**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

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|  | Public Meeting held March 12, 2020 |
| Commissioners Present:  Gladys Brown Dutrieuille, Chairman  David W. Sweet, Vice Chairman  Andrew G. Place  John F. Coleman, Jr.  Ralph Yanora | |

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| Staff Review of Customer Assistance Program (CAP) Final Billing Methods | M-2019-3010190 |

**ORDER**

**BY THE COMMISSION:**

On July 17, 2019, the Pennsylvania Public Utility Commission (Commission) issued a Secretarial Letter seeking input from energy utilities and other stakeholders regarding the final billing procedures for customers enrolled in electric or natural gas public utility Customer Assistance Programs (CAPs). Electric distribution companies (EDCs) and natural gas distribution companies (NGDCs) individually filed supplemental information in response to the Secretarial Letter. Comments and reply comments were filed.

The July 17 Secretarial Letter also tasked Commission staff in the Bureau of Consumer Services (BCS) and the Law Bureau with preparation of a recommendation for Commission review. This Order details how the energy utilities are calculating final CAP bills, summarizes stakeholder input on the issues, and calls attention to existing statutory and regulatory provisions relating to billing.

One goal of the inquiry at this docket was to determine whether the Commission should establish a standardized CAP final billing policy for jurisdictional energy utilities. Having commenced a universal service rulemaking that includes CAP provisions and based on our review of the energy utility practices and stakeholder comments, we have chosen not to establish a standardized CAP final billing policy at this time. To the extent that further adjudicative or regulatory action may be required, we shall address such matter in utility-specific proceedings or in *Universal Service Rulemaking*, Docket No. L‑2019‑3012600 or other proceedings. Utilities that wish to address any concerns or propose any changes relative to their specific final bill practices may do so at their respective universal service and energy conservation plan (USECP) dockets.

1. **BACKGROUND**

Section 1303 of the Public Utility Code requires utilities to compute bills under the rate most advantageous to the customers. 66 Pa. C.S. § 1303.[[1]](#footnote-2) Section 56.11(a) of the Commission regulations generally requires that utility bills be rendered monthly for energy service. 52 Pa. Code § 56.11(a). Section 56.2 of Commission regulations provides that a person potentially retains the status of “customer” for 30 days after service termination or discontinuance. 52 Pa. Code § 56.2 (definition of customer).

The Commission’s CAP Policy Statement at 52 Pa. Code §§ 69.261–69.267 provides guidance on affordable payments and arrearages and establishes a process for utilities to work with the Commission’s Bureau of Consumer Services (BCS) to develop CAPs to assist low-income customers.[[2]](#footnote-3) While the CAP Policy Statement provides guidance on CAP design, including recommended maximum payment calculations (*i.e.*, energy burden), it does not specifically address how utilities should calculate final bills for CAP customers.

Universal service programs are subject to review and approval by the Commission, which must ensure that the utilities run the programs in a cost-effective manner and that services are appropriately funded and available in each utility distribution territory. 66 Pa. C.S. § 2804(9) for electric and § 2203(8) for natural gas. A utility’s costs of universal service programs are generally recovered from its residential customer class.[[3]](#footnote-4)

In May 2017, the Commission began a comprehensive review of energy affordability and the policies, practices, and procedures of Pennsylvania’s universal service programs at *Energy Affordability for Low-Income Customers*, Docket No. M‑2018-2587711, and *Review of Universal Service and Energy Conservation Programs*, Docket No. M‑2017‑2596907, respectively referred to as the *Energy Affordability* proceeding and the *Review* proceeding. Based upon those proceedings, the Commission has approved 17 amendments to the CAP Policy Statement in *2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code §§ 69.261–69.267*, Docket No. M‑2019‑3012599 (order entered on November 5, 2019) (November 5 Order).[[4]](#footnote-5) However, the 2019 amendments to the CAP Policy Statement do not address final billing of CAP customers.

Having amended the CAP Policy Statement, the Commission has commenced a universal service rulemaking at Docket No. L‑2019‑3012600, with one intent being the establishment of CAP regulations.[[5]](#footnote-6) If issues regarding CAP final bills remain unresolved after entry of this Order, we may address those issues in utility-specific proceedings or in the universal service rulemaking.

1. **HISTORY**

The Commission noted inconsistencies in how energy utilities calculate final CAP bills and directed the initiation of a review of energy utility CAP final billing practices.[[6]](#footnote-7) In particular, the Commission observed that some energy utilities bill for usage incurred during a final CAP billing period based on residential tariff rates; some energy utilities prorate a customer’s CAP payment; and some energy utilities charge the lesser of the customer’s CAP payment or the partial-month residential tariff billing. FirstEnergy Order at 32‑33.

