PULP
PENNSYLVANIA
UTILITY LAW PROJECT

March 3, 2021

Honorable Christopher P. Pell
Deputy Chief Administrative Law Judge
Suite 4063
801 Market Street
Philadelphia, PA 19107
cpell@pa.gov
pmcneal@pa.gov

Re: Pa. PUC v. PECO Energy Company, Docket No. R-2020-3018929
CAUSE-PA Main Brief

Dear Judge Pell:

Enclosed, please find the **Main Brief of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in the above noted proceeding.

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. A Microsoft Word version of this document will be submitted to Your Honor electronically.

Respectfully,

John W. Sweet, Esq.
Counsel for CAUSE-PA

CC: Secretary Rosemary Chiavetta (Via E-File)
Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, et al.	:	
	:	
v.	:	Docket No. R-2020-3018929
	:	
PECO Energy Company	:	

Certificate of Service

I hereby certify that I have this day served copies of the **Main Brief of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania** upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 and consistent with the Commission's March 20 Emergency Order at Docket M-2020-3019262.

VIA Email

Anthony E. Gay, Esq.
Jack R. Garfinkle, Esq.
Brandon J. Pierce, Esq.
PECO Energy Company
2301 Market Street
PO Box 8699
Philadelphia, PA, 19101
Anthony.gay@exeloncorp.com
Jack.garfinkle@exeloncorp.com
Brandon.pierce@exeloncorp.com

Darryl Lawrence, Esq.
Christy Appleby, Esq.
Barrett Sheridan, Esq.
Phillip Demanchick, Esq.
Laura Antinucci, Esq.
Luis M. Melendez, Esq.
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101-1923
dlawrence@paoca.org
cappleby@paoca.org
bsheridan@paoca.org
pdemanchick@paoca.org
lantinucci@paoca.org
lmelendez@paoca.org

Kenneth M. Kulak, Esq.
Mark A. Lazaroff, Esq.
Catherine G. Vasudevan, Esq.
Morgan, Lewis, Bockius LLP
1701 Market Street
Philadelphia, PA 19103
Ken.kulak@morganlewis.com
Mark.lazaroff@morganlewis.com
Catherine.vasudevan@morganlewis.com

Steven C. Gray, Esq.
Office of Small Business Advocate
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
sgray@pa.gov

Scott B. Granger, Esq.
Bureau of Investigation & Enforcement
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
sgranger@pa.gov

Charis Mincavage, Esquire
Adeolu Bakare, Esquire
Jo-Anne S. Thompson, Esquire
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com
jthompson@mcneeslaw.com

Honorable Christopher P. Pell
Deputy Chief Administrative Law Judge
Suite 4063
801 Market Street
Philadelphia, PA 19107
cpell@pa.gov
pmcneal@pa.gov

Respectfully Submitted,
PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA

John W. Sweet, Esq.
PA ID: 320182
118 Locust Street
Harrisburg, PA 17101
717-710-3839
pulp@palegalaid.net

March 3, 2021

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, et al.	:	
	:	
v.	:	Docket No. R-2020-3018929
	:	
PECO Energy Company	:	

MAIN BRIEF OF THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY IN PENNSYLVANIA (CAUSE-PA)

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA

John W. Sweet, Esq., PA ID: 320182
Elizabeth R. Marx, Esq., PA ID: 309014
Ria M. Pereira, Esq., PA ID: 316771
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
pulp@palegalaid.net

March 3, 2021

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Regulations

Pennsylvania Public Utility Commission

Other Authorities

Other States

I. INTRODUCTION

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, by and through its counsel at the Pennsylvania Utility Law Project, submits this Main Brief in opposition to PECO's proposed rate increase, and in support of targeted proposals designed to address and remediate existing rate unaffordability for economically vulnerable consumers.

A. Description of Company

PECO provides natural gas service to approximately 534,000 retail customers and provides transportation service to 1,800 large commercial and industrial customers. (PECO St. 1 at 2-3). PECO's natural gas service region is located throughout a 1,900 square-mile area in southeastern Pennsylvania adjacent to, but exclusive of, the City of Philadelphia. The Company's gas service territory comprises all or portions of Bucks, Chester, Delaware, Montgomery, and Lancaster Counties and includes a total population served of approximately 2.5 million people. (Id.)

A substantial number of PECO's residential customer base are low income, meaning their gross household income is at or below 150% of the federal poverty level (FPL). In 2019, approximately 1 in 5 of PECO's residential customers were estimated to be low income, and will be disproportionately impacted by its proposal to increase residential rates by \$43.2 million. (CAUSE-PA St. 1 at 10-11; CAUSE-PA St. 1-SR at 9-10). For context, a family of four must have a gross annual income of less than \$39,300 to be considered "low income" – far lower than the average \$86,111 Self Sufficiency standard for a family of four in PECO's service territory. (CAUSE-PA St. 1 at 12-13).[1] In short, the number of PECO's residential customers struggling to make ends meet is likely far greater than the available low income data portrays – especially in

[1] The Self Sufficiency standard is the county-specific income level required for a household to meet their basic needs without assistance. (See CAUSE-PA St. 1 at 12-13).

light of the far-ranging economic impacts stemming from the ongoing global pandemic. (CAUSE-PA St. 1 at 13-15).

At current rates, PECO's natural gas service is already unaffordable for low income customers. In 2019, PECO's low income termination rate reached 19% - up from 17.7% in 2017. (CAUSE-PA St. 1 at 19). As of October 2020, 67% of low income customers enrolled in PECO's CAP were payment troubled, compared to 16% of non-low income residential customers, and carried an average debt of $120. (CAUSE-PA St. 1 at 17-18). PECO's non-CAP confirmed low income customers carried an average debt of $320. (CAUSE-PA St. 1 at 19).

B. Procedural History

On March 6, 2020, the Governor of the Commonwealth of Pennsylvania, Tom Wolf, issued a Disaster Declaration pursuant to Section 7301(c) of the Emergency Management Services Code to address the exigencies created by the COVID-19 global pandemic.[2]

On March 19, 2020, the Governor's Office issued an order closing all businesses that were not life sustaining.[3]

On March 20, 2020, the Commission issued an Emergency Order suspending statutory deadlines and modifying filing and service requirements and providing guidance on the conduct of Commission proceedings during the pendency of the COVID-19 disaster emergency.[4]

On September 30, 2020, PECO Energy Company filed Tariff Gas – Pa. P.U.C. No. 4 to become effective on November 29, 2020. Tariff No. 4 contains proposed changes in rates, rules,

---

[2] Proclamation of Disaster Emergency pursuant to Section 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. §§ 7101, *et seq.*

[3] See Order of the Governor of the Commonwealth of Pennsylvania Regarding the Closure of All Businesses That Are Not Life Sustaining, as amended; see also Order of the Secretary of the Pennsylvania Department of Health Regarding the Closure of All Businesses That Are Not Life Sustaining, as amended.

[4] Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, Emergency Order, Docket No. M-2020-3019262 (entered March 20, 2020).

and regulations calculated to produce an increase of approximately $68.7 million (8.9%) in additional annual distribution revenue.

On October 6, 2020, Scott B. Granger, Esq., entered a Notice of Appearance on behalf of the Commission's Bureau of Investigation and Enforcement (I&E).

On October 14, 2020, the Office of Consumer Advocate (OCA) filed a Public Statement, a Notice of Appearance, and a formal Complaint. The Complaint was docketed at C-2020-3022400.

On October 15, 2020, the Office of Small Business Advocate (OSBA) filed a Verification, Public Statement, a Notice of Appearance on behalf of Steven C. Gray, Esq., and a formal Complaint. The Complaint was docketed at C-2020-3022414.

On October 22, 2020, CAUSE-PA filed a Petition to Intervene in this proceeding.

On October 29, 2020, the Pennsylvania Public Utility Commission (Commission) instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S.A. § 1308(d), PECO Tariff Gas-Pa. P.U.C. No. 4 was suspended by operation of law until June 29, 2021, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of PECO's existing rates, rules, and regulations. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision. In accordance with the Commission's October 29, 2020, Order, the matter was assigned to Deputy Chief Administrative Law Judge Christopher P. Pell.

On November 5, 2020, the Philadelphia Area Industrial Energy Users Group (PAIEUG) filed a formal Complaint. The Complaint was docketed at C-2020-3022745.

A Call-in Telephonic Prehearing Conference was held on November 9, 2020. Counsel for PECO, I&E, OCA, OSBA, CAUSE-PA and PAIEUG participated. ALJ Pell granted CAUSE-PA's Petition to Intervene during the Prehearing Conference.

By Order dated November 12, 2020, ALJ Pell granted PECO's Motion for Protective Order.

On December 10, 2020, telephonic public input hearings were held at 1:00 p.m. and 6:00 p.m.

On February 17, 2021, ALJ Pell conducted the evidentiary hearing. Various parties identified and moved to admit evidence in the form of written statements and exhibits. CAUSE-PA sponsored the expert testimony of Mitchell Miller, former Director of the Commission's Bureau of Consumer Services. (CAUSE-PA St. 1; CAUSE-PA St. 1-SR). Mr. Miller's testimony detailed the impact of the COVID-19 pandemic on low and moderate income consumers in PECO's service territory and the deep economic uncertainty surrounding the current COVID-19 pandemic. He discussed the categorical unaffordability of current and proposed rates, and the failure of PECO's universal service programs to remediate that unaffordability, and offered comprehensive recommendations for how PECO could improve affordability of current rates and mitigate anticipated unaffordability of any additional approved rate increase.

On February 19, 2020, ALJ Pell issued a Post-Hearing Order indicating that Main Briefs of the parties are due on or before Wednesday, March 3, 2021 and that Reply Briefs are due on or before Monday, March 15, 2021.

C. Overview of PECO's Filing

PECO proposes to increase overall rates by approximately $68.7 million per year, or 8.9% over present revenues. (PECO St. 1 at 5). Of that amount, the Company proposes to generate approximately $43.2 million in additional revenue through an increase in residential rates. (PECO Ex. JAB-1). PECO's proposal would increase the average residential customer's monthly bill from $78.85 to $85.97, an increase of $7.12 per month or approximately 9.03%. (Ex. 111, Sched. 6 at 1.).[5] Most of the impact of the proposed rate increase for residential customers comes from a substantial increase to the fixed monthly service charge – from $11.75 to $16.00, an increase of $4.25 or 36%. (PECO St. 7 at 14:7-12.). Thus, homes using the least amount of gas will face the highest percentage increase, while homes using more gas will see a lower percentage increase. (CAUSE-PA St. 1 at 7).

D. Burden of Proof

The Commission has a "duty to set 'just and reasonable' rates, reflecting a 'balance of consumer and investor interests.'"[6] In determining just and reasonable rates, the PUC has discretion to determine the proper balance between interests of ratepayers and utilities.[7] Pursuant to section 315 of the Public Utility Code, the burden of proving that a rate proposal is just and reasonable rests on the public utility.[8]

---

[5] See Rate Filing Cover Letter at 2.

[6] Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995) (emphasis added); 66 Pa. C.S. § 1301.

[7] Id. citing Pa. PUC v. Phila. Electric Co., 522 Pa. 338, 342-43, 561 A.2d 1224, 1226 (1989); Pa. PUC v. Pa. Gas & Water Co., 492 Pa. 326, 337, 424 A.2d 1213, 1219 (1980), cert. denied, 454 U.S. 824, 102 S. Ct. 112, 70 L. Ed. 2d 97 (1981)).

[8] 66 Pa. C.S. § 315.

II. SUMMARY OF ARGUMENT

It is both unjust and unreasonable to raise rates on essential natural gas service as the economic impact of the COVID-19 pandemic continues to unfold in unpredictable and uncertain ways. The evidence in this proceeding is clear that the breadth and severity of poverty in PECO's service territory – and across the state – is growing at alarming rates. The pandemic has taken an especially heavy toll on both the economic and public health of low-income and minority households, which already faced disproportionately high energy costs compared to higher income households before the pandemic. Raising rates on natural gas to power heat and hot water, essential to curbing the spread of COVID-19 – would increase already high rates of involuntary termination, exacerbating the disproportionate health impacts of the pandemic on low income communities and communities of color and prolonging the longer-term economic recovery for these same households.

As is clear from the record in this proceeding, PECO's existing rates are already categorically unaffordable for a substantial portion of PECO's residential customer class – even for those enrolled in PECO's Customer Assistance Program (CAP). Rather than further exacerbate existing unaffordability, CAUSE-PA urges the Commission to instead approve its proposals for targeted reforms to PECO's existing universal service programs and policies, as well as additional short-term measures capable of addressing the economic devastation caused by the ongoing COVID-19 pandemic.

Specifically, CAUSE-PA urges the Commission to require PECO to adhere to the terms of a Commission-approved Settlement requiring it to (1) adjust its applicable energy burden standards, consistent with the Commission's CAP Policy Statement (CAUSE-PA St. 1 at 30-31); and (2) adjust the CAP fixed credit level immediately upon approval of any rate increase. (Id. at

33-40). In addition to ordering PECO to adhere to these terms, both of which were previously agreed-to and approved in a prior Settlement, CAUSE-PA urges the Commission to adopt the following additional programmatic and policy reforms to help remediate existing unaffordability:

- Develop a plan to increase CAP enrollment 50% by 2025, from 20,147 to 30,221 – roughly 6% of PECO's residential customer population. (CAUSE-PA St. 1 at 32-33).

- Increase the availability and accessibility of usage reduction and weatherization services to low income customers with high usage through adoption of targeted programmatic reforms to PECO's Low Income Usage Reduction Program (LIURP), including:

    - Increase its LIURP budget to a level comparable to similarly sized NGDCs.
    - Establish a budget of $2,000 per LIURP job to remediate health and safety issues with a home that prevent installation of usage reduction and weatherization services.
    - Address costly de facto electric heating and provide gas furnace repair and replacement services through LIURP, at an annual funding level of $700,000.
    - Improve the delivery of LIURP services to tenants and multifamily residents.
    - Ensure that unspent LIURP funds roll over and are added to the budget for the following year.

