



November 16, 2020

VIA E-FILE

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

Re: Expedited Petition of Duquesne Light Company for Implementation of the Percentage of Income Payment Plan Customer Assistance Program as Proposed on January 6, 2020; Docket Nos. M-2019-3008227, P-2020-3022770.

Dear Secretary Chiavetta:

Attached for filing, please find the **Answer of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA)**.

Pursuant to the Commission's Emergency Order issued on March 20, 2020, and as indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully submitted,

A handwritten signature in blue ink that reads "Elizabeth R. Marx".

Elizabeth R. Marx, Esq.
Counsel for CAUSE-PA

CC: Certificate of Service
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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Expedited Petition of Duquesne Light Company for :
Implementation of the Percentage of Income : Docket No. M-2019-3008227
Payment Plan Customer Assistance Program as : P-2020-3022770
Proposed on January 6, 2020 :

CERTIFICATE OF SERVICE

I hereby certify that I have, on this day, served copies of the **Answer of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania** in the above captioned matter upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54.

VIA EMAIL

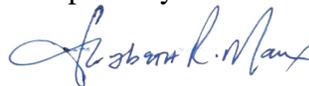
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Respectfully submitted,



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Dated: November 16, 2020

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Expedited Petition of Duquesne Light Company for :
Implementation of the Percentage of Income : Docket No. M-2019-3008227
Payment Plan Customer Assistance Program as : P-2020-3022770
Proposed on January 6, 2020 :

**ANSWER OF THE COALITION FOR AFFORDABLE UTILITY
SERVICES AND ENERGY EFFICIENCY IN PENNSYLVANIA**

PENNSYLVANIA UTILITY LAW PROJECT

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November 16, 2020

I. INTRODUCTION AND BACKGROUND

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code §§ 5.61(e), 5.71-.76, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, hereby files this Answer to the expedited Petition of Duquesne Light Company (DLC or Duquesne) to modify its energy burden standards consistent with the Commission's CAP Policy Statement. CAUSE-PA strongly supports swift approval of Duquesne's Expedited Petition.

In support thereof, CAUSE-PA states as follows:

1. On March 23, 2017, the Commission issued an Order and Opinion which found that DLC's CAP exceeded the Commission's maximum energy burden as a result of DLC's CAP design, resulting in chronic unaffordability - especially for those with income at or below 50% FPL.¹ The Commission ordered the parties to DLC's Universal Service and Energy Conservation Plan proceeding, including DLC, the Office of Consumer Advocate (OCA), and CAUSE-PA to collaborate in an attempt to reach a consensus agreement for how to redesign DLC's CAP.²

The Commission explained:

Unreasonably high energy burdens affect everyone — not just those receiving assistance — so we encourage Duquesne to collaborate with Commission Staff and

¹ See Duquesne Light Universal Service and Energy Conservation Plan for 2017-2019 Submitted in Companies with 52 Pa. Code § 54.74, Opinion and Order, Docket No. M-2016-2534323, at 61 ¶ 16 (entered March 23, 2017) (hereinafter March 23 Order). **The Commission's Order was premised on findings from an independent program review that 86% of non-electric heating and 77% of electric heating CAP participants with income between 0 - 50% FPL had an energy burden in excess of the then-applicable maximum energy burden threshold; and 49% of non-electric heating and 16% of electric heating CAP participants with income between 50-100% FPL had an energy burden in excess of the then-applicable maximum energy burden threshold.** Id. at 28.

² Id. at 31.

other stakeholders in order to realize a CAP redesign proposal that is in line with the CAP Policy Statement.³

2. Over a 6-month period, DLC, OCA, and CAUSE-PA worked collaboratively to develop a multi-component plan to align DLC's CAP with the energy burden standards in the Commission's then-effective CAP Policy Statement.⁴ The plan included interim measures to improve affordability over the short term while DLC implemented necessary system changes to transition its CAP to a percentage of income payment plan (PIPP) – initially targeted for implementation by January 1, 2020.⁵ The plan also included an in-CAP forgiveness component to alleviate debt accrued by CAP customers as a result of unaffordable CAP rates.⁶
3. On April 19, 2018, the Commission approved this consensus, multi-component plan, including DLC's transition to a PIPP.⁷
4. On November 5, 2019, DLC filed a Letter with the Commission, seeking to extend implementation of its PIPP to July 2020.⁸

³ Id.