The FirstEnergy Order directed BCS, with the assistance of the Commission’s Law Bureau, to commence an inquiry into the final billing method used by utilities for CAP customers with the goal of determining whether the Commission should establish a standardized CAP final billing policy for jurisdictional energy utilities. FirstEnergy Order at 61-62, OP #12. On July 17, 2019, the Commission issued a Secretarial Letter[[7]](#footnote-8) commencing this CAP final billing proceeding.

The July 17 Secretarial Letter sought input from the energy utilities and other stakeholders regarding whether a policy or a regulation should be established to address final billing of CAP customers. July 17 Secretarial Letter at 2. The July 17 Secretarial Letter directed each EDC and NGDC to provide the following information:

1. Its billing calculation process by which a CAP customer is final billed;
2. How it bills any remaining pre-program arrearages (PPAs);
3. How it applies any budget bill true-up, PPA forgiveness, or credit amounts to a final bill;
4. What impact, if any, its current CAP final billing policy had on CAP costs and write-offs in 2017 and 2018; and
5. The potential CAP costs, system-related expenses, write-offs, and other impacts of adopting each of the noted final bill options as well as the same information for any alternative final billing processes the utility may propose.

July 17 Secretarial Letter at 2.[[8]](#footnote-9)

In response to the July 17 Secretarial Letter, the following energy utilities individually filed supplemental information:

**EDCs:** Duquesne Light Co. (Duquesne), FirstEnergy,[[9]](#footnote-10) PECO Energy Co. (PECO),[[10]](#footnote-11) PPL Electric Utilities Corp. (PPL), and Pike County Light & Power (PCLP).[[11]](#footnote-12)

**NGDCs:** Columbia Gas of Pennsylvania (Columbia), National Fuel Gas Distribution Corp. (NFG), Peoples Natural Gas Co. (Peoples), Philadelphia Gas Works (PGW), and UGI Utilities Inc. (UGI).

The OCA and the Low Income Advocates[[12]](#footnote-13) individually filed comments. Duquesne, FirstEnergy, PECO, PPL, and UGI individually filed reply comments.

1. **RESPONSES TO JULY 17 SECRETARIAL LETTER**

*Supplemental Information*

Below is a summary of the information provided by the EDCs and NGDCs in response to the July 17 Secretarial Letter:

