



October 13, 2021

VIA E-File

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, Filing Room
Harrisburg, PA 17120

Re: National Fuel Gas Distribution Corporation's Universal Service and Energy Conservation Plan for 2022-2026 at Docket No. M-2021-3024935

Reply Comments of CAUSE-PA

Dear Secretary Chiavetta,

Pursuant to the Order Directing Supplemental Information and Establishing Comment Period entered July 15, 2021 by the Pennsylvania Public Utility Commission in the above noted docket, enclosed please find the **Reply Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)**.

As indicated by the attached Certificate of Service, service on the parties was by email only, upon prior consent of the parties of record to waive service of a hard copy.

Respectfully Submitted,
Counsel for CAUSE-PA

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

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

National Fuel Gas Distribution Corporation's :
Universal Service and Energy Conservation Plan : Docket No. M-2021-3024935
for 2022-2026 :

Certificate of Service

I hereby certify that I have this day served copies of the **Reply Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania** in the above captioned matter in the manner and upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party). The Parties of Record to this proceeding have agreed to accept electronic service, without the need for service of a hard copy.

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October 13, 2021

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

National Fuel Gas Distribution Corporation's : Docket No. M-2021-3024935
Universal Service and Energy Conservation Plan :
for 2022-2026 Submitted in Compliance with :
52 Pa. Code § 62.4 :

**REPLY COMMENTS OF THE COALITION FOR AFFORDABLE UTILITY SERVICES
AND ENERGY EFFICIENCY IN PENNSYLVANIA
TO THE ORDER ENTERED JULY 15, 2021**

PENNSYLVANIA UTILITY LAW PROJECT

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October 13, 2021

I. INTRODUCTION

The Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, files these Reply Comments in response to the initial Comments of the Office of Consumer Advocate (OCA) regarding the National Fuel Gas Distribution Corporation's (NFG or the Company) Universal Service and Energy Conservation Plan for 2022 - 2026 (Proposed 2022 USECP or Plan),¹ and the Public Utility Commission's (Commission) Order Directing Supplemental Information and Establishing Comment Period issued July 15, 2021 (hereinafter, July 15 Order).²

On September 14, 2021, CAUSE-PA and the Office of Consumer Advocate (OCA) each submitted initial Comments in response to NFG's Proposed 2022 USECP and the issues identified in the Commission's July 15 Order. CAUSE-PA submits the following Reply Comments for the Commission's consideration in response to the initial Comments of OCA. For the sake of brevity, CAUSE-PA will not reiterate points raised and issues identified in initial Comments, but instead incorporates and maintains those positions by reference. To the extent an aspect of OCA's initial Comments is not addressed below, that does not necessarily indicate CAUSE-PA's agreement therewith.

¹ NFG 2022-2026 Universal Service and Energy Conservation Plan, Docket No. M-2021-3024935 (filed March 31, 2021).

² See NFG 2022-2026 Universal Service and Energy Conservation Plan, Docket No. M-2021-3024935 (filed March 31, 2021), Order Directing Supplemental Information and Establishing Comment Period (entered July 15, 2021)

II. REPLY COMMENTS

A. Energy Burdens

In its initial Comments, OCA argues that the economic impact of the COVID-19 pandemic is reason to delay adoption of the Commission’s energy burden standards, or to otherwise curtail the availability or accessibility of NFG’s Customer Assistance Program (CAP) – known as the Low Income Residential Assistance (LIRA) program. (OCA Comments at 3). OCA’s concern with implementation of the Commission’s revised energy burden standards appears to be at least partially based on the cost impact of improvements to CAP on low income customers who do not participate in LIRA. (OCA Comments at 3).

CAUSE-PA shares OCA’s concern about bill affordability for all low income customers, including those who are not enrolled in CAPs like LIRA. But the solution is not to continue charging CAP rates that the Commission has already concluded are both unreasonable and unaffordable.³ To the contrary, if rates are unaffordable for low income households, those households should be encouraged and assisted to enroll in CAP.