⁴ Duquesne Light Universal Service and Energy Conservation Plan for 2017-2019 Submitted in Compliance with 52 Pa. Code §§ 54.74, Order on Reconsideration, Docket No. M-2016-2534323 (order entered April 19, 2018) (hereinafter April 13 Order).

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Duquesne Light Co. Universal Service and Energy Conservation Plan, Letter of DLC, Docket Nos. M-2016-2534323, M-2013-2350946 (filed Nov. 5, 2019).

5. On September 19, 2019, the Commission voted to adopt a Final CAP Policy Statement and Order, which was entered November 5, 2019 at Docket No. M-2019-3012599.⁹ The Final CAP Policy Statement and Order made a number of critical reforms to the Commission's Customer Assistance Program (CAP) Policy Statement at 52 Pa. Code §§ 69.261-.267.¹⁰ Based on nearly three years of investigatory review of extensive data and analysis in two separate statewide proceedings,¹¹ the Commission concluded that the then-applicable CAP energy burden standards were unreasonable and unaffordable and did not fulfill the Commission's statutory obligation to ensure that universal service programming is appropriately funded and accessible to low income customers.¹² In relevant part, the Commission reduced the maximum energy burden standards, and made a number of other critical reforms to its CAP Policy Statement to improve the accessibility and affordability of the program for economically vulnerable consumers.¹³
6. To effectuate implementation of the Commission's revised CAP Policy Statement, the Commission directed each utility to file and serve an addendum to their existing or proposed

⁹ 2019 Amendments to CAP Policy Statement, Final Policy Statement and Order, Docket No. M-2019-3012599, at 27 (order entered Nov. 5, 2019) (hereinafter Final CAP Policy Statement and Order).

¹⁰ Id. at 27.

¹¹ Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711; Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907.

¹² Final CAP Policy Statement and Order at 27. The Commission amended its CAP Policy Statement to reduce the maximum energy burden standards for customers enrolled in a utility-run CAP, setting a maximum *combined* energy burden of 10% for households with income between 51-150% of the Federal Poverty Level (FPL) and 6% for households with income between 0-50% FPL. Id. at 32-33. For electric baseload (non-heating) customers, the maximum energy burden was set at 4% for customers with income between 51-150% FPL and 2% for customers with income between 0-50% FPL. Id. In reducing the maximum energy burden standards, the Commission found that the existing maximum energy burden standards, originally established in 1992, "do not reflect reasonable or affordable payments for many low-income customers" - especially for those with income at or below 50% FPL. Id. at 27, 29-30.

¹³ See id. at 101-104.

Universal Service and Energy Conservation Plan (USECP) within 60 days of entry date of the Final CAP Policy Statement and Order to indicate whether the utility's existing or pending USECP was consistent with the amended CAP Policy Statement and, if not, how the utility intended to implement the policy changes specified in the amended CAP Policy Statement.¹⁴

7. On November 20, 2019, the Energy Association of Pennsylvania (EAP) and the Office of Consumer Advocate (OCA) filed Petitions for Reconsideration and/or Clarification of the Commission's Final CAP Policy Statement and Order.¹⁵
8. On January 6, 2020, DLC filed a revised USECP incorporating the Commission's reduced energy burden standards into its PIPP. (DLC Pet. at Exhibit A).
9. On February 6, 2020, the Commission issued an Order addressing EAP's Petition for Reconsideration and/or Clarification, which further clarified that full compliance with the Commission's amended CAP Policy Statement is voluntary at this time, and directed each utility to file and serve a cover letter and addendum to their current Plan, consistent with the Commission's Final CAP Policy Statement and Order within 15 days.¹⁶ The Commission emphasized in its Order that "[i]mplementation of the amendments to the Customer Assistance Program Policy Statement is strongly encouraged on or before January 1, 2021."¹⁷
10. On April 3, 2020, DLC filed a letter with the Commission requesting approval to further delay implementation of its PIPP as a result of administrative and technical challenges associated

¹⁴ Id. at 106.

¹⁵ 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-267, Order, Docket No. M-2019-3012599 (order entered November 25, 2019).

¹⁶ 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-267, Order on Reconsideration and Clarification, Docket No. M-2019-3012599, at 14, para. 3 (entered February 6 2020) (hereinafter February 6 Order).