1. ***Its billing calculation process by which a CAP customer is final billed:***
2. Duquesne calculates both residential tariff rate charges and a prorated CAP bill based on the number of days of the bill. CAP customers are then final billed based on the lesser of the residential tariff rate charges or the prorated CAP final bill. Duquesne Supplemental Info at 2.
3. FirstEnergy provides CAP customers with a final bill that includes all residential tariff rate charges minus their full (non-prorated) monthly CAP credit. FirstEnergy Supplemental Info at 2-3.
4. PECO and NFG final CAP bills include the customer’s residential tariff rate charges minus CAP credits that are prorated based on the number of days in the billing period. For PECO, if the billing period is less than the normal billing cycle, CAP minimum bill requirements would not be applied. PECO Supplemental Info at 1; NFG Supplemental Info at 2.
5. PPL, PGW, Peoples, and UGI CAP customers are final billed at the residential tariff rate for the billing period. These energy utilities do not apply CAP credits to a CAP customer’s final bill. Additionally, PPL, PGW, and Peoples remove CAP customers from CAP upon termination or discontinuance of service. Specifically, UGI strongly urges billing at the residential tariff rate for the final bill offers an extensive rationale. PPL Supplemental Info at 2; PGW Supplemental Info at 2; Peoples Supplemental Info at 1; UGI Supplemental Info at 2-3.
6. Columbia does not issue final bills to its CAP customers unless the customer’s balance includes remaining PPA, and in that situation, the final bill reflects only the CAP customer’s PPA balance. Columbia Supplemental Info at 3.
7. Peoples issues a final bill reflecting the entire account balance, including the remaining PPA previously frozen and the usage since the last bill billed at the full tariff rate. Peoples Supplemental Info at 1.
8. ***How utilities bill any remaining PPAs:***
9. Duquesne, PECO, PPL, Peoples, PGW, NFG, and UGI include any unforgiven PPA balance in the customer’s final bill amount. NFG and UGI note that PPA balances are listed as a separate line item on the final bill. Duquesne Supplemental Info at 3; PECO Supplemental Info at 1, PPL Supplemental Info at 2; Peoples Supplemental Info at 1; PGW Supplemental Info at 2; NFG Supplemental Info at 2; and UGI Supplemental Info at 4.
10. FirstEnergy lists any PPA balance owed on a CAP customer’s final bill but does not include the PPA balance in the ATP amount of the bill. If the customer reestablishes service with a FirstEnergy utility in the future and remains CAP eligible, the customer may continue to earn forgiveness on the original PPA balance. FirstEnergy Supplemental Info at 3.
11. Columbia Gas only issues a CAP final bill if the customer’s account includes an unforgiven PPA balance. The CAP final bill reflects only the customer’s PPA balance. Columbia Supplemental Info at 3.
12. ***How it applies any budget bill true-up, PPA forgiveness, or credit amounts to a final bill:***
13. Duquesne, FirstEnergy, PECO, and PGW apply any outstanding credits such as pre-payments, over-payments, LIHEAP, and PPA forgiveness to a CAP customer’s final bill amount. Duquesne Supplemental Info at 3; FirstEnergy Supplemental Info at 2-3; PECO Supplemental Info at 2; PGW Supplemental Info at 2.
14. PPL does not apply PPA forgiveness to a CAP customer’s final bill. PPL Supplemental Info at 5.
15. Peoples and Columbia do not apply budget bill true-ups, CAP credits, or PPA credits to final CAP bills. Columbia does not issue a final CAP bill for current usage. Peoples Supplemental Info at 1; Columbia Supplemental Info at 3.
16. Duquesne, PPL, and PGW do not use budget billing in their CAPs. Duquesne Supplemental Info at 3; PPL Supplemental Info at 5; PGW Supplemental Info at 2.
17. FirstEnergy, PECO, NFG, and UGI include any budget billing true-up balance in CAP final bills. FirstEnergy Supplemental Info at 2-3; PECO Supplemental Info at 2; NFG Supplemental Info at 2; UGI Supplemental Info at 4.
18. PCLP offers a maximum forgiveness of $500 for electric and natural gas service or for electric service if the customer’s primary heating is electric. This forgiveness is then applied to the customer’s bill quarterly until either the maximum is reached or the customer pays to a zero (A/R) balance, whichever comes first. PCLP Supplemental Info at 1.
19. ***What impact, if any, its current CAP final billing policy had on CAP costs and write-offs in 2017 and 2018:***
20. Duquesne is in the process of changing to a percent of payment plan (PIPP)[[13]](#footnote-14) and did not provide data for 2017 and 2018 regarding its prior billing method. Duquesne Supplemental Info at 3.
21. FirstEnergy applies a full monthly CAP credit to its CAP final bills, which slightly increases CAP costs but reduces write-offs. For 2017 and 2018, FirstEnergy estimates that 1) if a prorated CAP credit were applied to CAP final bills, CAP costs would decrease compared to the current CAP final billing method while CAP write-offs and ATP amounts for CAP final bills would increase; and 2) if no CAP credits were applied to CAP final bills, CAP costs would reflect a larger decrease than offering either a full monthly CAP credit or prorated CAP credit while CAP write-offs and ATP amounts for CAP final bills would increase. FirstEnergy Supplemental Info at 3, Attachment A.
22. PECO customers remain in CAP for their final bills. CAP costs include any CAP credits applied to the final bill. PPA balances are written-off (100% reserved) when a customer enters CAP. A portion of these balances are then forgiven with each payment a customer makes. Any remaining unforgiven PPAs are placed on a final bill and have no financial impact on write-offs. Any payment greater than the prorated final CAP bill amount would off-set the original PPA write-off. PECO Supplemental Info at 2.
23. PPL, Peoples, and PGW charge CAP customers the residential tariff rate at final billing and do not apply any PPA forgiveness credits. As a result, CAP final bills do not impact the utility’s CAP costs. PPL Supplemental Info at 6; Peoples Supplemental Info at 1; PGW Supplemental Info at 2.
24. Columbia does not provide a CAP final bill unless a customer’s balance includes a PPA amount. The CAP final bill reflects only the customer’s PPA balance. This increases CAP write-offs by the total amount of the customer’s usage and customer charges for the final billing cycle. Columbia Supplemental Info at 3 and 5.
25. NFG’s prorated CAP final bill method results in a marginal increase in CAP costs versus final billing at residential tariff rates. NFG estimates its prorated CAP final bill method increased CAP costs by approximately $12,000 in 2017 and $17,000 in 2018 versus final billing at tariff rates. NFG Supplemental Info at 3.
26. UGI reviewed 787 accounts that voluntarily left CAP. It found that 201 accounts would have paid less if billed their CAP amount versus the residential tariff rate for their final bills, with an average shortfall credit of $64.04, while 586 accounts would have paid more if billed their CAP amount versus the residential tariff rate for their final billing period, with an average shortfall debit of $47.39. UGI Supplemental Info at 56.
27. PCLP’s “current Customer Assistance Program final billing policy does not impact [its] CAP costs, system-related expenses, or write-offs due to the nature and guidelines of the program.” PCLP Supplemental Info at 1.
28. ***The potential CAP costs, system-related expenses, write-offs, and other impacts of adopting each of the final bill options – (1) the CAP bill, prorated; (2) the residential tariff rate; or (3) the lessor of the CAP bill or residential tariff rate – as well as the same information for any alternative final billing processes the utility may propose:***
29. Duquesne did not provide cost estimates for the final billing options as it is redesigning its CAP billing system to enable implementation of a PIPP. Supplemental Info at 3.
30. FirstEnergy provided the following estimates:
    * + If CAP final bills were calculated without CAP credits, FirstEnergy reports that its ATP amounts and write-off amounts would have increased across all FirstEnergy utilities in 2018.
      + Applying a prorated CAP credit to its CAP final bills would decrease CAP costs versus its current CAP final billing method of offering a full monthly CAP credit, while CAP write-offs and ATP amounts for CAP final bills would have increased. Applying no CAP credits to CAP final bills would cause a greater decrease in CAP costs and a greater increase in CAP write-offs and ATP amounts for CAP final bills than a prorated CAP credit.

