

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

**Petition of Office of Consumer Advocate for
Reconsideration/Clarification of the
November 5, 2019 Final CAP Policy Statement
and Order at Docket No. M-2019-3012599**

**Public Meeting February 6, 2020
3016885-LAW
Docket No. P-2020-3016885**

**2019 Amendments to Policy Statement on
Customer Assistance Program, 52 Pa. Code
§ 69.261-69.267**

Docket No. M-2019-3012599

**JOINT STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR. AND
COMMISSIONER RALPH V. YANORA**

Before the Commission for consideration and disposition on the merits is a Petition for Reconsideration and/or Clarification filed by the Office of Consumer Advocate (OCA) at the above-captioned dockets.

By Order entered on November 5, 2019 (November 5 Order), the Commission introduced and approved a final Revised CAP Policy Statement. The Revised CAP Policy Statement sets forth new guidelines for customer assistance programs (CAPs), including reduced maximum energy burdens. The November 5 Order directed the named utilities to make a compliance filing in response to the new guidelines.

The OCA requests that the Commission reconsider and/or clarify two elements of the November 5 Order.¹ First, the OCA questions if the Commission considered the impact of the new recommended energy burdens for customers at or below 50% of the Federal Poverty Level (FPL) on Low Income Home Energy Assistance Program (LIHEAP) grants. The OCA requests that the Commission require the utilities to analyze this issue and present their findings as part of their compliance filings. In addition to receiving discounted bills from ratepayer funded CAPs, Pennsylvania's low-income customers may also apply for federally funded LIHEAP grants to lower their energy burden. Since the Commission's November 5 Order recommends the use of additional ratepayer funds to further reduce CAP bills, customers at or below 50% of the FPL may not be billed amounts high enough to use the full amount of their LIHEAP grants. This would then require utilities to return excess LIHEAP funds to the Department of Human Services, which the OCA correctly identifies as "an inefficient use of scarce resources."

¹ Petitions for reconsideration and clarification are reviewed pursuant to 66 Pa. C.S. § 703(g), 52 Pa. Code § 5.572, and Duick v. Pa. Gas and Water Co., 56 Pa. P.U.C. 553 (1985) (Duick). As set forth in Duick, petitions for reconsideration and clarification should raise "new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the commission."

We find that the OCA has not met the Duick standard on this issue. As noted throughout the November 5 Order, the parties raised, and the Commission considered, the impact of LIHEAP on CAP customer bills. While the analysis requested by the OCA does not appear in the November 5 Order, the Duick standard does not require the Commission to explicitly discuss every issue raised in a proceeding.

However, if the final Revised CAP Policy Statement had been issued for comment, this specific interaction between LIHEAP and the recommended energy burdens for the lowest income households could have been raised and addressed more directly in the November 5 Order. We agree with the OCA that this issue is worthy of further consideration and more specific findings. We encourage the utilities to address this issue in their universal service and energy conservation plan (USECP) proceedings, if they choose to amend their existing or proposed USECPs to reflect the new recommended maximum energy burdens.

Second, the OCA requests clarification that the compliance filings are to include cost information for the revised CAPs.

The OCA has met the Duick standard on this issue to warrant reconsideration. The November 5 Order “strongly urge[d]” the utilities to revise their CAPs by or before January 1, 2021, but did not require the utilities to provide cost estimates for implementing the new guidelines. The Commission must ensure that universal service programs are operated in a cost-effective manner.² The Commission failed to address how reviewing plan amendments without cost information fulfills this statutory obligation. The new CAP guidelines will impact both the size and cost of CAPs in ways which have not been sufficiently quantified. These impacts will vary amongst the utilities. Without utility-provided cost information, the Commission cannot conclude that a revised CAP balances the interests of the residential customers who benefit from the program and the residential customers who pay for the program. We share OCA’s particular concern for those households with low or moderate incomes who do not participate in CAPs or whose incomes place them just beyond the eligibility requirements for CAPs.

We note that the November 5 Order did not ask the utilities to provide any cost information with respect to changes to their CAPs. In a separate Order entered on October 3, 2019 (October 3 Order), the Commission approved a pilot filing schedule for USECPs. The October 3 Order directed the named utilities to provide enrollment and budgetary projections based on any additional years added to their current USECPs and pending proposed USECPs (if applicable). While the November 5 Order and October 3 Order required their compliance filings to be made together³, the budgetary projections applied only to the additional years added to a current or pending proposed USECP.

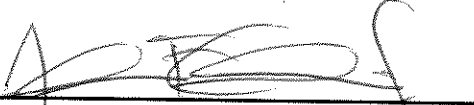
Based on the foregoing, if the Commission wants to now direct that the compliance filings are to include enrollment and budget projections for any new CAP provisions the utilities propose to implement, the Commission should modify its November 5 Order and also grant the

² 66 Pa. C.S. §§ 2203(8) and 2804(9).


³ The direction to make a combined filing was nullified by the Commission’s November 25, 2019 Order at M-2019-3012599. Pursuant to that Order, the November 5 Order was stayed; the compliance filing under the October 3 Order was not stayed.

OCA's Petition on the issue of cost information. As we believe this cost information is necessary for the review of amended USECPs, we would grant the OCA's Petition in this regard.

Accordingly, we would grant, in part, and deny, in part, the OCA's Petition for Reconsideration and/or Clarification.



JOHN F. COLEMAN, JR.
COMMISSIONER



RALPH V. YANORA
COMMISSIONER

Date: February 6, 2020