Long-standing unaffordability within CAP is the result of outdated affordability standards and an overly complex program design. Unaffordability has only been exacerbated by the COVID-19 pandemic, disproportionately impacting low income households. Therefore, it is even more important that NFG’s LIRA program respond to and meet the needs of low-income customers to receive affordable bills now and in the future.

³ See 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, at 27 (order entered Nov. 5, 2019) (hereinafter Final CAP Policy Statement) (“[T]he current maximum energy burden ranges based on the FPIGs in the [previous] CAP Policy Statement do not reflect reasonable or affordable payments for many low-income customers. This would be our conclusion even if the currently specified burdens are considered only presumptively reasonable or affordable.”).

OCA has not identified any reasonable basis to delay remediation of identified shortcomings in the affordability of NFG's LIRA bills. Providing inadequate assistance and unaffordable rates to low income customers through LIRA is contrary to the Commission's statutory universal service obligations, as it undermines the ability of LIRA customers to maintain service to their home, and detracts from the system-wide benefits of the program – including improved payment coverage and frequency and reduced collections costs.⁴ Rather than undermine the affordability available through LIRA discounts, efforts to address affordability for low income customers not enrolled in LIRA should instead be focused on improving outreach and enrollment in each of NFG's suite of universal service programs, including LIRA, Low Income Usage Reduction Program (LIURP), and the Neighbor for Neighbor (NFN) Hardship Fund – which is available to those over income for LIRA. Focusing on improved access, outreach, and enrollment for universal service programming – rather than undercutting overall CAP affordability – ensures that assistance programs are accessible and affordable to all households who are struggling to pay their bills and maintain utility service to their home.

Contrary to OCA's assertions, timely implementation of NFG's proposal to reduce applicable energy burden standards consistent with the Commission's Final CAP Policy Statement⁵ is particularly important in this moment, given the devastating and profound economic impact of the global COVID-19 pandemic. While the pandemic has taken a toll on us all, the economic impacts of the COVID-19 pandemic have disproportionately fallen on low income consumers and exacerbated the energy affordability crisis which predated the pandemic – and will

⁴ See 66 Pa. C.S. § 2202, 2203(8), (9).

⁵ See 52 Pa. Code § 69.265.

continue long after.⁶ Delaying implementation of the reduced energy burden standards will only compound the current utility debt crisis as low income families struggle to afford critical services. Now is the time to address longstanding unaffordability, consistent with the Commission's Final CAP Policy Statement, to ensure low income customers can maintain services to their homes.

CAUSE-PA submits that OCA's concerns about the cost impact of adopting reduced energy burden standards to other residential consumers are overstated. The cost to adopt the Commission's revised energy burden standards increases monthly bills to support the cost of LIRA by just \$0.52 for non-LIRA residential customers.⁷ CAUSE-PA submit that this is a small price for non-low income customers to pay to ensure that service is universally accessible to all those in need. Even for those just over the income threshold for LIRA, this increase will not have an appreciable impact on the energy burden of other residential households. For a two-person household with income that is just \$1 over the income threshold for LIRA (\$2,179/month), a \$0.52 monthly increase would increase the applicable energy burden standard by just 0.03% - yet would help reduce the energy burden of the lowest income households by several percentage points. Additionally, CAUSE-PA notes that the financial impact on non-LIRA residential customers of adopting the Commission's energy burden standards would be further reduced by equitably recovering the cost of universal service programs from all ratepayers rather than exclusively from

⁶ Center on Budget and Policy Priorities, Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships (updated Jan. 8, 2021), <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and>; Graff, M., Carley, S. COVID-19 Assistance Needs to Target Energy Insecurity, *Nat Energy* 5, 352–354 (2020). <https://doi.org/10.1038/s41560-020-0620-y>; see also Parker, K., Minkin, R., and Bennett, J. Economic Fallout from COVID-19 Continues to Hit Lower-Income Americans the Hardest, Pew Research Center, (Sept. 24, 2020) <https://www.pewsocialtrends.org/2020/09/24/economic-fallout-from-covid-19-continues-to-hit-lower-income-americans-the-hardest/>