FirstEnergy Supplemental Info at 3, Attachment A.

1. PECO reported that its CAP customers remain in CAP through the final bill process and that no changes are needed to its billing system or CAP final bill process. PECO Supplemental Info at 2.
2. PPL provided the following estimates:
   * + If CAP final bills were calculated using a prorated CAP payment amount, 2018 CAP costs would have increased by an estimated $272,082, and 2018 write-offs would have been reduced by an estimated $104,195.
     + If CAP final bills were calculated using a prorated residential tariff rate, there would be no additional cost incurred as this is the method currently used by PPL.
     + If CAP final bills were calculated at the lesser of a prorated CAP payment or prorated residential tariff rate, 2018 final bills would have increased by an estimated $286,097, and 2018 write-offs would have been reduced by an estimated $146,519. PPL notes that this scenario would cost an additional $400,000 in system-related expenses.

PPL Supplemental Info at 7-8.

1. Columbia provided the following cost estimates:
   * + If CAP final bills were calculated using the monthly CAP payment amount, 2018 CAP write-offs would have increased by $23,184.
     + If CAP final bills were calculated using the residential tariff rate, 2018 CAP write-offs would have decreased by $271,706 in 2018.
     + The estimated programming costs to update its current system functionality could cost up to $100,000.

Columbia Supplemental Info at 4-5.

1. Peoples currently charges CAP final bills at the residential tariff rate and provided the following cost estimates for other options:
   * + If Peoples implemented a CAP final billing policy using the monthly CAP payment amount, the estimated programming, testing process, and implementation costs could total $42,000.
     + If Peoples implemented a CAP final bill policy using a prorated monthly CAP payment amount, the estimated programming, testing process, and implementation costs could total $56,000.
     + People reported that its current system does not have the ability to calculate CAP final bills at the lesser of a prorated CAP payment or the residential tariff rate.

Peoples Supplemental Info at 2.

1. PGW provided the following cost estimates:
   * + If PGW implemented a CAP final billing at a prorated CAP payment amount, the system-related cost estimate is $38,200
     + If PGW implemented a CAP final billing at the lesser of a prorated CAP payment or the residential tariff rate, the system-related cost estimate is $65,700.
     + If PGW CAP final bills were calculated using lesser of a prorated CAP payment or the residential tariff rate, its CAP costs would have increased by $41,668 in 2018.
     + If PGW billed a full monthly CAP bill amount versus the residential tariff rate amount, the cost to CAP customer would have increased by $132,751 based on 2018 CAP final bills.

PGW Supplemental Info at 3-4.

1. NFG reported cost estimates:
   * + If CAP customers were final billed based on a prorated CAP bill, estimated CAP costs would have increased by $17,000 in 2018.
     + If CAP customers were final billed at the tariff rate, estimated CAP costs would have decreased by $17,000 in 2018.
     + If CAP customers were final billed the lesser of the prorated CAP bill or at tariff rates, NFG estimates that the 2018 CAP costs would have increased by $17,000, as NFG’s prorated CAP bill will always be less than the tariff rate bill.
     + NFG did not provide an estimate for system-related expenses.

NFG Supplemental Info at 4.

1. UGI declared that it cannot provide a reliable estimate of the cost impact of CAP final billing changes without specific details about what change(s) would be required. UGI noted that it should be entitled to full and current cost recovery if it is required to implement changes to its billing system as a result of this inquiry. UGI Supplemental Info at 6.