  (CAUSE-PA St. 1 at 34-37).

- Adopt a temporary COVID-19 relief package, including:
    - Increase funding for PECO's Hardship Fund program by $2 million, through the use of pipeline penalty credits and refunds. (CAUSE-PA St. 1 at 38).
    - Waive the current burdensome requirement that hardship fund recipients achieve a zero dollar balance as a condition to issuing a grant, even if the balance could be deferred for forgiveness through enrollment in CAP or otherwise addressed through a long term payment arrangement. (CAUSE-PA St. 1 at 39).
    - Waive income certification requirements for enrollment in CAP until the state is no longer under a state of emergency. (CAUSE-PA St. 1 at 39).
    - Provide arrearage forgiveness for arrears accrued while in CAP. (CAUSE-PA St. 1 at 40).
    - Waive late fees and reconnection fees for at least one year after a final order in this proceeding is issued. (CAUSE-PA St. 1 at 41).

These comprehensive proposals, if adopted, will help to remediate long-standing rate unaffordability and ensure that low income families – regardless of income – will be able to reasonably afford and maintain safe natural gas service to their home.

In addition to programmatic and policy reforms, it is also critical that the Commission address patent inequities in PECO's residential rate design. PECO's proposed 36% increase in the fixed customer charge will undermine energy efficiency – upending the ability of low income customers to control their energy costs through careful conservation and usage reduction, and undermining the explicit goals of LIURP to help control costs for individual low income consumers and associated universal service program costs.

CAUSE-PA also supports PECO's proposal to continue its voluntary, ratepayer supported Energy Efficiency and Conservation (EE&C) program plan, though adjustments to PECO's proposal are necessary to improve the equitable distribution of program benefits to low income consumers. As proposed, low income customers make up just 1% of those projected to be served by the program – and the projected savings for low income customers amount to just 0.72% of PECO's overall portfolio savings. (CAUSE-PA St. 1 at 46). PECO's proposed low income program within its EE&C is also severely limited – and will be accessible only to homeowners with income at or below 100% FPL. (CAUSE-PA St. 1 at 47). In short, PECO's proposed EE&C program plan will not produce a proportional level of benefits to low income consumers – who pay for the program through rates despite facing clear and well documented affordability issues. As such, CAUSE-PA urges the Commission to require that PECO make the following amendments to its EE&C program plan:

- Allow all PECO customers with income at or below 150% FPL to participate in its low income EE&C program, including both homeowners and tenants. (CAUSE-PA St. 1 at 47).
- Include additional opportunities within PECO's general residential program for low income consumers to access energy efficient equipment without any customer contribution. (CAUSE-PA St. 1 at 48).

- Require PECO to host a collaborative meeting to develop a specific plan for coordinating voluntary EE&C programs with other related programs available to PECO's low income customers. (CAUSE-PA St. 1 at 48).

Finally, the Commission should require PECO to recover universal service across all rate classes. Nonresidential customers both benefit from and contribute to the need for these public purpose programs, and should be required to equitably contribute to ensure the programs are adequately funded to provide just and reasonable rates for economically vulnerable consumers.

III. OVERALL POSITION ON RATE INCREASE REQUEST

As CAUSE-PA witness Mitchell Miller explained in his direct testimony, "Now is not the time to raise rates for essential utility services, such as natural gas, that are critical to ensure that consumers are safe in their homes." (CAUSE-PA St. 1 at 7). The COVID-19 pandemic has thrust Pennsylvania into an unprecedented time of great economic uncertainty, which has undeniably fallen hardest on low income communities. (Id. at 8). The state has begun the slow and plodding process of recovery and reopening, but those efforts have been met with continual setbacks – making the future difficult to predict. (Id.) Business closures throughout the state are resulting in long-term job losses and ongoing reductions in staffing, especially for low wage, hourly workers. (Id.) While the depth and breadth of COVID-19's impact on Pennsylvania's unemployment rates and poverty levels are not yet known, the pandemic will surely have deep and lasting impacts on our economy that are not reflected in PECO's rate proposal. (Id.) Thus, it is inappropriate to allow PECO to increase its rates until these impacts can be understood and incorporated into any ratemaking analysis.

The Commission a "duty to set 'just and reasonable' rates, reflecting a balance of consumer and investor interests."[9] In determining just and reasonable rates, the PUC has discretion to

[9] Popowsky v. Pa. PUC, 542 Pa. 99, 107-108 (1995) (emphasis added); 66 Pa. C.S. § 1301.

determine the proper balance between interests of ratepayers and utilities.[10] "[T]he PUC is obliged to consider broad public interests in the rate-making process."[11]

> [T]he term "just and reasonable" was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation but rather to confer upon the regulatory body the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors consonant with constitutional protections applicable to both.[12]

In the midst of one of the most serious economic crises in American history, PECO proposes to increase overall rates by approximately $68.7 million per year, or 8.9% over present revenues. (PECO St. 1 at 5). In his direct testimony, CAUSE-PA witness Mitchell Miller recommended against raising rates in the midst of the COVID-19 pandemic. (CAUSE-PA St. 1 at 7-9). He explained that, "[I]t is clear that the pandemic will have deep and lasting impacts on our economy that cannot be accurately assessed or accounted for in the context of this rate proceeding." (Id. at 8) He further explained:

> As a foundational principle, I do not believe that rates are just and reasonable if they are not also reasonably affordable for those seeking service. Right now, given the far-ranging economic uncertainty associated with the pandemic and its impact on poverty rates and rate affordability in PECO's service territory and across the state, it is impossible to reasonably assess whether low income consumers will be able afford the Company's natural gas service if its rates are increased as proposed. As discussed in greater length below, PECO's rates for low income customers – including its reduced rates for those enrolled in its Customer Assistance Program (CAP) – are already categorically unaffordable. Until we can more precisely understand the economic impact of the pandemic on local communities and individuals, I do not believe it is appropriate for the Commission to approve any increase in rates. (Id. at 8-9).

[10] Id. citing Pa. PUC v. Phila. Electric Co, 522 Pa. 338, 342-43, 561 A.2d 1224, 1226 (1989); Pa. PUC v. Pa. Gas & Water Co., 492 Pa. 326, 337, 424 A.2d 1213, 1219 (1980), cert. denied, 454 U.S. 824, 102 S. Ct. 112, 70 L. Ed. 2d 97 (1981)).
[11] Id. citing Pa. Elec. Co. v. Pa. PUC, 509 Pa. 324, 331, 502 A.2d 130, 134 (1985).
[12] Id.

Consequently, Mr. Miller recommended that the Commission deny PECO's proposed rate request in its entirety, and take immediate steps to address categorical unaffordability within PECO's CAP program. (CAUSE-PA St. 1 at 9).

This unprecedented economic impact has fallen most profoundly on low wage workers – worsening an already growing utility affordability crisis. (CAUSE-PA St. 1 at 9-16). Low-income workers are less likely to have paid sick leave or personal time. (Id. at 14). Many low wage and hourly workers and are employed in the service, hospitality, and retail sectors, which have been especially hard hit by the emergency closure of non-essential businesses. (Id.) The available data suggests unprecedented levels of long-term unemployment for low wage workers, as well as unconscionable levels of evictions, foreclosures, and utility terminations. (Id. at 14).

Available Data on COVID Economic Impact[13]

- In March 2020, Pennsylvania's unemployment claims rose from 15,439 to 378,900 in one week – the most of any state in the country.
- As of December 12, 2020, 2,447,996 Pennsylvanians had filed for unemployment since the start of the pandemic– representing over 19% of the state's total population.
- While weekly unemployment claims improved through the fall, dropping to a low of 19,223 the week of October 11, that number more than doubled the week ending December 5, 2020, to 40,833 – and remained at 39,258 the week ending December 12, 2020.
- Over 2.9 million (30.2%) Pennsylvania households anticipate a loss in household income in the next 4 weeks.
- Approximately 333,205 Pennsylvania adults (35.2%) live in households that are not current on rent or mortgage, and eviction or foreclosure is either likely to somewhat likely in the next two months; and 619,033 Pennsylvania households report that they are currently behind on rent or mortgage payments, or have slight or no confidence that they will be able to pay next month's rent or mortgage on time.
- As of November 30, 2020, residential utility debt for regulated natural gas, electric, and water services was up 71% year over year, from \$429.5 million to \$734.5 million, and the number of residential customers eligible for termination was up 35% year over year, from 663,349 to 894,944.

[13] See CAUSE-PA St. 1 at 14-15; CAUSE-PA St. 1-SR at 8-9.

- By November 30, 2020, residential arrears across PECO's electric and gas divisions increased 187% year over year, from $42.6 million in 2019 to $122.3 million in 2020; and residential customers eligible for termination was up 64% year over year, from 80,193 in 2019 to 131,241 in 2020.
- As of December 30, 2020, 139,890 of PECO's residential customers were eligible for termination – up 30% year over year.
- Moratoria on utility terminations nationwide through the course of the pandemic have reduced COVID-19 infections by 4.4%, and have reduced COVID-19 mortality rates by 7.4%.

As Mr. Miller explained in testimony, "As the crisis continues, the number of people who are out of work or who experience a reduction in available work or pay, will continue to grow – especially among low-wage workers most susceptible to pandemic related job losses." (Id. at 16).

Even in good economic times, low-income families are often forced to choose between critical necessities, such as rent, food, and medicine and are struggling now more than ever. (Id. at 15). Increasing the cost of gas service by $7.07 per month – or $84.84 per year – will severely impact low-income households, further complicating those difficult choices. (Id. at 15-16). Mr. Miller explained:

> This is a substantial increase in basic living expenses for low income households. For PECO's average confirmed low income customer, whose income is just $15,647.24 each year ($1,303.94/month), this increase represents an additional 0.5% of their total gross annual household income. While this may seem like a small number, it is substantial in terms of measuring an affordable energy burden, defined as the percentage of total household income paid toward household energy costs. For low-income households who already struggle to afford their monthly bills, the effects of the increase may profoundly impact their ability to connect, maintain, and afford natural gas service.

For low-income households who already struggle to afford their monthly bills, the effects of the increase - compounded by the economic effects of COVID-19 - could profoundly impact the ability of thousands of families to connect, maintain, and afford natural gas service. (CAUSE-PA St. 1 at 8-11).

Mr. Miller explained in testimony that raising rates in the midst of the pandemic will result in increased uncollectible expenses and involuntary payment-related terminations. (Id. at 20, 29). Before the pandemic, PECO's low income customers already had a far higher termination rate (19%) compared to average residential customers (4.6%). (Id. at 19). Mr. Miller explained that low income consumers are uniquely vulnerable to far-reaching economic crises, noting that in 2008 at the height of the Great Recession, "87.5% (nearly 9 out of 10) of PECO Gas's confirmed low income customers were terminated for nonpayment – compared to 6.2% of all residential customers (including confirmed low income customers) in the same year." (Id. at 20).

Mr. Miller explained in testimony that loss of natural gas service has a deep and lasting impact on the health and wellbeing of the entire household and the surrounding community as a whole. (CAUSE-PA St. 1 at 29-30). Mr. Miller explained:

> When a family is unable to use a primary heating system, they often resort to dangerous, high usage / high cost heating methods – such as electric space-heaters, electric stoves, and/or portable generators – which increases the risk of carbon monoxide poisoning and deadly house fires. Loss of essential utility service is also a common catalyst to homelessness, which ultimately causes communities to expend an even greater level of resources to adequately address homelessness and protect the safety of its community members. (Id.)

He also explained that COVID-19 has exacerbated the consequences of service termination to low income families:

> As a practical matter, the loss of gas for heating, cooking, and hot water acts as a functional equivalent to eviction – driving families from their homes. Research published in late November found that eviction proceedings allowed to proceed between March to September caused as many as 433,700 additional COVID-19 cases and 10,700 additional COVID-19 deaths. (Id. at 30).

PECO's rates are already unaffordable for economically vulnerable consumers, who will likely experience increased payment trouble and termination if the proposed rate increase is approved. As indicated above, residential arrears across PECO's electric and gas divisions increased 187% year over year, from $42.6 million in 2019 to $122.3 million in 2020. (Id. at 15). Additionally, residential customers eligible for termination was up 64% year over year, from 80,193 in November 2019 to 131,241 in November 2020. (Id.) The average confirmed low income customer who is not enrolled in CAP currently carries an average debt of $320. (Id. at 19).

As Mr. Miller explained, "Bottom line: PECO's low-income consumers already struggle profoundly to pay for natural gas service under the current rates – especially in light of COVID-19 and its wide-reaching effects on our economy, our livelihoods, and our health." (Id. at 20). "These struggles will only worsen if the proposed rate increase is approved, especially if PECO fails to take necessary measures to mitigate the impact of the increase on low-income households." (Id.) Unfortunately, as discussed below in greater depth, PECO's existing CAP rates are categorically unaffordable, and – at current rates – do not adequately protect low income consumers from unreasonably high rates. (See infra section IX.B.1.) Thus, if rates are further increased, the health, safety, and welfare of low income consumers will be at risk.

Due to the uncertainty caused by the pandemic, it is inappropriate to approve an increase in natural gas rates until we can fully assess the economic impact of the virus on our communities. (Id. at 8). As Mr. Miller asserted in his direct testimony, rates are not just and reasonable if they are not also affordable. (CAUSE-PA St. 1 at 8). As such, PECO's request for a rate increase must be denied at this time.

IV. RATE BASE

CAUSE-PA did not take a position on specific rate base issues thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to PECO's rate base in its Reply Brief.

V. REVENUES

CAUSE-PA did not take a position on specific revenue issues thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to revenue issues in its Reply Brief.

VI. EXPENSES

CAUSE-PA did not take a position on specific expense categories thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to recoverable expenses in its Reply Brief.

VII. TAXES

CAUSE-PA did not take a position on specific tax issues thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to tax-related issues in this proceeding in its Reply Brief.

VIII. RATE OF RETURN

CAUSE-PA did not take a position on rate of return issues thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to rate of return in its Reply Brief.