⁷ In the 2019 Universal Service Reports, NFG reports 189,484 non-LIRA residential customers in 2019 and uses that number as a baseline number for the plan going forward. Annual LIRA costs were projected to increase from \$2.15M in 2019 to \$3.34M in 2022. Using this data, costs for non-LIRA residential customers in 2019 were calculated at \$0.94/mo. and projected costs in 2022 were calculated to be \$1.46/mo. in 2022, indicating an increase of \$0.52/mo. per non-LIRA residential household.

the residential class. Residential customers do not cause energy poverty and should not bear the sole burden to address it.

In sum, the estimated cost of addressing categorical rate unaffordability within LIRA is a small price to pay in return for the host of far-ranging individual and societal benefits associated with improved energy affordability to those with the lowest income.

B. OCA's Proposed Cost Mitigation and Cost Control Measures

In its initial Comments, OCA requests that the Commission implement several cost mitigation and cost control measures if it were to approve the change in energy burdens proposed by NFG. These measures include “limiting the annual increases in CAP costs flowed through the universal service charge; increasing the minimum payment; extending the length of time for arrearage forgiveness; capping the amount of arrearage forgiveness charged to ratepayers; decreasing overall administrative costs; revisiting and adjusting maximum CAP credits; allocating Low Income Usage Reduction Program resources (LIURP) to reduce high user bills; and re-examining HUD recipient participation.” (OCA Comments at 4-5).

With limited exception regarding prioritization of LIURP assistance, CAUSE-PA opposes OCA's suggested measures, as they would serve to dramatically undercut improvements to affordability and accessibility gained by reducing the applicable energy burden standards.

CAUSE-PA is concerned that the cost control and mitigation measures suggested by OCA would restrict access to LIRA and limit affordability for LIRA participants. This will detract from the system-wide benefits of LIRA for both customers and NFG in terms of improved payment behavior, bill coverage, and reduced collections expenses. We also note that OCA's proposals lack critical detail necessary to fully assess the impact on LIRA customers, and their ability to maintain service to their home at an affordable rate. Ultimately, we are very concerned that if adopted,

OCA's proposals will undermine the affordability gained through the program and otherwise restrict low income customer participation in LIRA – making the program ineffective and inaccessible to the very low income customers OCA is concerned will be irreparably harmed by the projected cost increase associated with NFG's proposals.

It is vital that the Commission ensure that low income customers are able to access assistance through universal service programs, as required by statute,⁸ without impediments to affordability and enrollment. For these reasons and those detailed below, CAUSE-PA strongly disagrees with the following cost control and mitigation measures proposed by OCA: (1) limiting annual increases in LIRA costs through the Universal Service Charge; (2) increasing the minimum payment; (3) extending the period for arrearage forgiveness; (4) capping arrearage forgiveness, and (5) restricting access to CAP for public housing participants. Should the Commission be inclined to further examine any of the regressive proposals advanced by OCA to further restrict access to LIRA and the benefits available through the program, CAUSE-PA submits that further factual information must be explored through an on the record hearing to determine whether OCA's incomplete proposals are just, reasonable, and supported by substantial evidence.

1. Controlling Annual Increases to the Universal Service Charge

In initial Comments, OCA notes its concern that cost increases to NFG's USECP would lead to automatic increases to residential ratepayers' bills. (OCA Comments at 5). OCA recommends holding annual costs, which run through NFG's automatic universal service cost recovery mechanism, to the levels projected in the USECP filing until a full impact assessment can be completed following implementation of the reduced energy burdens. In the alternative, OCA suggests in a footnote in initial Comments, that "program costs could be limited to a

⁸ 66 Pa. C.S. §§ 2202, 2203(8), (9).

percentage increase in residential distribution costs each year to ensure that the rates for residential customers remain reasonable.” (OCA Comments at 5).