*Comments/Reply Comments*

OCA recommends focusing on the final ATP amount of the bill, noting that a pro-rated CAP ATP amount is appropriate because it continues to treat a low-income CAP customer as a CAP customer through the final bill. OCA Comments at 6. OCA opines that any unforgiven PPA or in-program arrears should be billed separately from the final CAP ATP amount. OCA Comments at 3.

The Low Income Advocates assert that the Commission should adopt the following “overarching principles” to guide CAP final billing policies:

1. Affordability must be the primary goal of any CAP final bill policy solution.
2. Charges on a final CAP bill should not exceed actual usage.
3. CAP customers should remain in CAP after service is terminated or discontinued.
4. CAP final bills should not include a budget bill true-up amount.
5. CAP final bills should clearly indicate the amount needed to restore service.

Low Income Advocates Comments at 4.

The Low Income Advocates assert that a household remains a customer of a public utility for 30 days after service is terminated or discontinued, citing the definition of “customer” at 66 Pa.C.S. §1403 and 52 Pa. Code §56.2. The Low Income Advocates submit that CAP customers should remain in CAP after termination and/or discontinuance of service and should receive the full benefits of CAP, such as CAP credits and PPA forgiveness, on their final bill. Low Income Advocates Comments at 7‑10.

In its Reply Comments, Duquesne corrects what it saw as a misunderstanding articulated by OCA. Duquesne will provide a pro-rated final CAP customer bill based on the number of days of service in the billing period prior to termination. In response to the Low income Advocates, Duquesne asserts that customers should be directed to contact the utility regarding restoration amounts and options rather than merely having a dollar amount designated on the final bill. Duquesne notes that if a CAP customer restores CAP service within 30 days, CAP benefits are restored as though service had not been interrupted and that the customer will receive PPA forgiveness for having paid the household’s most recent bill. Duquesne cautions against a final bill working group, against requiring energy utilities to amend existing USECPs to include information regarding final bills, and against standardizing CAP structure and design. Duquesne does not object to including such final billing information in USECPs going forward. Duquesne RC at 2-5.

In its Reply Comments, FirstEnergy asserts that the November 5 Order[[14]](#footnote-15) indicates that the Commission has “order[ed] the establishment of CAPs based on a tiered energy burden structure [. . . and that many . . . ] of the issues raised in OCA’s and [the Low Income Advocate’s] comments . . . would be resolved by this change.” FirstEnergy therefore argues against any requirement of changes “until utilities have an opportunity to submit their revised [USECPs] consistent with the recently approved CAP Policy Statement.” FirstEnergy RC at 1 & 2. FirstEnergy specifically rejects the suggestions that “former CAP customers should have some means of obtaining bill credits while they are not customers of a utility.” FirstEnergy asserts that true-up amounts must be billed but is willing to look into whether the true-up amount could be itemized and whether CAP credits could be pro-rated. FirstEnergy RC at 2.

In its Reply Comments, PECO asserts that PIPs offer no incentive for a household to reduce consumption. PECO treats PPA balances as current charges on the final bill and asserts that budget billing evens out weather extremes requiring a true up on final bills. PECO welcomes the opportunity to address LIHEAP issues in a working group. PECO asserts that restoration balance information should not be on final bills but rather available from customer service. PECO further asserts that a generic proceeding should not disrupt the Commission-approved settlement at Docket R-2015-2468981 regarding its in-program arrears (InPA) balances. PECO RC at 2-5.

In its Reply Comments, PPL supports the Low Income Advocates position that “affordability must be the primary goal of any CAP final bill policy solution” so long as the affordability “extends to both CAP and non-CAP customers.” The Low Income Advocates four other positions should be addressed by a working group that can look at the differences between utility programs to “vet” whether final billing methods should be standardized. PPL RC at 1-4.

In its Reply Comments, UGI asserts that there is “no need to ‘rush to regulate’” final billing processes and that costs and benefits should be weighed, likely in a working group. UGI distinguishes the protections needed for a CAP household whose service was termination compared to a CAP household whose service was voluntarily disconnected. UGI asserts that it is “impractical” to apply a “CAP rate” to a final bill because that would create a “leftover shortfall” and that failure to true up deficits will increase bad debt. UGI asserts that its termination notices include reconnection information and that the information does not need to be on the final bill. UGI also indicates that proration considerations may be different depending on whether a utility uses a PIP or a percent of bill program. UGI includes unforgiven PPA balances as a line item on final bills. Final bills for terminated accounts also include non-PPA balances. UGI RC at 1-6.