IX. CUSTOMER PROGRAMS AND MISCELLANEOUS ISSUES

A. Recommendations Related to the COVID-19 Emergency

PECO's customers are in dire need of emergency assistance to help ensure that economically vulnerable households are able to remain connected to critical natural gas services. At existing rates, even for CAP customers, service is objectively unaffordable for low income households – costing families upwards of 20% or more of their income on energy costs alone. The global pandemic, which has fallen hardest on low income communities, and communities of color, has exacerbated long-standing unaffordability – leading to the accrual of unprecedented levels of consumer debts and a staggering number of residential consumers eligible for termination.

- As of November 2020, before the winter heating season really began, residential utility debt was ***up 187% year over year ($46.2 million to $122.3 million)*** across PECO's gas and electric divisions. (CAUSE-PA St. 1 at 15).

- By December 2020, nearly 140,000 of PECO's residential customers were facing pending termination by the end of December 2020. (CAUSE-PA St. 1-SR at 8).

As Mr. Miller explained in his Direct Testimony, "low-income termination rates during the Great Recession provide an insightful look at the impact of a far-ranging economic crisis on low income consumers' ability to remain connected to essential utility services." (CAUSE-PA St. 1 at 20). *At the height of the Great Recession in 2008, 87.9% (nearly 9 out of 10) of PECO's confirmed low income natural gas customers were terminated for nonpayment.* (Id.) In comparison, just 6.2% of all residential customers – including low income customers – were terminated for nonpayment in that same year. (Id.) The grave economic and health impact of the pandemic on low income families and communities of color across the state was detailed above, and for the sake of brevity we will not reiterate those crucial facts – though we incorporate them in this section to elucidate the dire need for comprehensive utility assistance and relief from mounting utility debts. (See CAUSE-PA St. 1 at 14-20).

To help alleviate the impact of the pandemic on PECO's residential consumers, and specifically on economically vulnerable low income consumers, Mr. Miller recommended a number of comprehensive, short-term policies and programs, including:

- o Increase funding for PECO's Hardship Fund program by $2 million, through the use of pipeline penalty credits and refunds. (CAUSE-PA St. 1 at 38).

- o Waive the current burdensome requirement that hardship fund recipients achieve a zero dollar balance as a condition to issuing a grant, even if the balance could be deferred for forgiveness through enrollment in CAP or otherwise addressed through a long term payment arrangement. (CAUSE-PA St. 1 at 39).

- Waive income certification requirements for enrollment in CAP until the state is no longer under a state of emergency. (CAUSE-PA St. 1 at 39).

- Provide arrearage forgiveness for arrears accrued while in CAP. (CAUSE-PA St. 1 at 40).

- Waive late fees and reconnection fees for at least one year after a final order in this proceeding is issued. (CAUSE-PA St. 1 at 41).

CAUSE-PA believes each of these recommendations will help provide much needed assistance to those impacted by the pandemic, and will help to ensure that low and moderate income families – including those who may find themselves in poverty for the very first time – can maintain access to critical natural gas services to their homes.

1. *Increase Funding for PECO's Hardship Fund*

PECO was recently approved to expand the eligibility for its Hardship Fund grant assistance, known as the Matching Energy Assistance Fund, from 175% FPL to 200% FPL, a fact that PECO touts in arguing that no additional pandemic relief is necessary. But as Mr. Miller pointed out through his Direct and Surrebuttal testimony, unlike its peers across the state, PECO did not propose any commensurate increase in the dollars available to assist the tens of thousands of residential consumers who have fallen behind on their natural gas bill through the pandemic. (CAUSE-PA St. 1 at 38; CAUSE-PA St. 1-SR at 6). In other words, PECO merely "increased the number of customers eligible for the same amount of grant assistance." (CAUSE-PA St. 1-SR at 6). Without increasing the MEAF budget to serve more customers, PECO's expanded eligibility will not adequately address the unprecedented economic crisis that residential consumes face. (Id.)

To help address the ongoing and unfolding pandemic, and the categorical unaffordability of PECO's existing rates, CAUSE-PA urges the Commission to require PECO to increase its MEAF funding by $2 million. We propose that PECO fund this increase through the use of penalty pipeline credits and refunds, which would represent a very small portion of the total available pipeline penalty credits and refunds. (CAUSE-PA St. 1-SR at Appendix B, CAUSE-PA to PECO III-3(a)). For the period July 1, 2019 through December 31, 2020, the amount of pipeline penalty credits and refunds collected by PECO amounted to over $18 million. (Id.)

PECO argues that it cannot use pipeline penalty credits and refunds in this manner because the funds are used to offset the Purchased Gas Cost. (PECO St. 10-R at 12). But this ignores the fact that many other natural gas utilities have been approved to use pipeline credits and refunds in this manner. (CAUSE-PA St. 1 at 38).[14] In balance, the impact to the Purchase Gas Cost would be extremely limited – amounting to a de minimis benefit to residential ratepayers – while the benefit to those facing extreme hardship would be life altering, and would provide additional benefits to residential customers as a whole through reduced arrears and other collections costs that are ultimately borne by residential consumers. (CAUSE-PA St. 1-SR at 11).

Notably, PECO argues that its $250,000 budget for MEAF across its natural gas and electric divisions "is appropriate" (PECO St. 10-R at 12), but fails to provide any evidence or explanation for its conclusion that $250,000 in funding will be adequate to assist over 140,000 residential consumers to address the more than $122 million in arrears accrued as a result of extreme economic hardships created by the pandemic. As Mr. Miller concluded in testimony, "The crisis we face is unprecedented, and calls for creative solutions to ensure that economically vulnerable consumers facing untold economic hardship are able to maintain natural gas services to their home." (CAUSE-PA St. 1 at 38).

[14] UGI Gas, Peoples Natural Gas, Peoples Gas, and Columbia Gas have all proposed to use pipeline penalty credits and refunds to provide emergency funding to their respective Hardship Fund grant assistance programs. See Petitions of Peoples Natural Gas Company, LLC and Peoples Gas Company, LLC for Expedited Approval to Use Pipeline Penalty Credits and Refund Proceeds as Funding for a Temporary Program to Provide Certain Customers Experiencing a Reduction of Income Due to COVID-19 Pandemic, Docket Nos. P-2020-3022041 (filed September 21, 2020); see also Pa. PUC v. UGI Utilities, Inc. Gas Division, Joint Petition for Approval of Unopposed Settlement of All Issues, Docket No. R-2019-3015162, at 12 (filed Aug. 2, 2020, approved Sept. 8, 2020)

2. *Waive Burdensome Hardship Fund Requirements*

In addition to being inadequately funded to address the current crisis, PECO's Hardship Fund (MEAF) also imposes burdensome requirements on applicants – issuing grants only when the grant will bring the balance to zero. As Mr. Miller explains, "this is despite the fact that low income customers who are eligible for MEAF may be eligible for a long-term payment arrangement that, combined with grant assistance, would help improve affordability, prevent termination, and stabilize the household's access to natural gas services." (CAUSE-PA St. 1 at 39). PECO is the only utility in the state with this burdensome requirement for those facing acute hardship.

To help address the unprecedented utility debt crisis, and stabilize low income families' access to natural gas service, CAUSE-PA urges the Commission to require PECO to waive this burdensome requirement for the duration of the pandemic. This simple proposal is both just and reasonable, and will help ensure that households experiencing an acute economic hardship can maintain access to natural gas service.

3. *Waive Income Certification for CAP During State of Emergency*

The pandemic has presented a number of unique challenges for households to obtain and submit documentation, as libraries and other businesses remain closed to the public. PECO has already waived recertification requirements, but it is not clear how long this waiver will continue. (CAUSE-PA St. 1 at 39). As Mr. Miller explained, "this flexibility should continue until all businesses are fully reopened and the state is no longer under a state of emergency." (Id.) CAUSE-PA urges the Commission to require that PECO continue this flexibility while Pennsylvania remains in a state of emergency, and develop a transition plan to allow consumers to recertify over a reasonable period of time after the emergency period ends. (Id.) It would be both unjust and unreasonable to require thousands of consumers to provide documentation of income all at once – without an organized transition plan.

4. *Provide Arrearage Forgiveness for In-CAP Arrears*

To help equitably alleviate the debt accrued by low income and vulnerable families as a result of the global pandemic, CAUSE-PA asserts that PECO should be required to roll arrears accrued by CAP customers into preprogram arrearage forgiveness. As Mr. Miller explains:

> CAP is designed as an alternative to collections, and is supposed to provide an affordable bill that low income households can reasonably maintain. This is in recognition of the fact that traditional collections methods are ineffective for very low income households, who are unable – not unwilling – to pay for utility costs. As I have discussed, PECO's current CAP is not providing affordable bills, and the pandemic has exacerbated the economic struggle for low income households across the board. Rolling debts accrued through the pandemic into pre-program arrearages will stabilize low income CAP customers – ensuring that they can remain connected to service and helping to improve payments. In essence, it would hit a restart button, allowing low income CAP customers to have a chance to recover as we emerge from this unprecedented economic crisis. As I have explained previously, involuntary termination of critical utility services to a home not only pose a threat to the health and safety of the individual family, it also presents a threat to the health and safety of the entire community." (CAUSE-PA St. 1 at 40).

CAUSE-PA's proposal to equitably address arrears for PECO's very low income customers – instead of pursuing termination as a means to collect – drew criticism from OCA witness Roger Colton, who argued that the proposal lacked specificity. But as Mr. Miller explained in response, the program is actually quite simple – and, given the urgency and uncertainty surrounding the pandemic – minor implementation issues can and should be worked out through a stakeholder process. (CAUSE-PA St. 1-SR at 16). As detailed in Mr. Miller's testimony, the record clearly supports the need for relief for low income CAP customers to reasonably – and equitably – address the unprecedented and disproportionate level of hardship caused by the pandemic on low income utility consumers. (Id.)

CAUSE-PA's proposal is a reasonable and targeted approach to achieve equitable resolution of debt. As Mr. Miller explained, those who are income eligible for CAP – but are not yet in the program – would not need in-program arrearage forgiveness, as their arrears would be eligible for forgiveness by simply entering the program. (CAUSE-PA St. 1-SR at 16; OCA St. 5-R at 10). On the other hand, "current CAP customers do not have a path to address arrears accrued through the pandemic – nor do they have the opportunity to access a payment arrangement from the Commission" to otherwise resolve debt accrued during the pandemic. (Id.)[15] In that way, the relief is targeted – in that it assists those without other avenues to earn forgiveness on debt accrued through the pandemic. CAUSE-PA's proposal is also measured, and is responsive to inequities created by existing unaffordability within CAP. As Mr. Miller explained, "CAP customers were already exceeding PECO's current energy burden standards by substantial margins prior to the onset of the pandemic, making it even more likely that many CAP customers have been unable to keep up with their CAP bills as the pandemic has progressed." (CAUSE-PA St. 1 at 22; CAUSE-PA St. 1-SR at 16). Providing arrearage forgiveness to CAP customers for debts accrued through the pandemic "presents a just and reasonable path forward to address the unprecedented crisis facing low income communities." (CAUSE-PA St. 1-SR at 17).

Finally, it is critical to keep in mind that the cost of CAUSE-PA's proposal to address equitably address CAP arrears is minimal – *amounting to between $0.19 and $0.34 per month for residential consumers.* (CAUSE-PA St. 1-SR at 17).[16] While any increase in rates must always be carefully scrutinized and weighed, this modest increase – in balance – is both just and reasonable,

[15] *Citing* 66 Pa. C.S. § 1405(c).

[16] As of December 2020, the total arrears accrued by CAP customers since March 13, 2020 was $1,130,514, which would be spread across a residential customer base of at least 491,475. (CAUSE-PA St. 1-SR at 17).

and will help to ensure that PECO's most economically vulnerable customers are able to maintain affordable natural gas services to their home.

5. *Waive Late Fees and Reconnection Fees for One Year*

As a final component to CAUSE-PA's proposed pandemic response programming, CAUSE-PA asserts that PECO should waive late fees and reconnection fees for at least one year after a final order is issued in this proceeding. (CAUSE-PA St. 1 at 41). As it stands, and as the evidence discussed above plainly illustrates, the economic devastation in low income communities is likely to persist for a long period of time – even after the immediate public health threat subsides. (CAUSE-PA St. 1 at 14-21). Low income consumers are likely to continue to struggle to pay their bills on time – and will face unprecedented levels of termination. It is important that late fees and reconnection fees continue to be waived to allow low income consumers to regain economic stability in the wake of the pandemic. Otherwise, these fees could act merely as a punitive punishment for being poor – heaping additional costs on top of already unaffordable levels of debt. CAUSE-PA urges the Commission to order PECO to continue waiving late fees and reconnection fees for at least one year following a final order in this proceeding to help alleviate the extra financial burden on low income consumers.

B. Universal Service Programs

1. *Customer Assistance Program*

As it stands, PECO's CAP is not producing affordable rates for low income customers – a fact that will be further exacerbated by any increase in rates as a result of this proceeding. (CAUSE-PA St. 1 at 21-22). There are two primary reasons driving PECO's CAP unaffordability. First, PECO's current energy burden standards far exceed the standards adopted by the Commission, imposing a maximum combined energy burden of 17% of household income.

(CAUSE-PA St. 1 at 21-22).[17] Second, PECO's existing CAP program has also "continually failed to reach its own unacceptably high energy burden standards." (CAUSE-PA St. 1 at 22). According to a third-party evaluation, PECO's dual electric and gas CAP customers had an average energy burden of 20% in 2017 - "or roughly 1/5 of total household income." (Id.) Just imagine for a moment enrolling in an assistance program designed to provide you with an affordable bill, and learning you must still pay 1/5 of your gross household income to maintain heat, hot water, and light to your home.

