s average annual USR costs or the modeled 10% maximum energy burden, shows a

Imposing a spending cap would have a particularly harsh and counterproductive result in Pennsylvania because it would either undermine the effectiveness of reductions to the energy burden or reduce the number of customers who can be helped.⁴ The Office of Consumer Advocate further points out, if a spending cap were introduced, “the years in which the greatest assistance is needed would be the years in which the resources that are available to meet those needs would have been the least.”⁵ As the OCA concludes, imposing a cap on universal service program spending would create financial instability within the programs, which would in turn undermine the achievable success of the programs over the long term.⁶ The Low Income Advocates agree with these assessments, and oppose imposition of a cap on Customer Assistance Program (CAP) spending in Pennsylvania.

LIHEAP Participation Should be Encouraged, Not Required

It is noteworthy that all stakeholders which offered comments about LIHEAP supported efforts to further *encourage* participation in LIHEAP, but none supported a mandatory LIHEAP participation requirement.⁷ Together, the stakeholders identified a number of barriers which make it difficult and sometimes impossible for low income households to participate in LIHEAP, and raised several additional practical concerns with imposing a LIHEAP requirement on CAP participants.⁸ Barriers to enrollment for individual households include, for example, the

significant constriction of the CAP by more than 50%.”); First Energy Comments at 6 (“The Companies applied this 2% cap on total distribution revenues for residential customers and determined that the CAP budget for the Companies would be \$21.5 million. Considering that CAP costs are currently over \$65 million, a 2% cap would require the Companies to significantly limit their CAP benefits.”); PECO Comments at 11 (“A 2% revenue cap for low-income spending is below PECO’s current spending levels.”).

⁴ PECO Comments at 11.

⁵ OCA Comments at 15.

⁶ OCA Comments at 15.

⁷ See, e.g. Low Income Advocates’ Comments at 33-34; EAP Comments at 16-17; OCA Comments at 12-13; PECO Comments at 11-12; First Energy Comments at 5; PPL Comments at 6-9; PGW Comments at 9-11.

⁸ OCA Comments at 15.

household's heating type, immigration status, confusion or misunderstanding about program differences, and other communication barriers – particularly for difficult to reach and/or uniquely vulnerable populations.⁹ Additional practical concerns raised by the stakeholders include the fact that LIHEAP is only available for part of the year, cannot be directed to both gas and electric companies, is subject to variations in eligibility criteria, and faces budgetary uncertainty associated with annual federal appropriations for the program.¹⁰ As PECO notes: “Assuming that all CAP-eligible customers are also LIHEAP eligible, Pennsylvania’s Department of Human Services would exhaust all funding well before all customers received grants.”¹¹

The Low Income Advocates continue to believe that additional education and outreach efforts could and should be used to ensure that all participants are well-informed about the benefits of LIHEAP and strongly encouraged to apply. For example, PGW explained that it hires temporary staff each year to assist households that are unable to apply for the program on their own due to language and literacy barriers.¹² The Low Income Advocates strongly support efforts such as this to overcome enrollment barriers, and ensure that LIHEAP benefits are maximized across Pennsylvania. However, we continue to believe – consistent with the other commenting stakeholders in this proceeding – that LIHEAP participation must not be mandatory. As PPL concluded in its Comments, “LIHEAP and CAP are purposefully independent programs, focusing on reducing low-income customer energy burdens through similar but different ways ... [and] should remain separate programs.”¹³ The Low Income Advocates concur with these comments.

⁹ See, e.g., Low Income Advocates’ Comments at 31-33; OCA Comments at 12-13; PGW Comments at 9-11.

¹⁰ See, e.g., OCA Comments at 12-13; EAP Comments at 16-17; PECO Comments at 11; First Energy Comments at 5; PPL Comments at 6-8; Duquesne Light Comments at 5-7; PGW Comments at 9-11.

¹¹ PECO Comments at 12.

¹² PGW Comments at 10.

¹³ PPL Comments at 9.

B. Energy Affordability Challenges for the Lowest Income Households

The Low Income Advocates agree with other stakeholders that there are unique challenges to addressing energy affordability for households with income from 0%-50% FPL. These households are the very poorest in our communities, and struggle profoundly to meet their basic needs. However, the Low Income Advocates submit that those unique challenges are not insurmountable, and that the Commission can provide adequate affordability assistance.