**IV. DISCUSSION**

We have found more lack of uniformity among the energy utilities’ final billing CAP practices than we expected. There are significant differences among the energy utilities in their final billing practices for CAP customers. Further, their final bill calculation practices are not clearly articulated in the energy utilities’ USECPs. Some utilities charge only their residential tariff rate for usage incurred during a partial-month final billing period. Other utilities charge their CAP price – either full or prorated for the days of usage. Some energy utilities factor in CAP credits for the final billing period. If applicable, budget billing true-ups, CAP arrears, and unforgiven PPA balances are also added to some final CAP bills, sometimes itemized and sometimes rolled into one balance due. One utility, however, reports that it does not issue a final bill unless the CAP customer has an unforgiven PPA balance remaining and that it then only bills the PPA amount.[[15]](#footnote-16)

The input we have received from the utilities and other stakeholders has been invaluable in understanding the plethora of ways that the energy utilities are billing for usage during a CAP participant’s last month in CAP and addressing final bills for CAP customers. But questions remain, not the least of which is whether the same provisions should apply to a customer discontinuing service as a CAP participant and to a CAP customer whose energy service is being terminated. We also realize that we do not have data to reflect how many customers leave each energy utility’s CAPs on average per month. Nor do we have records of particular instances in which the departing CAP customers may have been unreasonably disadvantaged or given unreasonable preferences. These factual considerations are only the starting point. Nevertheless, there are some obligatory statutory and regulatory generalities applicable regarding CAP final bills.

As noted above, Section 1303 of the Public Utility Code, 66 Pa. C.S. § 1303, provides that public utilities must bill their customers for service rendered. Failing to bill a customer for usage could render an unreasonable preference to that customer and an unreasonable disadvantage to other customers who would bear the cost of the service not billed. This could preclude a practice such as not rendering a bill for usage in a final month or partial month of service. Section 1303 also provides that public utilities are to compute bills under the “rate” most beneficial to the customer.[[16]](#footnote-17) Further, Section 56.11(a) of Commission regulations requires that a public utility render bills every billing period. Utilities are reminded that these statutory and regulatory provisions are applied to the facts in matters when this Commission is called upon to review specific final CAP billings or other matters including reconciliations related to universal service cost recovery.

While the parameters of a USECP are codified in Commission regulation, CAPS are still largely a function of Commission policy and adjudications rather than regulation. Although the CAP Policy Statement does not specifically address how EDCs and NGDCs should calculate a CAP customer’s bill for a final billing period, the CAP Policy Statement does provide guidance on how CAP payments should be determined and the maximum payment levels. *See* Section 69.265(2). Additionally, the Commission has reiterated the importance of maintaining affordable CAP payments in its discussion of amending the recommended maximum energy burden levels to 6% or 10% of the FPIGs in the November 5 Order at 13-32 and Annex A.[[17]](#footnote-18)

CAPs are not merely a function of the billed amount for a month or partial month of energy usage. CAPs also address energy affordability through PPA forgiveness and other benefits. CAPs are part of the larger benefit system which includes the other three universal service programs. Low-income customers receiving universal service benefits are subsidized by other ratepayers, most of whom are other residential customers, some of whom have income barely above 150% of the FPIG. Low-income customers can receive the other universal service benefits without being in a CAP. We do, however, consider that a CAP customer remains a CAP customer until either the effective date of the customer’s requested removal from CAP or service is terminated.

We are not prepared to agree with the Low Income Advocates that PPA forgiveness should be applied to the final bill in anticipation of payment of that bill. The CAP Policy Statement recommends that utilities provide incremental forgiveness on PPA balances “contingent upon receipt of regular monthly payments by the CAP participant.” *See* 52 Pa. Code § 69.265(6)(ix). There is no recommendation in the previous or the amended Policy Statement for granting PPA forgiveness before a customer payment is received. The expectation is that PPA forgiveness will be given for the prior month’s payment. PPA forgiveness does not anticipate payment of the bill on which the forgiveness would be presented. Although utilities are not prohibited from doing so, we are concerned about the appropriateness of recommending that the energy utilities apply PPA forgiveness to a final bill in anticipation of the future payment of that final bill. If, however, the customer has made the prior month’s payment, then PPA forgiveness based on that prior month’s payment has been earned and should be tallied on the final bill. Further, depending on how a utility establishes budget billing within a CAP could affect whether a final CAP bill would require a true-up.

The energy utilities estimated varying costs and some potential technical hurdles to implementing some of the options suggested in the July 17 Secretarial Letter. We recognize that each energy utility’s USECP and billing processes are structured individually.[[18]](#footnote-19) What might be the most advantageous way, from the CAP customer’s perspective, to calculate a final CAP bill within one USECP may not be the most advantageous way to calculate a final CAP bill within another USECP. There was no clear consensus among the energy utilities and other stakeholders for whether to proceed at this time with a standardized policy regarding CAP final bills.