Existing CAP unaffordability will be further exacerbated by any increase in rates – especially in the first year following any approved rate increase, when the percentage rate increase for CAP customers will actually *exceed* the percentage increase for other residential customers. (CAUSE-PA St. 1 at 23, 33). This is because of the way PECO intends to adjust the applicable CAP rates quarterly – rather than at the time the rate increase is implemented. (Id.) Mr. Miller explained:

> [A]s a result of its Fixed Credit Option program design, CAP customers will experience the full financial impact of the rate increase in the first quarter following the rate increase. In fact, at first, CAP customers will experience an even greater percentage rate increase compared to other residential customers because the initial increase will not affect the application of their credit. Thereafter, the fixed credit will increase slightly with each quarter as the CAP customers' fixed credit amount is adjusted over time. (Id.)

Through discovery, PECO provided a helpful illustration of how this will work in practice, which demonstrates clearly that – at least initially – CAP customers will experience a higher percentage rate increase than general residential customers:

[17] *Citing* PECO Energy Company Universal Service and Energy Conservation Plan 2016-2018, at Addendum B, pg 30 of 54 (Feb. 17, 2017), https://www.puc.pa.gov/pcdocs/1510970.pdf (hereinafter PECO USECP); 52 Pa. Code § 69.265. See also 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-69.267, Final Policy Statement and Order, Docket No. M-2019-3012599 (order entered Nov. 5, 2019) (hereinafter Final CAP Policy Statement and Order); PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Joint Petition for Settlement, Docket No. M-2012-2290911, at Exhibit A (filed March 20, 2015).

> For a Residential GR customer using the standard 8 Mcf, PECO stated the bill impact would be an increase of $7.07 or 8.8% from $80.10 per month to $80.17. Using PECO's current average CAP Gas discount of $8.94 at the time of Rate increase, a PECO CAP customer will see the same $7.07 bill increase ***but with a 9.9% increase***. The Fixed Credit Option ("FCO") adjusts quarterly and over time will include the rate increase in the calculation of future credits. After a year, with equal 8 Mcf usage, the CAP Credit would grow to $9.73 per month, bringing the bill impact down to a $6.29 increase or 8.8% increase. (CAUSE-PA St. 1, Appendix B, CAUSE-PA to PECO I-1 (emphasis added)).

PECO's intent to phase in CAP credit adjustments on a quarterly basis in the year following a rate increase contradicts the plain language of a 2015 Settlement approved by the Commission, which unambiguously provides: "*If PECO is granted a gas base rate increase, the portion of each rate R customer's Annual Credit that is attributable to distribution rates will be increased by a percentage equal to the system-wide residential gas distribution rate increase.*"[18] On its face, this provision of the 2015 Settlement does not contemplate a lengthy phase-in, with incremental quarterly adjustments to the CAP credit over a 12-month period. To the contrary, it requires PECO to adjust the annual CAP credit by a percentage equal to the system-wide residential upon approval of any base rate increase.

While it is true that PECO has proposed in another proceeding to change the structure of its CAP to a percentage of income program, which – if approved – could insulate CAP customers from the impact of a rate increase, any change in PECO's CAP design will not be in effect in time to prevent CAP customers from facing a higher percentage increase in rates as a result of this rate proceeding. As Mr. Miller points out, "PECO is proposing to raise rates for all customers not, in this proceeding. Thus, unaffordability within CAP should likewise be addressed now, in this proceeding." (CAUSE-PA St. 1 at 24; see also CAUSE-PA St. 1-SR at 10).

[18] PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Joint Petition for Settlement, Docket No. M-2012-2290911, at Exhibit A, page 6 (filed March 20, 2015) (emphasis added).

Important to this discussion, PECO's CAP only reaches a small portion of PECO's estimated eligible population. As of October 2020, only 20,147 customers were enrolled in CAP – representing less than 20% of PECO's estimated low income customer base, meaning roughly 80% of PECO's eligible customers and not enrolled in the program. (CAUSE-PA St. 1 at 22). "Despite a steadily growing residential customer base, stubborn poverty levels, and the emergence of an unprecedented economic crisis that is profoundly impacting low income customers, PECO's CAP enrollment has remained low" – and in fact has decreased by approximately 5,000 customers since 2010. (CAUSE-PA St. 1 at 23, Chart 3). As Mr. Miller explained, "If CAP is not reaching the eligible population, it cannot improve identified unaffordability for low income consumers." (CAUSE-PA St. 1 at 23).

To remediate existing unaffordability within CAP and mitigate the impact of any approved rate increase on CAP customers, CAUSE-PA submits that PECO should be ordered adhere to the following to ensure that CAP rates are just, reasonable, and in accordance with the law and policy:

- Adjust the applicable energy burden standards for PECO's natural gas CAP customers, consistent with the Commission's CAP Policy Statement, the terms of a prior Settlement, and PECO's currently effective Universal Service and Energy Conservation Plan (USECP). (CAUSE-PA St. 1 at 30-31).

- Upon implementation of any rate increase, adjust the CAP fixed credit limit by a percentage equal to the system-wide residential gas distribution rate increase, consistent with the terms of the 2015 Commission approved Settlement. (CAUSE-PA St. 1 at 23-24).

- Develop a plan to increase CAP enrollment 50% by 2025, from 20,147 to 30,221 – roughly 6% of PECO's residential customer population. (CAUSE-PA St. 1 at 32-33).

Each of these recommended actions are discussed in turn.

i. Require PECO to adjust its applicable energy burden standards.

The "single most important step" that PECO could take to address current unaffordability of CAP rates, and mitigate the impact of any rate increase, would be to reduce the maximum CAP energy burden standards. (CAUSE-PA St. 1 at 31). In its November 2019 Final CAP Policy Statement and Order, the Commission concluded that its then-existing CAP energy burden standards, upon which PECO's current CAP energy burden standards are based, were not reasonable or affordable, and were inconsistent with the Commission's statutory universal service obligations. (Id.)[19] Importantly, PECO's existing CAP energy burden standards are not only contrary to the Commission's formal policy on the matter, they also contradict PECO's approved Universal Service and Energy Conservation Plan (USECP) and the terms of a prior Commission-approved Settlement.[20]

PECO is proposing to increase rates in this proceeding – in the midst of an economic crisis that is disproportionately harmful to low income communities and communities of color. As such, adjustments to PECO's CAP energy burden standards should not wait for some other proceeding. Low income consumers simply cannot afford to wait. As Mr. Miller explains, "It is incumbent on the Commission to ensure that any rates approved as a result of this proceeding are both just and reasonable – including rates charged to low income households through CAP." (CAUSE-PS St. 1-SR at 10).

CAUSE-PA's proposal drew criticism from OCA witness, Roger Colton, who argued that adjustments to the energy burden for natural gas CAP customers – without also adjusting the

[19] *Citing* Final Policy Statement and Order at 27; see also Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711 (Energy Affordability proceeding) & Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907 (Universal Service Review proceeding); 66 Pa. C.S. § 2203(3), (7), (8).

[20] PECO USECP at Addendum B, pg 30 of 54 (Feb. 17, 2017); PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Joint Petition for Settlement, Docket No. M-2012-2290911, at Exhibit A (filed March 20, 2015).
In relevant part, these documents provide:

> The [energy burden] table is based upon the ranges found at 52 Pa. Code § 69.265(2)(i)(A). In each case, the energy burden listed in the table is the maximum allowable energy burden for that poverty level. If the Commission changes the energy burden ranges set forth in its Policy Statement, PECO will utilize the new maximum allowable energy burden for each poverty level.

(Id.) Note that PECO's 2016-2018 USECP is still effective, as its subsequent USECP for 2019-2024 remains pending before the PUC. (CAUSE-PA St. 1 at 10).

energy burden for electric CAP customers – would create confusion. He also argued that the increased cost of reduced energy burdens would create a hardship for non-CAP low income households and those who are "near poor". (CAUSE-PA St. 1-SR at 11-15). As Mr. Miller explained, these arguments should carry no weight. First, adjusting PECO's natural gas CAP rates without also adjusting its electric CAP rates "would be no more confusing for customers than the fact that PECO is raising rates for gas service without simultaneously raising rates for electric service." (Id. at 11). Moreover, as a practical matter, CAP credits for PECO's dual gas and electric customers appear on the residential customer bill as a single line item, without any explanation of how the credit is calculated, making it highly unlikely customers would be confused by an increase in the gas portion of their CAP credits. (Id. at 12).

Regarding Mr. Colton's concern about the cost impact of reducing the CAP energy burden standards on non-CAP low income customers, CAUSE-PA notes that these customers could simply enroll in the program if they are unable to afford their bill. Rather than maintain CAP at unaffordable rates, the more reasonable solution is to improve outreach to ensure that all those who are eligible for CAP are able to access and enroll. (CAUSE-PA St. 1-SR at 12-13).

Finally, with regard to Mr. Colton's concern that adjusting the energy burden standards would impact the "near poor" – those just over the income threshold for CAP – Mr. Colton again misses the mark. While CAUSE-PA shares Mr. Colton's concern that those who are "near poor" often struggle to afford their bill, the projected cost impact on those over the income threshold for CAP is marginal. As Mr. Miller explained, the adjustments to PECO's CAP energy burden standard are projected to add – at most - $1.26 per month to residential customer bills, or $15.12 per year. (CAUSE-PA St. 1-SR at 14). Mr. Miller provided a table showing the impact of this proposed increase on the energy burden for households with income that exceeds the CAP eligibility threshold by $1.00 – "in other words, those who exceed CAP eligibility by the smallest margin." (Id.) The chart, reproduced here, shows that the impact of CAUSE-PA's recommendation would increase the energy burden for the "near poor" by less than one-tenth of a percent:

	CAP Eligibility - 150% FPL	$1 Over CAP Eligibility	Impact of Increased CAP costs on Energy Burden
1 Person Household	$19,320	$19,321	0.078%
2 Person Household	$26,130	$26,131	0.058%
3 Person Household	$32,940	$32,941	0.046%
4 Person Household	$39,750	$39,751	0.038%
5 Person Household	$46,560	$46,561	0.032%

(CAUSE-PA St. 1-SR at 14). This illustration is not intended to in any way minimize the impact of costs on those who are "near poor", but it does demonstrate why the cost to those above the income eligibility threshold for CAP "should not be a deciding factor in whether to remediate categorical unaffordability within CAP by implementing the Commission's revised energy burden standards." (CAUSE-PA St. 1-SR at 15). Of course, those slightly above the income eligibility for CAP do have other relief options to help reduce their usage or address an acute financial hardship, including PECO's MEAF and LIURP programs. (CAUSE-PA St. 1-SR at 13).

For the foregoing reasons, CAUSE-PA submits that it would be both unjust and unreasonable to allow PECO to continue charging categorically unaffordable and unreasonable rates to CAP customers, and urges the Commission to require PECO to make immediate adjustments to its applicable energy burden standards.

ii. Require PECO to immediately adjust the CAP fixed credit limit upon approval of any increase in rates.

As explained above, to the extent PECO is approved to increase rates, PECO intends to adjust the CAP credit level on a quarterly basis, which will result in CAP customers experiencing a higher percentage rate increase than the rest of the residential rate class. (CAUSE-PA St. 1 at

33). This is in direct contravention to the clear language of a 2015 Settlement, which provides: "If PECO is granted a gas base rate increase, the portion of each rate R customer's Annual Credit that is attributable to distribution rates will be increased by a percentage equal to the system-wide residential gas distribution rate increase." (CAUSE-PA St. 1 at 34).[21] PECO should be required to comply with the terms of this Commission-approved Settlement, and adjust the CAP credit levels for its gas customers immediately upon approval of any rate increase. This is not only required by the terms of a Settlement, it is also good public policy, as it ensures that CAP customers will not bear the full brunt of the rate increase at a time when low income customers are already facing profound economic hardship as a result of the pandemic.

iii. Develop a plan to increase CAP enrollment 50% by 2025.

As a final recommendation to mitigate existing rate unaffordability, and mitigate the impact of PECO's proposed rate increase on low income consumers, CAUSE-PA submits that the Commission should require PECO to develop a plan that would measurably increase its CAP low CAP enrollment rates. As Mr. Miller explained, "A 50% increase [in CAP enrollment] would bring PECO's CAP enrollment to 30,221 – or 6% of PECO's residential customer class, still far lower than the estimated CAP population in PECO's service territory." (CAUSE-PA St. 1 at 33). PECO should be required to work with stakeholders through its Universal Service Advisory Committee to identify "workable solutions" to improve enrollment, including "increased outreach and education; GIS mapping of customer populations and poverty data to allow targeted outreach in areas with high concentrations of potentially eligible households; improved incentive structures or other adjustments to its contract with program administrators; streamlined application requirements; and improved recertification processes." (Id.). PECO should benchmark its

[21] *Citing* PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015, Joint Petition for Settlement, Docket No. M-2012-2290911, at Exhibit A, page 6 (filed March 20, 2015).

progress, and its success or failure should be considered as part of any future requests to further increase rates. (Id.) CAUSE-PA asserts that it is both just and reasonable, and squarely in the public interest, to hold PECO accountable for its low CAP enrollment rates and require it to make measurable improvements to ensure that economically vulnerable households are connected with available programs.

2. *Low Income Usage Reduction Program*

In testimony, Mr. Miller made several recommendations about PECO's LIURP. (CAUSE-PA St. 1 at 25-26, 34-37). Mr. Miller explained that "PECO's LIURP program can play an important role in mitigating unaffordability for low income consumers." (Id. at 25). However, he also explained that LIURP only serves a small portion of those in need of comprehensive energy efficiency and usage reduction services." (Id.)

According to PECO's most recent universal service program needs assessment, 67,015 of PECO's gas service customers were estimated to be income eligible for LIURP services. (Id.) However, in an average year, PECO provides LIURP services to approximately 1,000 low income consumers. (Id.) Thus, Mr. Miller explained, "For LIURP to make a meaningful impact to remediate PECO's existing unaffordability and offset any impact of the proposed rate increase, PECO must make critical changes to its LIURP policies, procedures, and budget to expand usage reduction services to more households." (Id. at 25-26). Mr. Miller explained:

> PECO must take steps to serve additional households through its LIURP, including tenants and multifamily residents; to improve its health and safety program to remediate issues in the home that prevent PECO from performing comprehensive usage reduction services; and to ensure that PECO is able to provide services to those with an inoperable gas furnace who may be relying on inefficient alternatives that are exacerbating other household energy costs. (Id.)