CAUSE-PA is deeply concerned that placing such a restriction would serve as a significant deterrent for NFG to conduct the robust outreach necessary to assist struggling families in accessing LIRA, to maintain utility service to their homes. Limitations on the amounts NFG can recover for LIRA program costs is likely to indirectly limit LIRA program enrollment and impede access to assistance programs for low income households. If this concern was borne out, it would contradict the universal service obligations included in the Choice Act and Chapter 14 that ensure universal service programs are available to those in need.⁹ In addition, the Commission, in a UGI USECP proceeding, directed UGI to remove CAP enrollment limits for all of its companies, stating, “Low-income households within UGI’s territory should not be denied CAP because the maximum number of customers has been reached....”.¹⁰ For these reasons, CAUSE-PA recommends the Commission reject such proposals.

2. *Minimum Payments*

In its initial Comments, OCA recommends NFG increase its minimum monthly bill for LIRA customers to help “off-set the increased energy burden costs to non-participating ratepayers.” (OCA Comments at 6). OCA fails to provide any data substantiating the claim that an increase in the minimum bill would meaningfully offset the cost to non-participating ratepayers. Indeed, OCA’s recommendation to increase the minimum payment lacks a suggested number or even a suggested calculation to arrive at a number that would provide a meaningful offset. OCA’s

⁹ 66 Pa. C.S. §§ 2202, 2203(8), (9); 66 Pa. C.S. § 1410.1; Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907, Joint Reply Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Tenant Union Representative Network, and Action Alliance of Senior Citizens of Greater Philadelphia, at 12 (Joint Reply Comments filed Oct. 16, 2017).

¹⁰ See UGI Utilities, Inc.- Gas Division, UGI Utilities, Inc.-Electric Division, UGI Penn Natural Gas, Inc., and UGI Central Penn Gas, Inc., Universal Service and Energy Conservation Plan for 2014-2017 Submitted in Compliance with 52 Pa. Code § 54.74 and § 62.4., Final Order, Docket No. M-2013-2371824, pg. 13 (entered January 15, 2015).

proposal likewise lacks any assessment on the impact of increased minimum bill rates on the ability of the lowest income LIRA participants to maintain stable natural gas service to their home. This is a serious deficiency, given the statutory requirement that CAPs – including LIRA – ensure low income households can maintain service to their homes.

OCA additionally comments that minimum payments allow for LIRA customers to share in the responsibility for paying for the costs of natural gas utility service. (OCA Comments at 6). But by charging a minimum payment, households are – by definition – sharing in the responsibility for paying the costs of service. Most often at a rate far greater than what they can actually afford – even at the minimum bill amount. Households whose income is so low that they qualify for a minimum bill are living in abject poverty – with income so low that they cannot afford even the most basic, life-sustaining expenses. In its July 15 Order, the Commission notes and NFG’s Comments confirm that approximately 60 LIRA participants exceed the recommended energy burdens included in the Final CAP Policy Statement and Order and that NFG reports many of these 60 customers report zero income and pay the monthly minimum amount. (July 15 Order at 17; NFG Comments at 4). This minimum payment, for those in the lowest income category, already exceeds an affordable payment for utility service. Further increases in the minimum payment would be unwarranted and would likely cause the lowest income LIRA households to face more frequent termination. Given OCA provided no data to support their claim that increasing the minimum payment would help offset costs, and given the minimum payment is categorically unaffordable for many customers, CAUSE-PA submits that the Commission should reject OCA’s recommendation to increase NFG’s minimum payment to some unspecified higher amount.

3. Arrearage Forgiveness

In its initial Comments, OCA asserts that the Commission should consider lengthening arrearage forgiveness from a 24-month period to a 36-month or 48-month period the annual costs of LIRA charged to ratepayers while LIRA customers continue to earn arrearage forgiveness. (OCA Cmts at 6-7). Apart from asserting that a longer forgiveness time period may save the program money, OCA provides no data or evidence to support its proposal. It does not explain how this change may impact program outcomes, including the ability of LIRA customers to earn forgiveness, the effect such a change would have on incentivizing in-full payment, or the potential for increased programmatic costs over time if arrears are not retired in a timely manner.