Accordingly, we shall close this docket, having reminded the energy utilities and stakeholders of the statutory and regulatory provisions and policy recommendations regarding billing for energy service rendered. Any energy utility that wishes to make revisions, updates, or additions to the final bill procedures in its CAP may file and serve a petition at its respective USECP docket to propose such a change or it may amend a pending proposed USECP. We urge energy utilities that are not currently including information on their final CAP billing practices in their USECPs to commence including that information in their USECPs. Utilities and stakeholders that provided information at this docket may update their information and comments in utility-specific proceedings, or subsequent proceedings, should they wish to.

**V. CONCLUSION**

We have found significantly less uniformity among the energy utilities than we expected. Section 1303, 66 Pa. C.S. § 1303, provides that public utilities must bill their customers for service rendered. Section 56.11(a) of Commission regulations, 52 Pa. Code § 56.11(a) require that a public utility render bills every billing period. Utilities are henceforth on notice that these statutory and regulatory provisions will be applied to the facts in all matters wherein we are called upon to review specific final CAP bills or recovery of universal service costs. Further, Section 1303 provides that public utilities are to compute bills under the rate most beneficial to the customer. Generally speaking, it would appear that the starting point for any specific inquiry regarding the bill for usage in a partial final billing period as a CAP participant should be a comparison between a residential tariff rate calculation for energy consumed and the CAP price prorated for the number of days of service in the billing period. The other items on a bill such as true-ups, arrears, arrearage forgiveness, third-party assistance such as LIHEAP, and CAP credits and limits are separate considerations dependent on the customer’s payment history and the utility’s CAP provisions.

We shall address how the energy utilities describe their final billing practices for CAP customers in utility-specific proceedings. If further clarity is needed, we may address this topic in the universal service rulemaking proceeding or other proceedings as necessary; **THEREFORE,**

**IT IS ORDERED:**

1. That a copy of this Order be entered at *Universal Service Rulemaking*, Docket No. L-2019-3012600.
2. That this docket be marked closed.
3. That the contact person regarding policy and technical issues for this proceeding is Eric Tuttle, Bureau of Consumer Services, [etuttle@pa.gov](mailto:etuttle@pa.gov). The contact person regarding legal issues for this proceeding is Assistant Counsel Louise Fink Smith, Law Bureau, [finksmith@pa.gov](mailto:finksmith@pa.gov).

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: March 12, 2020

ORDER ENTERED: March 12, 2020

1. Section 1303 (relating to adherence to tariffs) states the following:

   No public utility shall, directly or indirectly, by any device whatsoever, or in anywise, demand or receive from any person, corporation, or municipal corporation a greater or less rate for any service rendered or to be rendered by such public utility than that specified in the tariffs of such public utility applicable thereto. The rates specified in such tariffs shall be the lawful rates of such public utility until changed, as provided in this part. Any public utility, having more than one rate applicable to service rendered to a patron, shall, after notice of service conditions, compute bills under the rate most advantageous to the patron.

   66 Pa. C.S. § 1303.

   Further, Section 1304, 66 Pa. C.S. § 1304, provides that no “public utility shall, as to rates, . . . subject any person . . . to any unreasonable prejudice or disadvantage.” [↑](#footnote-ref-2)
2. CAPs are one of four mandatory universal service programs for EDCs with more than 60,000 residential customers and NGDCs with more than 100,000 residential customers. The four universal service programs are: (1) CAPs, which may provide discounted pricing, arrearage forgiveness, and/or other benefits for enrolled low-income residential customers; (2) Low-Income Usage Reduction Programs (LIURPs), which provide weatherization and usage reduction services to help customers reduce their energy utility bills; (3) Customer Assistance and Referral Evaluation Services (CARES), which provide information and referral services for low-income, special needs customers; and (4) Hardship Fund programs, which provide grants to help customers address utility debt, restore service, or stop a service termination. [↑](#footnote-ref-3)
3. Hardship Funds have two cost components. The actual hardship grant funding to recipients generally comes from donations and is typically not recovered from ratepayers. The cost of administering a Hardship Fund is recovered as a universal service cost. Additionally, PGW recovers some of its universal service costs from non-residential ratepayer classes. [↑](#footnote-ref-4)
4. The Office of Consumer Advocate (OCA) and the Energy Association of Pennsylvania (EAP) individually filed petitions for reconsideration/clarification of the November 5 Order on issues unrelated to final CAP bills. The petitions are addressed on their merits at Docket Nos. P‑2020‑3016885 and P-2020-3016889, respectively, by orders entered on February 6, 2020. [↑](#footnote-ref-5)
5. Other issues related to universal service programs are being addressed in *Initiative to Review and Revise Existing LIURP Regulations,* Docket No. L-2016-2557886, and *Universal Service Reporting Working Group (USRWG),* Docket No. M-2019-3011814. [↑](#footnote-ref-6)
6. *See FirstEnergy 2019-2021 USECP*, Docket Nos. M-2017-2636969, *et al.*, (order entered on May 23, 2019) (FirstEnergy Order). [↑](#footnote-ref-7)
7. The Secretarial Letter was served to all parties of record in the *Energy Affordability* and *Review* proceedings. [↑](#footnote-ref-8)
8. Going forward, we shall structure the discussion using the following terms:

   “CAP bill, prorated” – the CAP customer’s bill for usage in the final month calculated consistent with the utility’s CAP pricing method but prorated over the number of days in the billing cycle for which the CAP household had service. An energy utility will need to explain whether and how it is prorating (or would prorate) CAP bill elements such as a minimum monthly bill amount, PPA forgiveness, CAP Plus, and/or other charges that are separate from the CAP asked-to-pay (ATP) amount.

   “Residential tariff rate bill” – the CAP customer’s bill based on usage in the final month calculated at the residential tariff rate. (Usage billed at the residential tariff rate is not prorating.) If a utility also has a flat or fixed monthly charge, the utility will need to distinguish in its USECP and tariff if the flat charge is prorated based on days of service or usage in the final month or if the flat charge is applied regardless of the days or usage in the final month.

   Our review of the supplemental information provided by the public utilities and the stakeholder comments indicates that the filings are generally consistent with this clarification. [↑](#footnote-ref-9)
9. FirstEnergy includes Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company. [↑](#footnote-ref-10)
10. PECO is also an NGDC. [↑](#footnote-ref-11)
11. PCLP, a subsidiary of Corning Natural Gas Holding Corp., serves approximately 4,700 electricity customers and approximately 1,200 natural gas customers in Pennsylvania. As an EDC with less than 60,000 residential customers in the Commonwealth, PCLP is not required to file USECPs. PLCP’s New Start Program provides “arrears forgiveness,” and its Good Neighbor Fund is a hardship-based program. Both programs are funded at least in part by ratepayer funds. PCLP does not discount residential tariff rates for customers in its programs. PCLP Supplemental Info at 1; <https://pclpeg.com/new-start-program/> [↑](#footnote-ref-12)
12. The Low Income Advocates, filing jointly, are the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Tenant Union Representative Network (TURN), and Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance). [↑](#footnote-ref-13)
13. The Commission approved Duquesne’s PIPP at *Duquesne 2017-2019 USECP*, Docket No. M‑2016‑2534323 (order entered on April 19, 2018). Duquesne’s PIPP will become operational on or before July 31, 2020. [↑](#footnote-ref-14)
14. We note at this point that FirstEnergy has misconstrued the November 5 Order. While the November 5 Order reflects Commission policy regarding energy burdens in terms of percent of income, it does not “order” or even recommend the establishment of CAP PIPs such that a “CAP customer’s monthly payments will be a flat amount determined by their monthly household income.” The November 5 Order discusses energy burden policy relative to income tiers; it does not contain or even contemplate a mandate that energy utilities only use PIPs or that energy utilities eliminate their percent-of-bill programs. [↑](#footnote-ref-15)
15. We are concerned about a utility waiving costs incurred during the final billing period for CAP customers regardless of whether such a policy does not increase write-off costs if the customer ultimately reconnects service. We note that if the customer never restores service, these charges may in fact increase write‑offs and be recovered from other ratepayers. [↑](#footnote-ref-16)
16. This consideration typically applies when a customer may qualify for service under the tariff terms and rates of more than one customer class. In the situation with CAP participants, however, we have one customer class and the residential tariff rate and the CAP pricing rather than tariff rates from two customer classes. Theoretically speaking, it appears that the rationale behind a statutory mandate to charge a customer the better of two tariff rates should also apply when the comparison is between a tariff rate and a CAP price. The distinguishing considerations could, however, include the additional benefits of CAP participation. Nevertheless, it appears that the starting point for any specific inquiry regarding a partial final month as a CAP participant should be a comparison between a residential tariff rate calculation for energy consumed and the CAP price prorated for the number of days of service in the month. [↑](#footnote-ref-17)
17. While the OCA petition for reconsideration of the November 5 Order was unrelated specifically to final CAP bills, it did question the Commission’s recently amended energy burden recommendations. The OCA petition was denied on the merits by order entered on February 6, 2020, with the recognition that concerns regarding utility proposals to implement the amended recommended energy burdens would be addressed in utility-specific proceedings. [↑](#footnote-ref-18)
18. Some USECPs are applicable to a group of affiliated utilities. [↑](#footnote-ref-19)