To that end, Mr. Miller made the following recommendations, which will be explained in more detail below:

- Increase LIURP Budget to Level Comparable to Similarly Sized NGDCs;
- Establish a $2,000 health and safety budget for LIURP jobs;
- Incorporate its de facto heating pilot program as a permanent part of its LIURP
- Improve Delivery of LIURP Services to Tenants and Multifamily Residents
- Establish a policy that any unspent LIURP funds will automatically roll over and be added to the LIURP budget for the following year.

(Id. at 34-37).

CAUSE-PA asserts that the Commission should adopt these just and reasonable recommendations to help mitigate existing rate unaffordability and offset the impact of PECO's proposed rate increase – which will fall hardest on high usage low income customers. (See id. at 26).

i. Require PECO to increase its LIURP budget to a level comparable to similarly sized NGDCs.

In his direct testimony, Mr. Miller pointed out that: "As it stands, PECO has a disproportionately low LIURP budget compared to other natural gas distribution companies (NGDCs)." (CAUSE-PA St. 1 at 27). *Despite having the most natural gas customers in the state, PECO has the second lowest overall LIURP budget and the lowest LIURP budget proportionate to PECO's customer base.* (Id.). Table 1 shows the PECO's projected LIURP budget relative to other NGDCs.

TABLE 1: NGDC 2020 Projected LIURP Budget[22]

NGDC	LIURP Budget (2020)	Residential Customers (2019)	Est. Annual LIURP Cost per Residential Customer	Est. Monthly LIURP Cost per Residential Customer
Columbia Gas	$4,955,929	400,043	$12.38	$1.03
NFG	$2,129,300	196,778	$10.82	$0.90
PECO Gas	**$2,250,000**	**484,678**	**$4.64**	**$0.39**
Peoples	$3,244,097	335,583	$9.67	$0.81
PGW	$7,988,818	480,347	$16.63	$1.39
UGI South	$2,359.612	367,175	$6.42	$0.54
UGI North	$1,470,997	157,025	$9.37	$0.78

[22] CAUSE-PA St. 1 at 27.

Based on these numbers, Mr. Miller recommended that PECO increase its LIURP budget by $2,000,000, bringing its annual LIURP budget for gas customers to $4,250,000. (CAUSE-PA St. 1 at 34). He explained that this would help bring parity to PECO's LIURP budget and would be consistent with similarly sized NGDCs. (Id.) Mr. Miller explained that increasing PECO's LIURP budget will "help reduce the financial impact of any rate increase approved in this case on low income high usage customers" (Id.)

With Mr. Miller's recommended LIURP budget increase, PECO's total per customer LIURP spend would cost residential consumers an additional $0.33 per month, or roughly $0.72 total per month, which would still be well below per customer LIURP spending levels for similarly sized NGDCs. (Id.) As explained more fully later in this brief, Mr. Miller's recommendation that universal service costs be equitably recovered across all rate classes will help further reduce the per customer cost of addressing energy poverty, including LIURP costs. (Id. at 34; see also Section X.C, below).

Thus, regardless of any rate increase, the Commission should require PECO to increase its LIURP budget consistent with Mr. Miller's recommendation, which would bring PECO's LIURP closer in line with other NGDCs. This LIURP budget increase is even more crucial should the Commission approve any rate increase, as it will help mitigate the impact of the proposed rate increase on low income, high use customers. As such, CAUSE-PA asserts that the proposal is just, reasonable, and in the public interest – and should be approved.

ii. Require PECO to address health and safety barriers to LIURP participation.

In testimony, Mr. Miller pointed out that, "PECO performs only the most basic health and safety remediation necessary to perform weatherization and energy efficiency measures in a home.

As a result, those most in need of usage reduction services often go unserved." (Id. at 35). Mr. Miller explained:

> Moreover, many high usage households are unable to access LIURP services due to health and safety issues in the home, which prevent comprehensive weatherization and usage reduction services from being performed in the home. While PECO informs customers of these health and safety hazards, and will remediate carbon monoxide or combustion appliance hazards, it will not remediate other health and safety issues discovered at the property – even if the issue prevents the household from receiving LIURP services or is related to a home heating malfunction that has left the household without safe heat. Those who live in poor, inefficient, and potentially unsafe housing stock are likely to face tremendous and unmitigated financial hardship as a result of PECO's proposed rate increase. (Id. at 26)

To help ensure that household health and safety issues do not present an insurmountable obstacle for LIURP applicants, Mr. Miller recommended that PECO establish a $2,000 health and safety budget for LIURP jobs "to remediate a range of health and safety issues that prevent full energy efficiency and weatherization services." (Id.) He further recommended that PECO "permit its LIURP contractors to exceed this budget in appropriate cases, where health and safety remediation will permit energy usage reductions consistent with the average per job usage reduction achieved in the previous program year." (Id.)

> [R]ather than simply "inform" customers of health and safety hazards identified while conducting a LIURP audit, PECO should actively coordinate referrals to other programs that could remediate issues that cannot be resolved through PECO's health and safety, and should return to those properties to deliver comprehensive energy efficiency and usage reduction services after identified issues unable to be resolved with PECO's increased health and safety budget are remediated.

CAUSE-PA asserts that the Commission should require PECO to take these necessary steps to help ensure that health and safety issues in the home do not create an insurmountable barrier to otherwise eligible LIURP applicants – exacerbating current unaffordability and magnifying the financial impact of any approved rate increase for PECO's most vulnerable customers.

iii. Require PECO to incorporate its Defacto Electric Heating / Gas Furnace Repair & Replacement Program as a permanent part of its LIURP.

In his direct testimony, Mr. Miller recommended that PECO incorporate its de facto heating pilot program as a permanent part of its LIURP. (CAUSE-PA St. 1 at 36). He explained that "customers with inoperable or inadequate gas heating systems often rely on inefficient, expensive, and unsafe alternatives like electric space heaters to stay warm in winter." (Id. at 36). He further explained that, "These households are most often ineligible for LIURP assistance on the gas side because, without their main source of heat, they do not meet the high usage threshold." (Id.) However, in these cases, despite higher than average electric usage driven by reliance on inefficient electric space heaters, electric LIURP services are typically unable to remediate inoperable gas furnaces. (Id. at 35-36).

To help address this issue, in 2017, PECO launched a 3-year pilot de facto heating program through its electric LIURP. (Id. at 36). The pilot program is set to conclude at the end of 2020 and, while PECO was recently approved to continue the program into 2021 to fully expend the allocated budget,[23] there are no plans to continue providing this critically important service thereafter. (Id.)

Apart from this short-term pilot, PECO otherwise addresses inefficient space heaters "through client education" alone. (Id. at 36). However, Mr. Miller explained that: "No amount of education can help a low income family to afford to fix their main heating system to alleviate their reliance on electric space heating. (Id.) Thus, he recommended that PECO incorporate its de facto heating pilot program as a permanent part of its LIURP for its natural gas customers, and to fund the program at its current $700,000 level incremental to its general LIURP budget. (Id.) He further recommended that, through the program, PECO should provide emergency repair and replacement

[23] Petition of PECO Energy Company (PECO) to Temporarily Amend its Current 2016-2018 Universal Service and Energy Conservation Plan, Secretarial Letter, Docket No. P-2020-3022785, M-2015-2507139, R-2018-3000164 (Jan. 11, 2021).

services for gas heating customers with inoperable or inadequate main heating sources. (Id.) Additionally, he noted: "When circumstances warrant for its dual gas and electric customers, PECO should consider whether it is cost-effective to transition the household to an electric heat pump which may further reduce overall household energy costs." (Id.)

CAUSE-PA urges the Commission to include PECO's defacto heating pilot as permanent part of its LIURP for its natural gas customers, consistent with Mr. Miller's recommendations regarding continued funding and program operation. Making the pilot a permanent part of PECO's LIURP will help its natural gas customers to heat their homes in a safe, efficient manner – a result that is just, reasonable, and in accordance with strong public policy.

iv. Require PECO to improve delivery of LIURP services to tenants and those who reside in multifamily buildings.

In his direct testimony, Mr. Miller noted that tenants and residents in multifamily buildings are not served at a rate consistent with services to homeowners and those who live in single family residences; thus, he recommended PECO should be required to improve services to these groups. (Id. at 26, 36-37). Mr. Miller explained:

> As a practical matter, many customers are unable to access assistance through LIURP, as eligibility is limited to gas heating customers with average usage in excess of 50 Ccf per month are eligible for LIURP services. This often excludes smaller homes, such as multifamily residences, even if usage in the home is high compared to similarly sized homes. The numbers of multifamily residences served by LIURP bears this out: Since 2018, only 110 multifamily households – out of 2,454 total LIURP jobs – received LIURP services. Tenants are also underserved by LIURP, with just 632 tenants receiving services – compared to 1,822 homeowners. Perversely, the high usage threshold for LIURP also prevents those with an inoperable gas heating system from participation in LIURP because fixing their gas furnace and reducing their electricity usage would cause their gas usage to increase. These households are most often using unsafe, inefficient, and costly alternatives to heat their home, driving up electric usage and creating unsafe living conditions. (Id. at 26).

With regard to multifamily buildings, Mr. Miller recommended that PECO adopt a lower high usage threshold for multifamily units to ensure that these smaller living units are able to access critical energy efficiency and usage reduction services. (Id. at 37). He further recommended that, "PECO should be required to work with its Universal Service Advisory Committee to review multifamily usage data, and identify an appropriate high usage threshold for this group." (Id.) He also recommended that, "Within six months of a final order in this proceeding, PECO should file for approval to implement a reduced high usage threshold for this unique building type." (Id.)

With regard to improving LIURP services to tenants, Mr. Miller recommended that PECO be required to review and make changes to its process for outreach to tenants and its landlord approval process in consultation with its Universal Service Advisory Committee. (Id.)

CAUSE-PA urges the Commission to adopt these recommendations to ensure that tenants and those who reside in multifamily buildings are able to access LIURP services and achieve meaningful bill reduction, which will help address current unaffordability and mitigate any potential rate increase.

v. Ensure that unspent LIURP funds roll over and are added to next budget.

In testimony, Mr. Miller explained that PECO generally spends its entire LIURP budget during the program year, but that this year - as a result of the pandemic - PECO was unable to spend its entire LIHEAP budget within the program year. (Id. at 37). Under these circumstances, PECO had to seek approval from the Commission to roll over its unspent funds. (Id.) Mr. Miller pointed out that seeking Commission approval to carry over and add unspent funds to the budget for the following year, "takes substantial resources of PECO and stakeholders, which could be avoided by establishing a policy regarding unspent LIURP funds." (Id.) Thus, he recommended that PECO establish a policy that any unspent LIURP funds will automatically roll over and be added to the LIURP budget for the following year. CAUSE-PA asserts that PECO should be required to adopt this recommendation so that, should PECO fail to expend its full LIURP budget in future years, there will be no question whether low income consumers will be served at a level consistent with the Commission's approved budget levels – without requiring a separate proceeding to determine what to do with the money.

C. Neighborhood Gas Pilot Rider

CAUSE-PA did not take a position on PECO's Neighborhood Gas Pilot Rider thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to this ratepayer funded program in its Reply Brief.

D. Energy Efficiency and Conservation Programs

As part of its rate filing, PECO has proposed to continue and expand its voluntary Energy Efficiency and Conservation (EE&C) program. While CAUSE-PA is generally supportive of EE&C initiatives, the low income program component within PECO's EE&C Plan – known as the Safe and Efficient Heating Program – requires adjustment to ensure equitable and proportionate distribution of program benefits to economically vulnerable households. (CAUSE-PA St. 1 at 45).

The Safe and Efficient Heating Program is designed to target low income homeowners with income at or below 100% FPL, and will replace a limited number of furnaces over 25 years old and boilers over 30 years old. (CAUSE-PA St. 1 at 45). The program will be administered by a Conservation Service Provider (CSP), and will be funded at $1 million – with an 11.6% administrative budget, or $116,134. (Id. at 45-46).

PECO projects that it will serve a total of 27,664 consumers through its EE&C Program, yet it will serve just 289 low income customers through its Safe and Efficient Heating Program – amounting to just 1% of those served by PPL's EE&C Programs. (CAUSE-PA St. 1 at 46). Savings achieved for low income customers through the EE&C Program are also disproportionately low – and will achieve just 3,529 MCF savings for low income customers, compared to 492,983 MCF savings projected for the residential class. (Id.) This amounts to just 0.72% of overall EE&C program savings. (Id.)

CAUSE-PA is supportive of the direct installation services proposed to be provided through its Safe and Efficient Heating Program, as it will help to remediate heating costs for households with old and inefficient heating and hot water systems. These measures are not generally available to low income households through other programming, which only provides services when a system is inoperable – not when it is inefficient and contributing to high energy costs for the participating household.

Notwithstanding this general support, CAUSE-PA is concerned about the lack of proportional EE&C programming for low income consumers, who help to finance the programs through rates. PECO's voluntary, natural gas EE&C program is not strictly subject to the program standards enumerated in Act 129.[24] That said, PECO's voluntary, rate-payer supported EE&C programs must still be just, reasonable, and in the public interest to be approved. In gauging whether PECO's EE&C program is in the public interest, CAUSE-PA asserts that the Commission should ensure that it aligns with analogous provisions in the law – including the requirements of Act 129 to provide a proportionate level of benefits to low income consumers.[25] Importantly, Act 129 is explicit in its instruction that ratepayer supported EE&C programming – and the proportionate benefits for low income customers – must be "in addition to [LIURP]

[24] See 66 Pa. C.S. § 2806.1, *et seq.*
[25] See 66 Pa. C.S. § 1301; 66 Pa. C.S. § 2806.1(b)(i)(G) ("The plan shall include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines. The number of measures shall be proportionate to the households' share of the total energy usage in the service territory. The electric distribution company shall coordinate measures under this clause with other programs administered by the commission or another Federal or State agency. The expenditures of an electric distribution company under this clause shall be in addition to expenditures made under 52 Pa. Code Ch. 58 (relating to residential low-income usage reduction programs).").

expenditures."[26] Before approving PECO's proposed EE&C Program, CAUSE-PA asserts that the Commission should require PECO to include additional opportunities within its general residential program for low income consumers to access energy efficient equipment and programming without an upfront cost. (CAUSE-PA St. 1 at 48).