Comments from other parties highlight the challenges associated with developing a targeted energy burden set at a fixed percentage of income for households with income at 0%-50% FPL, and particularly for households with income from 0% - 25% FPL.¹⁴ The Low Income Advocates believe that the concerns raised by others should not dissuade the Commission from taking measured steps targeted to improve affordability for the most economically vulnerable CAP-eligible households. Based on available data, there are approximately 300,000 Pennsylvania households who struggle each day to survive on income which is less than 50% FPL.¹⁵ To put this in context, a household of three (3) cannot earn more than \$10,665 per year to meet this criterion.¹⁶ These households are deeply poor, spend a significant amount of their limited income on housing and energy costs, and need substantial assistance. This fact should motivate the Commission to develop workable solutions for this vulnerable group that, while insufficient to address all of the household's economic concerns, are targeted to alleviate or at least significantly reduce their energy insecurity.

¹⁴ See, e.g., PGW Comments at 1-2 and Exhibit A.

¹⁵ Fisher, Sheehan & Colton, *The Home Energy Affordability Gap 2018: Pennsylvania*, at 1 (Apr. 2019), available at http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html.

¹⁶ US Dep't of Health & Human Services, *2019 U.S. Federal Poverty Guidelines*, available at <https://aspe.hhs.gov/2019-poverty-guidelines>.

The Philadelphia Gas Works (PGW) asserts that, for this group of customers, “the logic underpinning a fixed percentage of income utility bill will fail” because these customers experience “a myriad of problems” that cannot be resolved through utility assistance alone.¹⁷ PGW asserts that addressing the needs of customers at 0%-25% FPL “requires an integrated approach that is not wholly reliant on a fixed percentage of income program”, and that the role of a regulated utility in addressing the needs of these lowest income customers could be as a partner with the Commonwealth and other parties.”¹⁸ It further states that “regulated utility ratepayers should not be required to subsidize unlimited free, or near-free, utility service.”¹⁹ The Energy Association of Pennsylvania (EAP) shared similar concerns, focusing particularly on the amount of subsidy that would be required to provide a percentage of income based bill for households at or near zero income each month.²⁰ PGW attached to its comments a report by H. Gil Peach that outlines its position more fully.²¹ The crux of Dr. Peach’s argument is as follows:

In the income range from zero percent (0%) of poverty to approximately 20% to 25% of the Federal Poverty Level, households suffer extreme poverty. Somewhere around the 20% level, the effectiveness of all pricing systems breaks down since it is not the household that has failed but the higher-level systems of job structure, income allocation to all households, employment and social insurance that have failed. This is a region of special circumstances and would require a special approach.²²

The Low Income Advocates agree with PGW, in part. Specifically, we agree that there are higher level system failures that make it extraordinarily difficult for extremely poor households to regularly pay home energy bills or remain economically stable. In fact, these systemic failures which cause and perpetuate poverty are precisely why the Low Income Advocates argue for a

¹⁷ PGW Comments at 1-2.

¹⁸ Id. at 2.

¹⁹ Id.

²⁰ See EAP Comments at 6.

²¹ PGW Comments at Exhibit A, H. Gil Peach & Associates LLC Floor Effects Technical Note.

²² PGW Comments at Exhibit A, 6 (internal footnote omitted).

change in universal service funding to include all rate classes of customers. As outlined in our initial comments, and more fully below, it is folly to argue that residential ratepayers cause poverty or energy insecurity and consequently should be the only ones who pay for it.

There are broad societal reasons why low income households cannot afford energy, and there should be broad societal support for CAP and other universal service programs that reduce energy burdens and help households to access basic utility services. Thus, we also support PGW's conclusion that bill payment assistance alone will not fix all of the problems that households surviving in deep poverty face. We would support efforts by PGW, or any other utility, proposing targeted pilot programs that provide a combination of bill payment assistance and wrap around services - with support from and in coordination with community based organizations as well as state and local government. However, we do not agree with PGW that it would be futile to provide these families with bill payment assistance in the absence of this more robust support. To be sure, while bill payment assistance, standing alone, is insufficient to remedy all of the financial deficits of very low income households, it is a critical piece of the puzzle. It is also the only thing that either the Commission or the utilities can control.