¹⁷ Id.

with the global pandemic, and on April 20, 2020, the Commission granted DLC's request and ordered DLC to file monthly status reports beginning June 1, 2020.¹⁸ DLC filed status reports on June 1, 2020, July 1, 2020, and August 1, 2020. In its subsequent September 1, 2020 status report, DLC indicated that it anticipated full implementation to be complete the week of November 22, 2020.¹⁹

11. On November 6, 2020, DLC filed the instant expedited Petition, seeking approval to implement reduced energy burden standards consistent with the Commission's revised CAP Policy Statement and DLC's January 6, 2020 filing.

II. STANDING TO INTERVENE AND FILE ANSWER

12. Pursuant to the requirements contained in 52 Pa. Code § 5.61(e), CAUSE-PA asserts that it has standing to intervene and file an Answer in this proceeding.

13. Eligibility to intervene in Commission proceedings is governed by Section 5.72, which provides that "[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought."²⁰

14. Section 5.72 further provides that the right or interest may be one "which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding."²¹

¹⁸ Duquesne Light Co. Universal Service and Energy Conservation Plan, Secretarial Letter, Docket Nos. Docket Nos. M-2016-2534323 & M-2019-3008227 (issued April 20, 2020).

¹⁹ Duquesne Light Co. Universal Service and Energy Conservation Plan, Letter of DLC, Docket Nos. M-2016-2534323 & M-2019-3008227 (filed Sept. 1, 2020).

²⁰ 52 Pa. Code. § 5.72(a).

²¹ 52 Pa. Code § 5.72(a)(2).

15. While Section 5.72 speaks of the rights of a “person” to intervene, the Commonwealth Court has consistently stated that “an association may have standing as a representative of its members... as long as the organization has at least one member who has or will suffer a direct, immediate, and substantial injury to interest as a result of the challenged action, [the organization] has standing.”²²
16. CAUSE-PA is an unincorporated association of low-income individuals that advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating, and telecommunication services.
17. CAUSE-PA membership is open to individuals residing in the Commonwealth of Pennsylvania who are committed to the goal of helping low-income Pennsylvanians to connect and maintain affordable utility services.
18. CAUSE-PA is located, c/o Pennsylvania Legal Aid Network, 118 Locust Street, Harrisburg, PA 17101.
19. As an association of low-income individuals, CAUSE-PA has a direct interest in the prompt and efficient implementation of the Commission’s CAP Policy Statement reforms both in DLC’s service territory and across the state. These reforms are designed to address deep and persistent levels of unaffordability within CAP. If allowed to persist without mitigation through the adoption of the Commission’s CAP Policy Statement reforms, economically vulnerable households will continue to be at risk of harm to their health and financial stability.²³

²² Energy Cons. Council of Pa. v. Pa. PUC, 995 A.2d 465, 476 (Pa. Commw. Ct. 2010) (alteration in original) (citing Tripps Park v. Pa. PUC, 415 A.2d 967 (Pa. Commw. Ct. 1980); Parents United for Better Schools v. School District of Phila., 646 A.2d 689 (Pa. Commw. Ct. 1994).

²³ See Diana Hernandez, Understanding “Energy Insecurity” and Why It Matter to Health, J. Social Science & Medicine 167, at 1-10 (2016).

20. CAUSE-PA has standing to intervene because at least one member of CAUSE-PA may suffer a direct, immediate, and substantial injury to their interests as a result of this proceeding.²⁴

21. CAUSE-PA is represented in this proceeding by:

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22. Counsel for CAUSE-PA consents to the service of documents by electronic mail to pulp@palegalaid.net, as provided in 52 Pa. Code § 1.54(b)(3).

III. ANSWER

23. CAUSE-PA strongly supports DLC's expedited Petition to implement the Commission's revised energy burden standards along with its implementation of the long-delayed PIPP.

24. DLC's proposal to reduce its energy burden standards is consistent with and in furtherance of the Commission's thoroughly vetted and approved CAP Policy Statement, and CAUSE-PA urges the Commission to approve DLC's Petition without delay. As the Commission itself emphasized, "[i]mplementation of the amendments to the Customer Assistance Program Policy Statement is strongly encouraged on or before January 1, 2021."²⁵ Swift review and approval of DLC's expedited Petition will ensure that DLC can meet the Commission's January 1, 2021 target for implementation of its revised CAP Policy Statement, and will allow

²⁴ See Energy Cons. Council of Pa., 995 A.2d at 476.