In addition to addressing issues with the proportionality, CAUSE-PA asserts that the eligibility standards for PECO's Safe and Efficient Heating Program are unreasonably restrictive in that it serves only homeowners – to the exclusion of tenants – and those with income at or below 100% FPL. CAUSE-PA urges expansion of the eligibility criteria to ensure that renters and those with income between 101-150% FPL can access these critically important energy efficiency services. (CAUSE-PA St. 1 at 47).

Finally, CAUSE-PA is concerned that PECO has not set forth any information – or make any mention – for how PECO's Safe and Efficient Heating Program will be coordinated with PECO's other low income programming. As Mr. Miller explained in direct testimony, PECO "makes no mention of whether and to what exten[t] PECO will coordinate its voluntary EE&C programs with its Act 129 programming and other local, state, and federal programming, like the Weatherization Assistance Program." (CAUSE-PA St. 1 at 47). To remedy this lack of critical details, CAUSE-PA urges the Commission to require PECO to work with stakeholders and interested parties to develop a specific plan for coordinating its voluntary natural gas EE&C with other EE&C programs, including but not limited to LIURP, Act 129, and the Weatherization Assistance Program (WAP). PECO should be required to file this plan within six months of a final order in this proceeding. (Id. at 48).

[26] 66 Pa. C.S. § 2806.1(b)(i)(G).

In its review and approval of PECO's proposed EE&C Program, CAUSE-PA urges adoption of the above reforms to help ensure that available program benefits are equitably distributed to consumers most in need.

E. Quality of Service

CAUSE-PA did not take a position on quality of service issues thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to quality of service issues in its Reply Brief.

X. RATE STRUCTURE

A. Cost of Service

CAUSE-PA did not take a position on cost of service issues thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to cost of service issues in its Reply Brief.

B. Revenue Allocation

CAUSE-PA did not take a position on rate allocation issues thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to quality of service issues in its Reply Brief.

C. Allocation of Universal Service Program Costs

1. *PECO should be ordered to develop and seek approval for a proposal to recover universal service costs equitably across all rate classes.*

In the Final CAP Policy Statement Order, the Commission declared that it "will no longer routinely exempt non-residential classes from universal service obligations."[27] In doing so, the Commission explicitly indicated that individual utility rate cases are the appropriate venue to

[27] Final CAP Policy Statement and Order at 7, 97; see also 52 Pa. Code §§ 69.625(1), 69.266(b).

consider recovery of the costs of CAP costs from all ratepayer classes.[28] While the Commission did not order utilities to propose a specific allocation, it indicated that utilities should be prepared to address cross-class recovery of universal service costs in future rate case filings. However, in its current rate proposal, PECO has failed to present any proposal to address recovery of universal service costs across all rate classes. Currently, PECO recovers its universal service costs through its Universal Service Fund Charge, which is only included on residential customer bills. (Tariff at 36).

In explaining its rationale for amending the CAP Policy Statement to address the recovery of CAP costs, Commission acknowledged that "**poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just 'residential class' problems**."[29] As Mr. Miller explained in testimony:

> Energy insecurity impacts all customer classes (industry, business, commerce, educational institutions, hospitals, local and state governments, and other residential consumers) in specific and identifiable ways. The responsibility to provide universal access to life-sustaining utility service should be shared by all utility consumers. Poverty is a broad societal problem, impacting all customers and customer classes and requiring a collective, societal solution. While the most direct benefits of universal service programs are derived by program participants, who by definition are part of the residential customer class, there are a multitude of societal benefits which inure to non-residential ratepayers that should not be ignored. **As a public good, the cost of ensuring affordable access to very basic human needs should be borne by all those who enjoy the benefits of the public utility.**
>
> (CAUSE-PA St. 1 at 49-50)

The COVID-19 pandemic is pushing the number of low-income households in PECO's territory higher than it has ever been:

> Low-income workers are less likely to have paid sick leave or personal time to care for themselves or their families. Many low wage and hourly workers and are employed in the

[28] Id.

[29] Final CAP Policy Statement and Order at 94.

> service, hospitality, and retail sectors, which have been especially hard hit by the emergency closure of non-essential businesses. (CAUSE-PA St. 1 at 14).

As explained above, available data suggests that the pandemic is likely to lead to unprecedented levels of long-term unemployment for low wage workers, evictions, foreclosures, and utility terminations. (CAUSE-PA St. 1 at 14-15). The number of people who are out of work or who experience a reduction in available work or pay, will continue to grow as the pandemic continues, especially among low-wage workers who are most susceptible to pandemic related job losses. (Id.).

Considering this growing need, it is not appropriate for PECO to continue to recover its universal service costs exclusively from the residential class. Energy insecurity impacts all customer classes and the responsibility to provide universal access to life-sustaining utility service should be shared by all utility consumers. (CAUSE-PA St. 1 at 49). Non-residential customers both contribute to the need for and benefit from the operation of PECO's universal service programs. (Id. at 49-50).

> While the most *direct* benefits of universal service programs are derived by program participants, who by definition are *part of* the residential customer class, there are a multitude of societal benefits which inure to non-residential ratepayers that should not be ignored. As a public good, the cost of ensuring affordable access to very basic human needs should be borne by all those who enjoy the benefits of the public utility. (Id.)

In the context of this rate case, PECO failed to comply with the Commission's express instructions and stated expectation that utilities will address the issue of cross-class recovery of universal service costs in the context of its next rate case. As such, CAUSE-PA asserts that PECO should be ordered to develop a proposal to recover universal service program costs equitably from all ratepayers, and seek approval for such a proposal within one year of a final order in this proceeding.

2. *Cross class recovery of universal service costs is consistent with Pennsylvania law and furthers critically important public policy goals to protect the health and safety of vulnerable Pennsylvanians.*

The Choice Act specifically authorizes the recovery of public purpose program costs, including universal service program costs, through a ***nonbypassable*** rate mechanism. Section 2203(6) of the Choice Act provides:

> After notice and hearings, **the commission shall establish for each natural gas distribution company an appropriate nonbypassable, competitively neutral cost-recovery mechanism which is designed to recover fully the natural gas distribution company's universal service and energy conservation costs** over the life of these programs.[30]

Nothing in the Choice Act requires, encourages, or even suggests that the Commission should limit cost recovery of universal service programs to a specific rate class. Nor is there any provision which otherwise permits the Commission to allow a rate class to bypass universal service costs. To the contrary, the Choice Act is explicit that the Commission must ensure universal service programs are "appropriately funded and available" to ensure that low-income customers can "maintain natural gas service" to their home.[31]

As a matter of statutory interpretation, the Choice Act specifically prohibits recovery from the industrial customer for costs related to consumer education, indicating that the General Assembly clearly knows how to preclude cross class recovery when it believes such a restriction is appropriate. [32] The absence of such a restriction for cross class recovery for universal service costs in the Choice Act is meaningful, and indicates the PUC has ample authority to approve cross-class recovery in its specific mandate to ensure that universal service programs are appropriately

---

[30] 66 Pa. C.S. § 2203 (6).

[31] 66 Pa. C.S. § 2202, 2203 (7), (8). Section 2202 defines "universal service and energy conservation" as the "[p]olicies, practices and services that help residential low-income retail gas … to maintain natural gas supply and distribution services. The term includes retail gas customer assistance programs…". 66 Pa. C.S § 2202.

[32] 66 Pa. C.S. § 2206.

funded. As the Commission noted in its Final CAP Policy Statement, "there is no statutory or appellate prohibition that limits the recovery of CAP costs, whether specifically calculated or as part of total universal service costs, to funding from the residential class."[33]

In August 2006, the Commonwealth Court in Lloyd v. Pa. PUC addressed the right of Pennsylvania utilities to recover the costs of "public purpose programming" from all rate classes.[34] In Lloyd, a challenge was brought by the PPL Industrial Customer Alliance (PPLICA) against the Commission's decision to allow cross-class recovery of funding for the Sustainable Energy Fund (SEF) in PPL's service territory.[35] PPLICA argued that SEF provided "no demonstrable benefits to ratepayers" and asserted that there was no legal justification for funding the program through distribution rates.[36] The Commonwealth Court roundly rejected PPLICA's arguments, finding explicitly that – through section 2802(17) of the Electric Choice Act[37] – *the General Assembly has specifically authorized that "public service programs" be funded through rates*.[38] The court stated:

> What the core of that argument ignores is that the **General Assembly has specifically authorized that public service programs** such as SEF be funded. Recognizing that certain programs funded under the utility monopoly and bundled rate regime were at risk once the electric industry was deregulated, it provided in the Competition Act that such funding be continued and that **it be funded as an allowable expense by a 'nonbypassable rate mechanism.'**[39]

[33] Final CAP Policy Statement and Order at 96.

[34] Lloyd v. Pa. PUC, 904 A.2d 1010 (Pa. Commw. Ct. 2006).

[35] It is important to note that Lloyd also examined funding for PPL's CAP (known as OnTrack), but the funding issue raised in Lloyd did not examine the issue of cross-class recovery. Rather, the CAP issue questioned the appropriate level of funding and targeted enrollment level, not the mechanism for recovery. See id. at 1027-28.

[36] Id. at 1024-25.

[37] Similar language is included in the Gas Choice Act. See 66 Pa. C.S. §§ 2202, 2203 (6)-(8).

[38] Lloyd v. Pa. PUC, 904 A.2d at 1024-25.

[39] Id. (emphasis added).

The Court also concluded that, "[I]t was well within the Commission's discretion to determine that SEF projects **produced demonstrable benefits for ratepayers**."[40] Ultimately, pursuant to these findings, the Commonwealth Court affirmed the continued recovery of SEF program costs from all ratepayers, stating:

> Accordingly, based on the Commission's determination that SEF projects **were a demonstrable benefit to distribution ratepayers,** that the General Assembly authorized the continued funding, that SEF funding was not a tax, hidden or otherwise, but a conservation program directly related to conservation programs that the General Assembly permitted to be funded, the Commission's decision for continued funding of the SEF program is affirmed.[41]

It is clear that non-residential customers do indeed benefit from universal service programs in real and substantial ways. (CAUSE St. 1 at 49-53). It is, therefore, only fair that they contribute to fund the programs. In analyzing the policy of Philadelphia Gas Works (PGW) to recover universal service costs across all customer classes, the Commission has acknowledged that commercial and industrial customers benefit from PGW's universal service programs.[42] The Commission has also observed that "helping low-income families maintain utility service and remain in their homes is also a benefit to the economic climate of a community."[43] Mr. Miller explained in testimony, "As a public good, the cost of ensuring affordable access to very basic human needs should be borne by all those who enjoy the benefits of the public utility. " (See CAUSE-PA St 1 at St. 1 at 50).

Many universal service program participants are employed, but their employers do not pay enough to afford basic household need or are retired Seniors that do not receive enough in Social

---

[40] Id.
[41] Id. (emphasis added).
[42] Pa. PUC v. PGW, Docket No. R-2017-2586783, at 75 (final order entered Nov. 8, 2017) ("We also find merit in the argument of the opposing Parties that all firm customers, including commercial and industrial customers, benefit indirectly from PGW's extensive low-income assistance programs.").
[43] Final CAP Policy Statement at 94.

Security or retirement benefits to afford basic life necessities. (CAUSE-PA St. 1 at 50). In Pennsylvania, the majority (65.4%) of natural gas CAP customers received employment or retirement income, yet still could not afford basic living expenses without assistance. (Id.) Poverty and energy insecurity can cause heightened levels of stress and anxiety and force employees to take time away from work address utility issues, which can significantly undermine worker productivity and increase employee turn-over and absenteeism. (Id.) Thus, commercial employers contribute to the inability of their employees to afford utility service and these same employers benefit from the operation of the programs, which fill the gaps left by insufficient wages. (Id.) It is thus inequitable for programs so essential to the public purpose goals of the Choice Act to continue to be funded solely by residential customers.[44]

The effects of poverty on the healthcare system are especially profound and of particular concern in the COVID era. Data is emerging to show that the health impact and resulting loss of life is even more profound in low-income and minority communities. Mr. Miller explained in testimony:

> People of color in particular are dying from COVID-19 at younger ages and at higher rates. Low-income and minority communities are more likely to live near polluting industries, more likely to live in homes with mold and ventilation problems, and more likely to lack access to adequate health care – all of which are attributed to poorer health outcomes related to COVID-19 exposure. Energy insecurity is associated with poor respiratory outcomes including asthma and pneumonia, likely due to dampness, mold, and cold temperatures that can aggravate respiratory ailments. The economic impact of COVID-19 is likewise more profound for low-income and minority communities. Comprehensive energy affordability programming, such as CAP and LIURP, can help alleviate the burdens that energy poverty creates on our healthcare system, providing broad benefits to all utility consumers and our economy overall. (Id. at 51-52).

[44] 66 Pa. C.S. § 2202 (indicating universal service and energy conservation programs should help residential low-income customers to "maintain natural gas supply and distribution services.").

Universal service programming, such as CAP and LIURP help provide affordable service to low-income customers, which reduces the risk that they will forego food and medicine or keep homes at unsafe temperatures. (Id. at 21-30). Additionally, once the current moratorium on service terminations is lifted, these programs will be relied upon to help low-income customers maintain natural gas service. Continued access to natural gas service is vital in the face of the pandemic because it is necessary for hot water to wash and sanitize and heat for working/schooling from home; both of which are vital to helping curb the spread of disease, including COVID-19.[45] Thus, universal service programs benefit all utility consumers and the economy by helping battle the pandemic by helping prevent further spread of COVID-19 in low-income and minority communities.