In the same vein, support for current CAP minimum bill provisions is misplaced.²³ It is clear from the data presented by the Commission's study that minimum bills exacerbate energy insecurity for the lowest income customers. Currently, minimum bills are set at arbitrary amounts, and are not based on what the household could reasonably afford to pay. A minimum bill amount is not rationally justified as a universal service rate unless it represents a basic threshold cost that

²³ See EAP Comments at 6; see also Columbia Comments at 4, n.5; Duquesne Comments at 4. Duquesne does not argue directly for a minimum bill, but does argue that maximum CAP credits should remain intact. These two concepts have a perverse relationship which exacerbates the payment troubles of the poorest households in our communities. In practice, when a household receives a minimum bill, they are much more likely to exceed their maximum CAP credits before the end of the program year.

could or should be equitably recovered from customers with profound inability to pay. Absent a determination that minimum bills are, in fact, affordable, or at the very least are directly justified as representing a bare minimum payment that can be required of a low-income customer, minimum bill payments simply fail to ensure affordable utility service contrary to the Choice Acts and sound public policy.

C. LIHEAP Integration Must be Consistent with Laws and Policies

The Low Income Advocates recognize the important role of LIHEAP in reducing energy insecurity for low income households across the state, and continue to assert (as explained above) that it is critical for Pennsylvania's utilities to play a direct role in educating consumers about the availability of LIHEAP and both encouraging eligible customers to apply and actively assisting with enrollment. That said LIHEAP is not a silver bullet that will solve the energy affordability crisis faced by low income households across the state. Both individual barriers and practical realities inherent with the design and implementation of Pennsylvania's LIHEAP and CAP make it difficult to align the two programs without substantial reforms to LIHEAP and CAP. The patchwork of Pennsylvania's CAP designs does not make this an easy task. As currently structured, integrating CAP and LIHEAP in Pennsylvania would require a change in federal law.

Several stakeholders suggested various ways that LIHEAP has been (or could be) integrated into CAP. First, Mr. Roger Colton, expert for the OCA, explains that LIHEAP may cover several months for some CAP customers, and argues that low income customers may have "fallen out of the habit" of making payments.²⁴ He suggests it is likely that bills which are otherwise "affordable" through CAP go unpaid, and concludes that the Commission should

²⁴ OCA Comments at Appendix A, 43-49.

determine “once and for all” whether receipt of a LIHEAP grant will “improve or impede annual bill affordability.”²⁵ Mr. Colton then points to Ohio, where testimony in a litigated proceeding there suggested that Ohio’s PIPP customers were incentivized to default on their bill to receive a LIHEAP Crisis grant.²⁶ He argues that the Commission should study the issue in Pennsylvania to determine whether the same problem exists here.

Importantly, Mr. Colton did not provide any empirical data or analysis of whether receipt of a LIHEAP grant improves or impedes CAP customer payment behavior. The Low Income Advocates take issue with the premise that LIHEAP receipt incentivizes CAP customer nonpayment, primarily for the reason that receipt of LIHEAP by a CAP customer cannot be viewed as an isolated factor affecting payment. Indeed, the subject of this proceeding is whether, and how much, to reduce Pennsylvania’s energy burdens for low income customers. Currently, Pennsylvania energy burden standards require low-income customers to pay as much as two months’ gross annual income for electricity and heat alone, and have contributed to an ongoing affordability crisis. Under the existing, extraordinarily high energy burdens, Pennsylvania electric and heat bills place bill payment demands on low income CAP customers that are far in excess of what those customers can afford to pay in any month. In reality, low income households experience payment troubles before and after receipt of LIHEAP because they do not have the ability to pay for service which is beyond their financial means – especially towards the end of winter when monthly bills (even for CAP participants) are often much higher than average.

Ultimately, it appears as though Mr. Colton’s issue is not with the Commission’s administration and oversight of CAP, but with DHS’ administration and oversight of LIHEAP.

²⁵ OCA Comments at Appendix A, 47.

²⁶ OCA Comments at Appendix A, 47-48.

The Low Income Advocates support strong coordination between the two programs, but unless and until Federal law authorizes new policies for the administration of LIHEAP, the Commission should refrain from creating CAP designs which conflict with DHS policy.