²⁵ February 6 Order at 14, para. 3

the Commission, DLC, and stakeholders to gain critical data and experience to inform the Commission's pending Universal Service Rulemaking consistent with the Commission's stated intent in its Final CAP Policy Statement and Order.²⁶

25. The projected cost of adopting the Commission's revised energy burden standards is inherently reasonable. (DLC Pet. at para. 20-21). As DLC notes, most non-CAP residential customers will pay just \$0.35 per month in 2021 and \$0.36 per month in 2022 – far less than a single postage stamp. (DLC Pet. at para. 20-21). CAUSE-PA asserts that approving DLC to implement the Commission's already-approved energy burden standards is unquestionably in the public interest. The Commission has already concluded that its prior CAP energy burden standards are unreasonable and unaffordable, and conflict with the Commission's statutory universal service obligations.²⁷ The modest increase in the cost of CAP is well worth the benefit of alleviating unreasonable and unaffordable rates for customers facing extreme levels of economic hardship and disproportionately high energy costs.

26. It is important to keep in mind that DLC's projections do not include the cost savings that are likely to follow as a result of improvements to CAP affordability. As the Commission explored throughout the underlying Universal Service and Energy Burden investigations, it is well documented that providing consumers with an affordable bill improves payment frequency and bill coverage rates. Adoption of the Commission's revised energy burden standards has the

²⁶ Id.; Final CAP Policy Statement and Order at 2 (“We strongly urge the EDCs and the NGDCs to incorporate the CAP Policy amendments in their USECPs as fully and quickly as possible so that all stakeholders will have a basis for meaningful input in the Universal Service Rulemaking.”).

²⁷ Final CAP Policy Statement at 27 (“[T]he current maximum energy burden ranges based on the FPIGs in the CAP Policy Statement do not reflect reasonable or affordable payments for many low-income customers. This would be our conclusion even if the currently specified burdens are considered only presumptively reasonable or affordable.”).

potential to dramatically improve payment coverage and frequency rates, thereby decreasing uncollectible expenses and other collections-related costs.

27. As DLC explained, delay in approval of the Commission's reduced energy burden standards may further delay implementation of its PIPP – *which is already nearly a year behind schedule*. (DLC Pet. at para. 29-31). Further delay to implementation of DLC's PIPP is unacceptable, as it would continue to impose rates on CAP customers that the Commission has already found – through years of comprehensive research and investigation – to be both unreasonable and unaffordable.²⁸ DLC's PIPP was approved in April 2018 to address CAP rates that were unaffordable even by the Commission's prior energy burden standards – which have since been found to be unreasonable and unaffordable.

28. It is especially important that DLC reduce its energy burden standards in light of the global pandemic and the associated economic devastation, which has disproportionately impacted low income communities and communities of color.²⁹ Individuals and families are struggling profoundly to afford food and basic living expenses, and are falling further and further behind on energy costs. Failure to promptly remediate identified unaffordability within CAP compounds this already overwhelming struggle to make ends meet. It is therefore critical for the Commission to provide swift relief consistent with its own policy statement.

²⁸ See March 23 Order at 61 ¶ 16; Final CAP Policy Statement and Order at 27.

²⁹ See Center on Budget and Policy Priorities, Tracking the COVID-19 Recession's Effects on Food, Housing and Employment Hardships (Nov. 13, 2020), <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and>; Parker, Kim, About Half of Lower-Income Americans Report Household Job or Wage Loss Due to COVID-19, Pew Research Center (April 21, 2020), available at <https://www.pewsocialtrends.org/2020/04/21/about-half-of-lower-income-americans-report-household-job-or-wage-loss-due-to-covid-19/>; Keystone Research Ctr & Pa. Budget & Policy Center, The State of Working in Pennsylvania 2020 (Sept. 2020), https://krc-pbpc.org/wp-content/uploads/SWP_2020.pdf.

IV. CONCLUSION

For the forgoing reasons, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) strongly supports DLC's expedited Petition and urges the Commission to approve implementation of the Commission's revised energy burden standards without delay.

Respectfully submitted,
Counsel for CAUSE-PA



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Dated: November 16, 2020

Verification

I, **Elizabeth R. Marx, Esq.**, legal counsel for the Coalition for Affordable Utility Services and Energy Efficiency (“CAUSE-PA”), on behalf of CAUSE-PA, hereby state that the facts contained in the foregoing pleadings are true and correct to the best of my knowledge, information, and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



Elizabeth R. Marx, Esq.

On behalf of the Coalition for Affordable Utility Services
and Energy Efficiency in Pennsylvania (CAUSE-PA)

November 16, 2020