Another Philadelphia area natural gas utility, Philadelphia Gas Works (PGW) has a successful, long standing policy of recovering universal service costs across all customer classes. The Commission has observed: "*[W]e have not seen evidence that the economic climate in Philadelphia has been negatively impacted as a result of universal service costs charged by PGW.*"[46] As the record shows, other states that currently offer of the states that currently offer programs similar to Pennsylvania's universal service programs recover the costs of the programs across all rate classes. (See CAUSE-PA St. 1 at 53).[47] The Commission has acknowledged that "Cross-class recovery for universal service costs is the 'norm' across much of the country, where

[45] See Public Utility Service Termination Moratorium Proclamation of Disaster Emergency - COVID-19, Emergency Order, Docket No. M-2020-3019244 (order entered Mar. 13, 2020).

[46] Final CAP Policy Statement and Order at 95-96.

[47] See, e.g., 4 CCR 723-3, § 3412(g) (Colorado); Ohio Rev. Code § 4928.52; NJ Rev. Stat. § 48:3-60; Amendments to Consumer Protections Standards for Electric and Gas Transmission and Distribution Utilities (Chapter 815) and Statewide Low-income Assistance Plan (Chapter 314), No. 2013-00228, Order (Me P.U.C. July 17, 2013); Re Statewide Low-Income Electric Assistance Program, 87 NH PUC 349, 218 P.U.R.4th 442 (N.H. PUC 2002); Order Adopting Low-income Program Modifications and Directing Utility Filings, NY Pub. Service Comm'n Docket No. 14-M-0565 (May 20, 2016); 2015 ORS § 757.612(7); Re Investigation into Percentage of Income Payment Program, No. 16-254, Order (Or. P.U.C. July 6, 2016); Illinois Energy Assistance Act, 305 ILCS 20/18; Cal. Pub. Util. Code § 382.

state utility commissions and legislatures have expressly recognized that universally available utility services benefit the community as a whole."[48]

> States recover the cost of utility low-income programs from all ratepayer classes, including New York, New Jersey, Ohio, Illinois, Maine, and New Hampshire […]. We are not aware that this practice has negatively impacted the business climate of any these states.[49]

While residential consumers may exclusively experience energy poverty, they do not *cause* energy poverty nor do they exclusively experience its negative effects; thus, residential customers should not alone shoulder the cost of remediating the problem. (Id. at 52). Appropriate cost-sharing for these critical public purpose programs would lighten the burden on residential customers while providing more affordable service to CAP customers and more fairly allocate the costs of these critical programs between all of the entities who enjoy their benefits. (Id. at 52-53).

3. ***The current gas rate case is the appropriate proceeding to address recovery of gas CAP costs.***

In rebuttal testimony, PECO witness Kelly Colarelli opined that this gas rate case is not the appropriate place to consider cross-class allocation of universal service costs because PECO's gas-only CAP customers are only a small portion of its total CAP customers and PECO intends to address the allocation of universal service costs in its next electric base rate proceeding. (PECO St. 10-R at 12). However, as Mr. Miller pointed out in testimony, the fact that PECO's gas CAP population is smaller than its electric CAP population "is not a valid reason to ignore equitable universal service cost allocation proposals in the context of its gas rate case, where determinations about the allocation of PECO's gas operations (including allocation of its gas-related universal service costs) are made." (CAUSE-PA St. 1-SR at 18). Mr. Miller explained:

[48] Final CAP Policy Statement and Order at 96.

[49] Final CAP Policy Statement and Order at 96.

> PECO has the highest number of residential gas customers in the state and the third highest number of gas CAP participants. The fact that PECO's gas operations are relatively smaller than PECO's electric operations does not excuse the Company from its obligation to appropriately allocate costs for its gas operations in the context of its gas rate case. The allocation of universal service costs incurred by its gas customers should be addressed here, in this proceeding, not in an electric rate case. (Id.)

As Mr. Miller points out, recovery of gas CAP costs must be addressed in a gas rate case, not an electric rate case. (Id.) Thus, if PECO intends to address cross class recovery of its electric universal service costs in its next electric rate case, it should have addressed its gas universal service costs in the current proceeding. As such, the Commission should require PECO to set forth a proposal to recover universal service costs equitably across all rate classes.

D. Tariff Structure

1. *Residential Customer Charge*

PECO seeks to increase its fixed monthly residential customer charge from $11.75 to $16.00, an increase of $4.25 or 36%. (PECO St. 7 at 14). Most of the impact of the proposed rate increase for residential customers comes from this substantial increase to the fixed monthly service charge; thus, homes with the lowest usage levels will see the largest percentage increases, while homes with higher usage levels will see a lower percentage increase. (CAUSE-PA St. 1 at 7).

In testimony, CAUSE-PA witness Mitchell Miller recommended against PECO's proposal to increase its fixed residential customer charge. (CAUSE-PA St. 1 at 32-35). He recommended that if any increase in residential rate is approved, it should be applied exclusively to the volumetric charge. (Id. at 35). He explained that this approach would protect the ability of low income households to lower their bill by reducing consumption, which would, in turn, preserve the effectiveness of the LIURP program at reducing customer bills and improving payment behavior. (Id. at 35).

Mr. Miller explained, "Increasing the fixed charge as proposed will undermine the ability for consumers to control costs through energy efficiency, conservation, and consumption reduction, which is particularly problematic for low income customers." (CAUSE-PA St. 1 at 41). He explained that low income customers already struggle to pay for natural gas service, and rely on the ability to reduce bills through conservation and usage reduction: "Regardless of the level of household usage, any increase to the fixed charge prevents customers from exercising the ability to use conservation measures to mitigate that portion of the rate increase." (Id.).

A primary reason for Mr. Miller's recommendation against increasing the fixed charge is the effect it would have on the efficacy of PECO's LIURP:

> PECO's proposal undermines the explicit goals of the Low-Income Usage Reduction Program (LIURP). The Commission's LIURP regulations explicitly provide that the program is intended to help low-income customers to reduce their *bills* and, in turn, to "decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs." By reducing the amount of bill reduction that can be obtained through LIURP measures, the proposed increase to the fixed charge threatens the continued effectiveness of ratepayer investments intended to reduce energy consumption, delinquencies, collections, and uncollectible costs. The explicit goals of the program will be more difficult to achieve as the fixed portion of the bill is increased. (CAUSE-PA St. 1 at 42).[50]

Mr. Miller pointed out that LIURP has been effective at achieving these goals and producing meaningful average bill savings:

> In 2018, LIURP saved gas participants an average of $101 per year, or $8.41 per month. It also improved participants bill payment by 12.1%, or approximately $166 annually, and improved bill coverage by 4.6%. The ability to save money through energy efficiency, and therefore drive improved bill payment behavior, is tied directly to a bill structure that bases costs on throughput. But as more residential customer costs are shifted to the fixed charge, the achievable bill savings – and the

[50] *Citing* 52 Pa. Code § 58.1 ("The programs are intended to assist low-income customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs.").

> corresponding impact on bill payment behavior – will erode. (CAUSE-PA St. 1 at 42).

PECO's current customer charge is $11.75, which makes up 14.7% of the current average residential bill, which is $80.10. (CAUSE-PA St. 1 at 43). If the proposed fixed charge is approved at $16.00, it would equal 20% of the current average residential bill, which is $80.10 – or 18% of the average bill if PECO's rate increase is approved as requested, which would be $87.17. (Id.) Thus, as Mr. Miller explained, "if the proposed increase in the fixed customer charge is approved, PECO's customers will lose the ability to control (on average) between 3-5% of their monthly bill through energy conservation and consumption reduction efforts – undermining the effectiveness of LIURP to achieve meaningful bill savings for low income consumers." (Id.)

Low income households are disproportionately payment troubled, and often lack the ability to control usage due to poor housing stock and older, less efficient appliances; thus, it is critical that they continue to have access to effective conservation tools capable of producing meaningful and lasting bill reductions. (Id. at 43). The ability to achieve bill reduction through conservation measures is most critical for households with income above 150% FPL but less than 200% FPL because they are ineligible for CAP or LIHEAP, but are eligible for LIURP or the federal Weatherization Assistance Program (WAP). (Id.). He explained that both of these programs have income guidelines that allow them to serve customers with income up to 200% FPL. (Id.). Thus, as Mr. Miller explained, "It is critical that these households retain the ability to reduce their monthly energy costs through adoption of comprehensive energy efficiency and conservation programming." (Id.).

Mr. Miller also explained that, in addition to undermining the effectiveness of millions of dollars in LIURP investments, PECO's high fixed charge proposal will also "undermine the millions of ratepayer dollars that the Company is proposing to invest in energy efficiency through its voluntary Energy Efficiency and Conservation Program Plan." (Id.).

For these reasons, PECO's fixed monthly customer charges should not be increased and any approved increase in rates should be applied exclusively to the volumetric charge. This would protect the ability of low income households to lower their utility costs by reducing consumption and would preserve the effectiveness of the LIURP program at reducing customer bills and improving payment behavior.

2. *Non-Residential Customer Rate Design*

CAUSE-PA did not take a position on non-residential customer rate design thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to non-residential rate design in its Reply Brief.

3. *DSIC Cost Allocation*

CAUSE-PA did not take a position on DSIC Cost Allocation thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to DSIC cost allocation in our Reply Brief.

4. *Negotiated Gas Service*

CAUSE-PA did not take a position on negotiated gas service thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to negotiated gas service in our Reply Brief.

5. *Theft/Fraud Investigation Charge*

CAUSE-PA did not take a position on PECO's proposed theft/fraud investigation charge thus far in this proceeding; however, we reserve the right to respond to arguments raised by PECO or other parties with regard to this proposed charge in its Reply Brief.

XI. CONCLUSION

For the reasons set forth above and in the Direct and Surrebuttal testimony of CAUSE-PA's expert witness, Mitchell Miller, CAUSE-PA urges the Honorable Deputy Chief Administrative Law Judge Christopher P. Pell and the Pennsylvania Public Utility Commission to deny PECO's proposed rate increase in its entirety. Moreover, consistent with the arguments raised above, CAUSE-PA urges ALJ Pell and the Commission to order PECO to implement a number of measures designed to alleviate existing rate unaffordability; mitigate the impact of any approved rate increase; improve access to and effectiveness of energy efficiency and conservation programming; equitably address the accrual of arrears through the COVID-19 pandemic; ensure that PECO's proposed rate design does not undermine energy efficiency and conservation; and require that PECO's public purpose program costs are equitably shared across all rate classes consistent with the fact that residential consumers to not cause energy poverty.

Respectfully submitted,
Pennsylvania Utility Law Project
Counsel for CAUSE-PA

John Sweet

John W. Sweet, Esq., PA ID: 320182
Elizabeth R. Marx, Esq., PA ID: 309014
Ria M. Pereira, Esq., PA ID: 316771
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
pulp@palegalaid.net

Date: March 3, 2021

APPENDIX A: PROPOSED CONCLUSIONS OF LAW

1. Pursuant to section 315 of the Public Utility Code, the burden of proving that a rate proposal is just and reasonable rests on the public utility. 66 Pa. C.S. § 315.
2. The Commission has a "duty to set 'just and reasonable' rates, reflecting a balance of consumer and investor interests." Popowsky v. PUC, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301.
3. In determining just and reasonable rates, the PUC has discretion to determine the proper balance between interests of ratepayers and utilities. Popowsky v. PUC, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301.
4. "[T]he PUC is obliged to consider broad public interests in the rate-making process." Popowsky v. PUC, 542 Pa. 99, 107-108 (1995).
5. "[T]he term "just and reasonable" was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation but rather to confer upon the regulatory body the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors consonant with constitutional protections applicable to both." Popowsky v. PUC, 542 Pa. 99, 107-108 (1995).
6. The Commission has a statutory obligation to ensure that rates are universally affordable for low income consumers, and that universal service programs are appropriately funded and available to ensure that low income consumers can maintain natural gas service to their homes. 66 Pa. C.S. §§ 2802, 2803(3), (6)-(8).
7. No rate increase should be permitted until we can fully assess the economic impact of the COVID-19 pandemic on our communities.
8. PECO's current CAP rates impose energy burdens that substantially exceed the maximum affordability threshold prescribed in the Commission's formal CAP Policy Statement. 52 Pa. Code § 69.265 (2)(i).
9. PECO's current CAP rates are not reasonable or affordable. Final CAP Policy Statement and Order at 27.
10. The maximum combined CAP energy burdens, including both electric and natural gas costs, should not exceed 10%. Final CAP Policy Statement and Order at 32.
11. For natural gas service alone, the Commission set the maximum energy burden threshold at 4% for customers at or below 50% of the Federal Poverty Level (FPL), and 6% for customers at 101-151% FPL– including any additional fees, like arrearage co-payments and CAP Plus charges. Final CAP Policy Statement and Order at 32.
12. Any matters related to the CAP Policy Statement that cannot be resolved by voluntary compliance with Commission policy will be addressed in utility-specific proceedings. Final CAP Policy Statement and Order at 2-3.
13. LIHEAP should not be considered an available resource when setting an appropriate affordability threshold for CAP. Final CAP Policy Statement and Order at 50-51.

14. In its recent Final CAP Policy Statement and Order, the Commission declared that it "will no longer routinely exempt non-residential classes from universal service obligations," and indicated that utilities should be prepared to address cross-class recovery of CAP costs in future rate case filings. Final CAP Policy Statement and Order at 7, 97; see also 52 Pa. Code §§ 69.625(1), 69.266(b).

15. It is not appropriate, nor is it just or reasonable, for PECO to continue to recover its universal service costs exclusively from the residential class.

16. The cost of and need for universal service programs is caused by numerous societal factors that extend beyond the residential rate class.

17. After notice and hearings, the commission shall establish for each natural gas distribution company an appropriate nonbypassable, competitively neutral cost-recovery mechanism which is designed to recover fully the natural gas distribution company's universal service and energy conservation costs over the life of these programs. 66 Pa. C.S. § 2203(6).