PGW also offers several observations about LIHEAP integration. While PGW acknowledges that grant pooling is not allowed, it nevertheless asserts that the Commission “may determine that to the extent that an individual is subsidized by non-CRP customers, the grant could be used to pay for such customer’s bill subsidization (with any excess applied against future bills).”²⁷ Columbia takes a similar position – arguing that all CAP designs “should recognize the potential of a LIHEAP grant and consider that grant amount as part of a customer’s required payment.”²⁸ Both PGW and Columbia’s arguments are legally unsound, and inconsistent with established DHS policy. DHS has consistently taken the position that utilities cannot apply a LIHEAP grant to pay for the cost of CAP – either directly or indirectly.²⁹ Again, the Commission should not create CAP designs which would subvert DHS policy.

PGW and Columbia both note that they sometimes have to send unspent LIHEAP grants back to DHS – implying that these are otherwise wasted dollars that should be used to cover the cost of CAP.³⁰ Columbia notes that, last year, it returned \$102,328.56 for 396 CAP customers “who did not utilize their entire 2016-2017 LIHEAP benefit.”³¹ It is important to remember, however, that these are not wasted dollars. These are program dollars that DHS reinvests into

²⁷ PGW Comments at 8.

²⁸ Columbia Comments at 7.

²⁹ National Fuel Gas Distribution Corp. Universal Service and Energy Conservation Plan for 2017-2020, Letter from Acting DHS Secretary Teresa D. Miller, Docket No. M-2016-2573847 (filed Dec. 8, 2017); Pa. PUC v. Columbia Gas of Pa., Inc., Answer/Response to Application of PCOC et al. for Issuance of Subpoena Addressed to Gary D. Alexander, Secretary, Commonwealth of Pennsylvania Dep’t of Public Welfare or His Designee, Docket No. R-2010-2215623 (filed June 3, 2011).

³⁰ PGW Comments at 19; Columbia Comments at 7-8.

³¹ Columbia Comments at 8.

future LIHEAP expenditures for the benefit of Pennsylvania households that *need more energy assistance*. These dollars help pay for supplemental grants in the summer and fall, and are made available to other potential LIHEAP recipients, including deliverable fuel customers and unregulated electric cooperatives. Public utilities should not be allowed to absorb unspent LIHEAP dollars to pay for the costs of CAP.

It bears noting that the only reason that any of these suggestions are even possible is because DHS makes payments directly to qualified utility vendors, at the customer's direction. This is the exception to the general rule that LIHEAP payments should go to the household directly. When states choose to utilize vendor payments, they must make certain assurances that they comply with the LIHEAP statute. The LIHEAP statute provides, in part, that "no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements."³² Likewise, the LIHEAP statute states that "home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under this title shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or State law."³³ The Low Income Advocates submit that use of LIHEAP funds in the manner suggested by PGW and Columbia would violate these provisions, and could put the vendor status of public utilities at risk of revocation.³⁴

³² 42 U.S.C. § 8624(b)(7)(C).

³³ 42 U.S.C. § 8624(f).

³⁴ Nat'l Fuel Gas Dist. Corp. Universal Service and Energy Conservation Plan for 2017-2020, Letter from Acting DHS Secretary Teresa D. Miller, Docket No. M-2016-2573847 (filed Dec. 8, 2017); Pa. PUC v. Columbia Gas of Pa., Inc., Answer/Response to Application of PCOC et al. for Issuance of Subpoena Addressed to Gary D. Alexander, Secretary, Commonwealth of Pennsylvania Dep't of Public Welfare or His Designee, Docket No. R-2010-2215623 (filed June 3, 2011).

The Low Income Advocates stress that we are supportive of efforts to ensure access to LIHEAP and CAP, and we are ready and willing to work with the Commission, DHS, and all stakeholders in that effort. We are actively engaged in and strongly support efforts for DHS to share information with the utilities to facilitate dual enrollment in the programs. Also, as explained in detail in our Universal Service Review comments, the Low Income Advocates support a consolidated, statewide administration of CAP, which would allow there to be a ‘one-size-fits-all’ approach to assisting customers with accessing CAP and LIHEAP. But, as is, the current patchwork of programming across the state does not allow this sort of integration without running afoul of important DHS policies and federal statutes. Potential changes to LIHEAP in the future do not justify delaying action by the Commission to reduce household energy burdens now. Indeed, the threshold energy burden for CAP should be reduced regardless of whether access to LIHEAP could be adjusted to align with CAP administration. The need for relief to address Pennsylvania’s energy affordability crisis is immediate.

