

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Electric Distribution Company Default Service  
Plans - Customer Assistance Program Shopping

M-2018-3006578

Proposed Policy Statement Order

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**Comments of the Consumer Advisory Council to  
the Pennsylvania Public Utility Commission**

**I. INTRODUCTION**

These comments are submitted by the Consumer Advisory Council (Council) to the Pennsylvania Public Utility Commission (Commission) in response to the Commission's proposed policy statement published in the Pennsylvania Bulletin of June 15, 2019. That policy statement would establish guidelines for electric distribution companies (EDCs) to prevent low income participants in customer assistance programs (CAPs) who shop for electricity from paying more for that electricity than the EDC default service rate.

The Council is responsible for advising the Commission upon matters relating to the protection of consumer interests affected by the Commission's exercise of its jurisdiction as provided by law, and is encouraged to provide advice and input that will aid the Commission in pursuit of its regulatory duties.<sup>1</sup>

The Council was advised by Commission Staff of the publication of the proposed policy statement on CAP customer shopping by e-mail on July 1, 2019. Upon review of

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<sup>1</sup> See 52 Pa. Code § 91.2. (Purposes of the Council.)

the Commission's proposal, the Council determined to file these Comments because of the impact of the proposal both on the low-income customers who participate in Pennsylvania's CAP programs and on the remainder of Pennsylvania residential customers who bear the costs of the CAP programs through their rates. For the reasons described by the Commission in its proposed policy statement and as set forth more fully below, the Council supports the Commission's proposal and urges that it be implemented by the EDCs across the Commonwealth.

## **II. COMMENTS**

As noted by the Commission in the Background discussion of its proposed policy statement, the present issue requires the Commission to reconcile and balance two important legislative requirements that the General Assembly has established for electric service in Pennsylvania. First, the Public Utility Code requires that EDCs offer universal service programs to ensure the affordability of essential electric service to low income customers. To a great extent, this mandate has been carried out through the implementation of CAP programs that provide qualifying low-income customers with lower monthly payments that are based on the customers' ability to pay. Second, the Public Utility Code provides for competition in the retail electric market so that customers can choose an alternative electric generation supplier (EGS) if they wish to do so. Importantly, the General Assembly did not mandate that customers switch to alternative suppliers, but instead allowed customers to receive "default service" from their EDCs who acquire generation through competitive procurement processes in the wholesale market and then pass the cost of that service on to retail customers with no markup.

As set forth in detail by the Commission, the problem that has been identified in a number of Commission proceedings is that a majority of CAP customers who have switched to alternative EGSs have paid **more** for their electric service than the EDC default service rate. In the case of PPL, the Commission determined that 55 percent of CAP customers who switched to alternative suppliers were paying more than the PPL default rate, known as the “price to compare” (PTC), and that the net financial impact of this practice was \$2,783,872 over a 12-month period. June 15, 2019 Pa. Bulletin at 3083. With respect to this result, the PUC noted:

PPL concluded, and this Commission agreed, that two forms of harm resulted from CAP shopping: (1) those CAP participants paying a rate greater than PPL’s PTC were exceeding their CAP credits at a faster rate, which put those CAP participants at risk of being removed from CAP; and (2) that non-CAP participant ratepayers who subsidize CAP participants were bearing increased costs related to CAP.

Id. Similarly, in a proceeding involving the FirstEnergy Companies, the evidence showed that over a 58-month period from June 2013 through March 2018, nearly 65 percent of CAP participants who switched to alternative EGSs “paid rates higher than FirstEnergy’s applicable PTCs, resulting in a net impact of \$18.3 million in increased costs associated with CAP.” Id. Again, the Commission found that this result harmed low-income CAP participants as well as the remaining non-CAP customers.

The solution proposed by the Commission – with which the Council agrees – is to permit CAP customers to continue to shop for electricity, but only to enter into contracts with alternative suppliers where the price charged is no more than their EDC’s default

service price.<sup>2</sup> While it is true that non-CAP customers are free to purchase higher cost generation service if they choose to do so for whatever reason, those customers must bear the cost of that choice. In the case of CAP customers, however, the cost of higher-priced generation service is borne by all other residential customers. The Council agrees with the Commission that it is unfair to impose this additional unnecessary burden on non-participating residential customers, especially when these higher cost EGS contracts also jeopardize the ability of CAP customers to retain their critical CAP benefits. Under the Commission's proposed policy statement, CAP customers can continue to shop for electric generation service and to remain on CAP, as long as the cost of the competitive service is no greater than their EDC price to compare. What CAP customers cannot do is to purchase higher cost service than what is readily available to them through their EDC default service, and then ask other residential customers – including the many low-income customers who are not on CAP – to pay those additional costs.

One note of caution, however, is that the proposed policy statement will only work if it is implemented thoroughly and carefully by the EDCs. In the final section of the proposed policy statement, Section 69.276(b) on “eligibility”, the Commission states that “A CAP participant that enters into a contract with an EGS that does not fit the requirements set forth in this policy statement shall be disqualified from participation in CAP.” June 15 Pa. Bulletin at 3087. It will be essential for EDCs to have procedures in place to ensure that CAP customers do not inadvertently or unknowingly sign up for an EGS offer that does not comply with the provisions of this policy statement. If a CAP

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<sup>2</sup> The Council also supports the additional protections proposed by the Commission, including provisions prohibiting added EGS fees, such as early termination and late fees, and procedures for contract renewals.

customer is going to lose vital CAP benefits by signing a contract with a non-complying EGS, then that customer must affirmatively consent to such a result after receiving full and complete notice of the consequences of their choice. EDCs must have procedures in place to ensure that such notice is provided and enforced.

### **III. CONCLUSION**

The Council appreciates the opportunity to provide input on the Commission's proposed policy statement and invites the Commission to seek additional information from the Council and its members throughout the continued discussion of the issues in this docket. For the reasons set forth above, the Council strongly supports the Commission's proposed policy statement and urges the Commission and the electric distribution companies to implement the policy in a manner that protects both CAP customers and non-CAP customers who support CAP programs in their rates.

Respectfully submitted,

**Consumer Advisory Council to the Pennsylvania Public Utility Commission**



By: Ralph Douglass, Chairperson,  
Consumer Advisory Council

Dated: 07/23/19