18. "[T]here is no statutory or appellate prohibition that limits the recovery of CAP costs, whether specifically calculated or as part of total universal service costs, to funding from the residential class." Final CAP Policy Statement at 96.

19. The General Assembly has specifically authorized "public service programs" to be funded through rates, and across all rate classes. Lloyd v. Pa. PUC, 904 A.2d 1010 (Pa. Commw. Ct. 2006).

20. Universal service programs are public purpose programs, and provide benefits to all ratepayers.

21. PECO's voluntary natural gas energy efficiency and conservation program is not subject to the program standards in Act 129; however, in gauging whether a ratepayer supported program is just, reasonable, and in the public interest, it should align with the standards set forth in Act 129. 66 Pa. C.S. § 2806.1, *et seq.*; 66 Pa. C.S. § 1301.

22. Act 129 requires energy efficiency and conservation programs to include a proportionate number of measures for low income customers commensurate with low income energy usage in a given service territory. 66 Pa. C.S. § 2806.1(b)(i)(G).

23. Low income energy efficiency and conservation programming pursuant to Act 129 must be in addition to the utility's LIURP. 66 Pa. C.S. § 2806.1(b)(i)(G); 52 Pa. Code Ch. 58.

APPENDIX B: PROPOSED FINDINGS OF FACT

1. In 2019, approximately 1 in 5 of PECO's residential customers were estimated to be low income. (CAUSE-PA St. 1 at 10-11; CAUSE-PA St. 1-SR at 9-10).
2. A household must have income at or below 150% of the federal poverty level to be considered low income. Income for family of four at 150% FPL is $39,300. (CAUSE-PA St. 1 at 12-13).
3. The Self Sufficiency Standard in PECO's service territory for a family of four is $86,111. The Self Sufficiency Standard is the county-specific income level required for a household to meet their basic needs without assistance. (CAUSE-PA St. 1 at 12-13).
4. In 2019, PECO's low income termination rate reached 19% - up from 17.7% in 2017. (CAUSE-PA St. 1 at 19).
5. As of October 2020, 67% of low income customers enrolled in PECO's CAP were payment troubled, compared to 16% of non-low income residential customers, and carried an average debt of $120. (CAUSE-PA St. 1 at 17-18).
6. As of October 2020, PECO's non-CAP confirmed low income customers carried an average debt of $320. (CAUSE-PA St. 1 at 19).
7. In March 2020, Pennsylvania's unemployment claims rose from 15,439 to 378,900 in one week – the most of any state in the country. (CAUSE-PA St. 1 at 14).
8. As of December 12, 2020, 2,447,996 Pennsylvanians had filed for unemployment since the start of the pandemic– representing over 19% of the state's total population. (CAUSE-PA St. 1 at 14).
9. Over 2.9 million (30.2%) Pennsylvania households anticipate a loss in household income in the next 4 weeks. (CAUSE-PA St. 1 at 14).
10. Approximately 333,205 Pennsylvania adults (35.2%) live in households that are not current on rent or mortgage, and eviction or foreclosure is either likely to somewhat likely in the next two months; and 619,033 Pennsylvania households report that they are currently behind on rent or mortgage payments, or have slight or no confidence that they will be able to pay next month's rent or mortgage on time. (CAUSE-PA St. 1 at 14).
11. By November 30, 2020, residential arrears across PECO's electric and gas divisions increased 187% year over year, from $42.6 million in 2019 to $122.3 million in 2020; and residential customers eligible for termination was up 64% year over year, from 80,193 in 2019 to 131,241 in 2020. (CAUSE-PA St. 1 at 14).
12. Moratoria on utility terminations nationwide through the course of the pandemic have reduced COVID-19 infections by 4.4%, and have reduced COVID-19 mortality rates by 7.4%. (CAUSE-PA St. 1-SR at 8).
13. As of December 30, 2020, 139,890 of PECO's residential customers were eligible for termination – up 30% year over year. (CAUSE-PA St. 1-SR at 8-9).

14. Moratoria on utility terminations nationwide through the course of the pandemic have reduced COVID-19 infections by 4.4%, and have reduced COVID-19 mortality rates by 7.4%. (CAUSE-PA St. 1-SR at 8).

15. Even in good economic times, low-income families are often forced to choose between critical necessities, such as rent, food, and medicine and are struggling now more than ever. (CAUSE-PA St. 1 at 16).

16. For low-income households who already struggle to afford their monthly bills, the effects of the increase - compounded by the economic effects of COVID-19 - could profoundly impact the ability of thousands of families to connect, maintain, and afford natural gas service. (CAUSE-PA St. 1 at 8-11).

17. Before the pandemic, PECO's low income customers already had a far higher termination rate (19%) compared to average residential customers (4.6%). (CAUSE-PA St. 1 at 19).

18. Loss of natural gas service has a deep and lasting impact on the health and wellbeing of the entire household and the surrounding community as a whole. (CAUSE-PA St. 1 at 29-30).

19. The loss of gas for heating, cooking, and hot water acts as a functional equivalent to eviction – driving families from their homes. Research published in late November found that eviction proceedings allowed to proceed between March to September caused as many as 433,700 additional COVID-19 cases and 10,700 additional COVID-19 deaths. (CAUSE-PA St. 1 at 30).

20. At the height of the Great Recession in 2008, 87.9% (nearly 9 out of 10) of PECO's confirmed low income natural gas customers were terminated for nonpayment, compared to just 6.2% of all residential customers (including low income customers) in that same year. (CAUSE-PA St. 1 at 20).

21. For the period July 1, 2019 through December 31, 2020, the amount of pipeline penalty credits and refunds collected by PECO amounted to over $18 million. (CAUSE-PA St. 1-SR at Appendix B, CAUSE-PA to PECO III-3(a)).

22. The cost to provide arrearage forgiveness to CAP customers for debt accrued through the pandemic would amount to between $0.19 and $0.34 per month for residential customers. (CAUSE-PA St. 1-SR at 17).

23. As of December 2020, the total arrears accrued by CAP customers since March 13, 2020 was $1,130,514. (CAUSE-PA St. 1-SR at 17).

24. As of October 2020, PECO's total residential customer base for its gas division was 491,475. (CAUSE-PA St. 1-SR at 17).

25. PECO's current energy burden standards far exceed the standards adopted by the Commission, imposing a maximum combined energy burden of 17% of household income. (CAUSE-PA St. 1 at 21-22).

26. According to a third-party evaluation, PECO's dual electric and gas CAP customers had an average energy burden of 20% in 2017 - or roughly 1/5 of total household income. (CAUSE-PA St. 1 at 22).

27. PECO's intent to phase in CAP credit adjustments on a quarterly basis in the year following a rate increase will cause CAP customers to experience a higher percentage rate increase compared to the rest of the residential customer class. (CAUSE-PA St. 1 at 24).

28. As of October 2020, only 20,147 customers were enrolled in CAP – representing less than 20% of PECO's estimated low income customer base, meaning roughly 80% of PECO's eligible customers and not enrolled in the program. (CAUSE-PA St. 1 at 22).

29. Since 2010, PECO's CAP enrollment has declined by approximately 5,000 customers, despite a steadily growing residential customer base, stubborn poverty levels, and the emergence of an unprecedented economic crisis that is profoundly impacting low income customers. (CAUSE-PA St. 1 at 23, Chart 3).

30. Adjusting PECO's energy burden to levels consistent with the Commission's CAP Policy Statement would add, at most, $1.26 per month to residential customer bills. (CAUSE-PA St. 1-SR at 14).

31. The cost impact of adjusting PECO's energy burden standards on those over the income threshold for CAP is minimal, and would at most increase the energy burden for those just above the eligibility threshold by 0.078%. (CAUSE-PA St. 1 at 14).

32. According to PECO's most recent universal service program needs assessment, 67,015 of PECO's gas service customers were estimated to be income eligible for LIURP services. (CAUSE-PA St. 1 at 25).

33. In an average year, PECO provides LIURP services to approximately 1,000 low income consumers. (CAUSE-PA St. 1 at 25).

34. Despite having the most natural gas customers in the state, PECO has the second lowest overall LIURP budget and the lowest LIURP budget proportionate to PECO's customer base. (CAUSE-PA St. 1 at 27).

35. An increase in PECO's LIURP budget proportionate with comparable natural gas distribution companies would cost residential customers an additional $0.33 per month, or a total of $0.72/month – still well below per customer LIURP spending levels of comparably sized NGDCs. (CAUSE-PA St. 1 at 27).

36. Many high usage households are unable to access LIURP services due to health and safety issues in the home, which prevent comprehensive weatherization and usage reduction services from being performed in the home. (CAUSE-PA St. 1 at 26).

37. Customers with inoperable or inadequate gas heating systems often rely on inefficient, expensive, and unsafe alternatives like electric space heaters to stay warm in winter. (CAUSE-PA St. 1 at 36).

38. Tenants and residents in multifamily buildings are not served through LIURP at a rate consistent with services to homeowners and those who live in single family residences. (CAUSE-PA St. 1 at 26, 36-37).

39. PECO projects that it will serve a total of 27,664 consumers through its EE&C Program, yet it will serve just 289 low income customers through its Safe and Efficient Heating

Program – amounting to just 1% of those served by PPL's EE&C Programs. (CAUSE-PA St. 1 at 46).

40. PECO projects that its EE&C Program will achieve just 3,529 MCF savings for low income customers, compared to 492,983 MCF savings projected for the residential class. (CAUSE-PA St. 1 at 46).

41. Other states that currently offer of the states that currently offer programs similar to Pennsylvania's universal service programs recover the costs of the programs across all rate classes. (CAUSE-PA St. 1 at 43).

42. In Pennsylvania, the majority (65.4%) of natural gas CAP customers received employment or retirement income, yet still could not afford basic living expenses without assistance. (CAUSE-PA St. 1 at 50).

43. Commercial employers contribute to the inability of their employees to afford utility service and these same employers benefit from the operation of the programs, which fill the gaps left by insufficient wages. (CAUSE-PA St. 1 at 50).

44. Universal service programming, such as CAP and LIURP help provide affordable service to low-income customers, which reduces the risk that they will forego food and medicine or keep homes at unsafe temperatures. (CAUSE-PA St. 1 at 21-30).

45. While residential consumers may exclusively *experience* energy poverty, they do not *cause* energy poverty nor do they exclusively experience its negative effects. (CAUSE-PA St. 1 at 53).

46. Increasing the fixed residential customer charge erodes the ability for consumers to control energy costs through energy efficiency, conservation, and consumption reduction, which is particularly problematic for low income customers. (CAUSE-PA St. 1 at 41).

47. In 2018, LIURP saved gas participants an average of $101 per year, or $8.41 per month. It also improved participants bill payment by 12.1%, or approximately $166 annually, and improved bill coverage by 4.6%. (CAUSE-PA St. 1 at 42).

APPENDIX C: PROPOSED ORDERING PARAGRAPHS

1. PECO's request to increase rates is denied.

   Alternative, in the event any rate increase is approved: Upon implementation of any approved rate increase, PECO shall adjust its CAP credit level by a percentage equal to the system-wide residential gas distribution rate increase.

   Alternative, in the event any rate increase is approved: PECO's proposal to increase its residential customer charge is denied. The approved increase in residential rates will be applied solely to the volumetric charge.

2. PECO shall adjust its current Customer Assistance Program energy burden standards to levels consistent with the energy burden standards in the Commission's CAP Policy Statement within 10 days of the issuance of this Order.

3. PECO shall, in consultation with the members of its Universal Service Advisory Committee, develop a plan to increase its CAP enrollment 50% by 2025. The following shall be considered for inclusion in the Plan:

   a. Increased education and outreach activities;

   b. GIS mapping of customer populations and poverty data to allow targeted outreach in areas with high concentrations of potentially eligible households;

   c. Improved incentive structures or other adjustments to its contract with program administrators; and

   d. Streamlined application and recertification requirements.

4. PECO shall make the following adjustments to its Low Income Usage Reduction Program (LIURP), including:

   a. PECO shall increase its LIURP budget by $2,000,000, in parity with other natural gas distribution companies.

   b. PECO shall establish a per-job health and safety budget of $2,000 to remediate health and safety issues that prevent PECO from providing comprehensive usage reduction services.

   c. PECO shall incorporate a defacto heating and gas furnace repair/replacement program as part of its LIURP for natural gas customers, funded at a level of $700,000 annually, incremental to its general LIURP budget.

   d. PECO shall work with its Universal Service Advisory Committee to review multifamily usage data, and identify an appropriate high usage threshold that ensures high usage multifamily family residents have access to usage reduction services.

e. PECO shall review and make changes to its tenant outreach and landlord approval process to improve tenant participation, in consultation with its Universal Service Advisory Committee.

f. PECO will roll over any unspent LIURP funds at the end of each program year, and will add those funds to the approved budget for the following year.

5. PECO shall adopt a comprehensive COVID-19 relief program, including:

   a. Increase funding for PECO's Hardship Fund program by $2 million, through the use of pipeline penalty credits and refunds.

   b. Temporarily waive its requirement that hardship fund recipients achieve a zero dollar balance as a condition to receiving grant assistance.

   c. Waive income certification requirements for CAP until the state is no longer in a state of emergency, and develop a transition plan to restart certification after the state of emergency is lifted.

   d. Provide arrearage forgiveness to CAP customers for arrears accrued while in CAP through the pandemic.

   e. Waive late fees and reconnection fees for one year from the date a final order is issued in this proceeding.

6. PECO shall revise its proposed Energy Efficiency and Conservation Program to:

   a. Include additional opportunities for low income consumers to access energy efficient equipment and programming, proportionate to low income consumers' energy usage, without an upfront cost.

   b. Increase the income eligibility criteria for its Safe and Efficient Heating Program to 150% FPL.

   c. Include a specific plan, developed in consultation with stakeholders and interested parties, for how it will coordinate its voluntary natural gas EE&C with other EE&C programs, including but not limited to LIURP, Act 129, and the Weatherization Assistance Program.

7. PECO shall develop and seek approval for a proposal to recover universal service costs equitably across all rate classes within one year of a final order in this proceeding.