D. Cross-Class Universal Service Program Funding is Consistent with the Law

Several parties, including the Pennsylvania State University (PSU), Columbia, and PPL, argue against cross-class recovery of universal service program costs, based on the assertion that residential customers are the only customers who can benefit from the programs and, thus, are the only group which should pay.³⁵ PSU, in particular, cites to Lloyd v. Pennsylvania Public Utility Commission and to section 1304 of the Public Utility Code, arguing that imposing universal service costs on non-residential customers “is discriminatory ratemaking” and violates cost-causation principles.³⁶

³⁵ PSU Comments at 4-8; Columbia Comments at 9; PPL Comments at 11-12.

³⁶ PSU Comments at 1-2.

These parties' analysis of Pennsylvania law and policy is incorrect, and fails to recognize three critical points. First, all customers – including businesses – benefit when low income households have access to stable and affordable utility services.³⁷ Lack of utility stability can lead to homelessness, negative health outcomes, family separation, abandoned properties, and unsafe communities.³⁸ The benefits of utility service affordability are, by definition, “public purpose” benefits. As such, the cost of programs to achieve these public purposes must be recoverable from all rate classes.³⁹ Contrary to PSU's view, the Commonwealth Court's holding in Lloyd specifically recognized that “public purpose programming” which provides “demonstrable benefits to ratepayers” may be recovered from all rate classes.⁴⁰ In fact, the Commonwealth Court again refined the precedent set by Lloyd in a subsequent appeal, Met-Ed Industrial Users Group v. Pennsylvania Public Utility Commission, holding:

[U]nder Lloyd, there is no statutory requirement that the funding for special programs come only from those who benefit from the programs. However, the lack of such a requirement does not mean that funding for special programs must come from those who do benefit.”⁴¹

In other words, as we have previously explained, the Commission has the authority to allocate universal service program costs across customer classes.⁴² These two precedents are explained in greater depth in the Low Income Advocates' Joint Comments submitted in the context of the Commission's broader Universal Service proceeding and, for the sake of brevity, we will not

³⁷ Low Income Advocates' Comments at 17-20; Joint Universal Service Review Comments at 54-57.

³⁸ Id.

³⁹ See 66 Pa. C.S. § 2802(17) (“There are certain public purpose costs, including programs for low-income assistance, energy conservation and others, which have been implemented and supported by public utilities' bundled rates. The public purpose is to be promoted by continuing universal service and energy conservation policies, protections and services, and full recovery of such costs is to be permitted through a non-bypassable rate mechanism.”); see also Lloyd v. Pa. PUC, 904 A.2d 1010 (Pa. Commw. Ct. 2006).

⁴⁰ See Joint Universal Service Review Comments at 51-52; see also Lloyd v. Pa. PUC, 904 A.2d 1010 (Pa. Commw. Ct. 2006).

⁴¹ Met-Ed Indus. Users Group v. Pa. PUC, 960 A.2d 189, at 201 (Pa. Commw. Ct. 2007).

⁴² See Joint Universal Service Review Comments at 51-59.

reiterate those arguments but, instead, will incorporate that more robust analysis by reference herein.⁴³

Second, residential customers do not cause poverty, and therefore are not cost causers as PSU asserts. While it is true that commercial and industrial customers cannot *participate* in low income programs, neither can many residential customers who are not income-eligible. Participation in a low income program is not a privilege to be revered – it is an unfortunate reality that many of our neighbors and members of our community face. The true need for these low income programs is caused by poverty and income inequality, which result from myriad social and economic forces which cannot be attributed solely to the residential rate class. Cost recovery of these program costs should reflect that reality and, accordingly, should be equitably distributed across customer classes.

Finally, both the Electric and Natural Gas Competition Acts *require* the Commission to recover the costs of universal service programming through a nonbypassable rider.⁴⁴ For too many years, commercial and industrial customers have bypassed universal service costs, based on the Commission’s policy determination that imposing costs on business would cause businesses to flee the state.⁴⁵ But there is simply no evidence that the cost of supporting low income programming will drive business out of Pennsylvania. Now is the time to change this unsupported policy, and impose a nonbypassable rider on all customer classes consistent with the mandates of the Choice Acts.

⁴³ *Id.* at 51-54.

⁴⁴ 66 Pa. C.S. §§ 2802(17); 2203(6).

⁴⁵ Pa. PUC, BCS, Investigation of Uncollectible Balances, Final Report to the Pennsylvania Public Utility Commission, Docket No. I-900002, at 157-158 (Feb. 1992).

The Low Income Advocates submit that the Commission has full legal authority – and the support of sound public policy – to move forward with permitting cross-class recovery of universal service program costs, and should instruct utilities to explore broader cost recovery in their next base rate proceeding. The extent to which each class is responsible for universal service costs could then be determined in the context of setting rates – with the benefit of a full record that is specific to a given service territory.

E. Prepaid Service is Irrelevant to Determining an Affordable Energy Burden

Duquesne Light suggests in comments that “traditional utility billing methods” should be scrutinized, noting its interest in PECO’s implementation of a pre-pay pilot program. Importantly, PECO’s potential pre-pay pilot will not allow low income households to participate.⁴⁶

The Low Income Advocates assert that it is wholly inappropriate to consider prepayment programs in the context of addressing affordability concerns for low income customers. The time and manner of utility bill payment does not contribute to and in fact can exacerbate unaffordability.⁴⁷ Potential pre-pay programs are irrelevant to the establishment of appropriate energy burdens.

⁴⁶ Duquesne Light Comments at 8; see also Joint Motion of Chairman Gladys Brown Dutrieuille and Vice Chairman David W. Sweet, PECO Energy Company Pilot Plan for an Advance Payments Program and Petition for Temporary Waiver of Portions of the Commission’s Regulations with respect to the Plan, PUC Docket No. P-2016-2573023 (April 25, 2019).

⁴⁷ To the contrary, the data shows that prepaid service most often exacerbates economic hardship, and is uniquely harmful to low and moderate income households – who face higher overall costs and more frequent terminations. See Joint Reply Exceptions of CAUSE-PA and TURN et al, PECO Energy Co. Pilot Plan for an Advance Payments Program and Petition for Temporary Waiver of Portions of the Commission’s Regulations with respect to the Plan, PUC Docket No. P-2016-2573023 at 7-9, 20 (March 15, 2018); Main Brief of CAUSE-PA, PECO Energy Co. Pilot Plan for an Advance Payments Program and Petition for Temporary Waiver of Portions of the Commission’s Regulations with respect to the Plan, PUC Docket No. P-2016-2573023 at 22-26 (Oct. 17, 2017); Main Brief on Behalf of TURN *et al.*, PECO Energy Company Pilot Plan for an Advance Payments Program and Petition for Temporary Waiver of Portions of the Commission’s Regulations with respect to the Plan, PUC Docket No. P-2016-2573023 at 26-31 (Oct. 17, 2017).

F. Other State Programs Demonstrate that Pennsylvania’s Energy Burden is Unreasonably High

A number of stakeholders argued that programs in other states are not directly comparable to Pennsylvania, and caution against considering certain aspects of those programs without examining the programs as a whole.⁴⁸ In particular, Mr. Colton notes that factors which must be included in an inter-state comparative analysis include “program type, heating payment burden, non-heating payment burden, any use of tiered income, LIHEAP calculation, limitations on annual benefits, limitations on total program costs, limitations on costs per ratepayer, and who pays the costs of the programs.”⁴⁹ Both Mr. Colton and Dr. Peach submitted charts, which outline key programmatic differences in various states, including Maine, New Hampshire, New Jersey, Ohio, Illinois, Colorado, Nevada, Oregon, and New Jersey.⁵⁰ The Low Income Advocates agree that other states’ programs are each uniquely tailored to meet the needs and priorities of that state, and do not provide a *definitive* model for Pennsylvania.

That said, the Low Income Advocates believe it is striking that Pennsylvania has a significantly higher energy burden than the targeted energy burden established in other states.⁵¹ Moreover, the states which have more recently adopted a targeted energy burden have sought to reach a maximum 6% combined energy burden target.⁵² These states include New York, New Hampshire, New Jersey, Illinois, Oregon, and Colorado.⁵³ Nevada has a significantly lower 2% target energy burden but, as Dr. Peach notes, “in practice, the result is about 5%-6%, depending

⁴⁸ See, e.g., PGW Comments at 12-15; OCA Comments at 9-11; EAP Comments at 18-22; Low Income Advocates’ Comments at 36-38.

⁴⁹ OCA Comments at 9.

⁵⁰ PGW Comments at Exhibit B; OCA Comments at Appendix A, 92.

⁵¹ Id.

⁵² See OCA Comments at Appendix A, 92.

⁵³ See id.

on subgroup.”⁵⁴ The approach that each state has adopted and implemented to reach the targeted 6% energy burden varies, but each of these states has come to the sound policy conclusion that low income households should not be asked to pay more than 6% of their income on energy costs alone.⁵⁵ Pennsylvania must now determine its approach to lowering the energy burden for its CAP customers. Pennsylvania’s low income customers should not continue to shoulder an energy burden nearly three times that of customers in neighboring states. Indeed, while the cost of living varies geographically across the state and the nation, the unfortunate reality for many households living below 150% federal poverty level (FPL) is that they struggle to afford basic life necessities.⁵⁶ As we have previously submitted, “There is inherent logic in New York’s calculation of an affordable energy burden, targeting energy affordability *as a component percentage of overall shelter costs*.”⁵⁷ Use of a 6% energy burden places households at this level of poverty on even footing with those at higher levels of income, including those with income just over the threshold for CAP eligibility.⁵⁸ As such, and for the reasons more fully explained in our initial comments as well as the Low Income Advocates’ Joint Universal Service Comments, the Low Income Advocates continue to assert that low income households should not be asked to pay more than 6% of their income on energy costs alone.⁵⁹

⁵⁴ PGW Comments at Exhibit B.

⁵⁵ See OCA Comments at Appendix A, 92.

⁵⁶ See Self Sufficiency Standard, 2018 Self-Sufficiency Standard Tables (Pennsylvania), <http://www.selfsufficiencystandard.org/Pennsylvania>. The Self-Sufficiency Standard measures the amount of income necessary to meet six basic expenses (housing, child care, food, health care, transportation, and taxes) in each county of Pennsylvania without public assistance or subsidies. The Standard is calculated for various family sizes and age ranges.

⁵⁷ See Low Income Advocates’ Joint Comments at 24-25.

⁵⁸ Fisher, Sheehan & Colton, *The Home Energy Affordability Gap 2018: Pennsylvania*, at 1 (Apr. 2019), available at http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html (finding that those with income between 150-185% FPL pay between 6-7% of their income on energy costs.”).

⁵⁹ See Joint Universal Service Comments at 24-25.

III. CONCLUSION

The Low Income Advocates appreciate the opportunity to provide reply comments to the Commission on energy affordability for low income customers in Pennsylvania, and stand ready to fully engage in the next steps of this proceeding. We urge the Commission to take immediate action to lower the energy burden for low income CAP customers as outlined in our initial and these reply comments. We also strongly encourage the Commission to take the further necessary steps, described more fully in the Low Income Advocates Universal Service Review Comments and Reply Comments, at Docket No. M-2017-2596907, to ensure that universal service programs are well designed, appropriately funded, and available to all low income Pennsylvanians.

Respectfully submitted,

Community Legal Services
On Behalf of TURN and Action Alliance



Joline R. Price, Esq., PA ID 315405
Josie B.H. Pickens, Esq., PA ID 309422
Robert W. Ballenger, Esq., PA ID 93434
1424 Chestnut Street
Philadelphia, PA 19102-2505
215-981-3700
jprice@clsphila.org
jpickens@clsphila.org
rballenger@clsphila.org

Pennsylvania Utility Law Project
On Behalf of CAUSE-PA



Elizabeth R. Marx, Esq., PA ID 309014
Patrick M. Cicero, Esq., PA ID 89039
John Sweet, Esq., PA ID 320182
118 Locust Street
Harrisburg, PA 17101
717-236-9486
pulp@palegalaid.net

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