CAUSE-PA does not support extending the timeframe for earned forgiveness. Extending the time, much like restricting the timeframe to pay pre-program arrears, does not properly incentivize customers to pay on time or in full. In fact, existing available data suggests a shorter arrearage forgiveness timeframe – which more quickly reduces preprogram arrearage balances – likely helps to improve payment behavior by LIRA customers over time because participants are able to make noticeable progress to retire their debts.¹¹ The type of adjustment to the timeframe OCA is suggesting for arrearage forgiveness should not be based on programmatic costs alone, but should instead be driven primarily by factual data demonstrating the impact of a longer forgiveness timeframe on bill coverage and payment rates. OCA has not put forth such factual data and, as such, its proposal must fail.

In addition, we note that OCA’s suggestion to extend NFG’s arrearage forgiveness period *beyond* 36 months is outside of the bounds set in the Commission’s Final CAP Policy Statement

¹¹ See, e.g., Final CAP Policy Statement and Order at 44 (“ ‘More customers who have low [PPA] balances have higher than average on-time rates. Customers with less than \$391 in arrearages pay on-time 61% of the time, while customers with more than \$1,514 in arrearages pay on-time 45% of the time.’”).

and Order.¹² If the timeframe for forgiveness is extended for new LIRA enrollees on a forward-going basis, which we oppose, we submit that timeframe should be a *maximum* of three years consistent with the Commission’s Final CAP Policy Statement.

We note here that CAUSE-PA agrees with OCA that NFG should pursue more aggressive outreach to low income customers to get customers enrolled in LIRA *before* arrearages become high, and that the Commission has also supported efforts to enroll customers in LIRA before excessive arrears are accrued.¹³ (OCA Cmts at 9). That said, CAUSE-PA disagrees that an alternative to increased CAP enrollment would be to increase the timeframe for arrearage forgiveness, which may limit the success of the program. CAUSE-PA therefore supports the timeframe for arrearage forgiveness remaining at 24 months and urges the Commission to instruct NFG to work with its USAC to identify additional ways that NFG can target LIRA enrollment early – before arrears are allowed to grow.

4. Administrative Costs

In initial Comments, OCA states that the costs of program administration should be examined and that administrative costs should be one of the Plan components that is controlled. (OCA Comments at 9). OCA includes a table in their initial Comments that highlights utility costs for various Universal Service Plan components. This table shows NFG’s percentage of administrative costs to be significantly higher than the natural gas average. Specifically, NFG’s costs, at 17.1% are 11.2% more than the average of 5.9%. (OCA Comments at 8).

CAUSE-PA agrees that the Commission should further examine NFG’s administrative costs to determine the reason for these higher-than-average costs. However, there is inadequate

¹² 52 Pa. Code § 69.265(8)(ix).

¹³ Final CAP Policy Statement and Order at 46 (“enrolling low-income customers into CAPs as early as possible generally puts them in the best position to maintain good payment habits and avoid accruing utility debt.”).

information on the record to conclude that a cap on administrative costs should necessarily be imposed. As with OCA's other proposals, there is simply not enough evidence to support the imposition of this type of cap. We therefore recommend a slight variation from the recommendation of OCA, namely that administrative costs for NFG should be further examined *to determine* if the administrative costs that flow through the automatic recovery mechanism should be part of the cost control measures.

5. Maximum CAP Credit Ceilings

In initial Comments, OCA points out that NFG does not have a maximum credit allocation for its LIRA program and that a maximum credit ceiling should thus be instated. (OCA Comments at 9). OCA does not suggest what that maximum should be, nor does it put forth any evidence to support its summary conclusion that imposition of maximum CAP credits will necessarily decrease programmatic costs.

Imposition of maximum CAP credit thresholds undermines affordability gained through the program and, in turn, the ability of the program to ensure low income households can reasonably afford to maintain service in their homes. Once the threshold is reached, LIRA participants would be required to pay full tariff rates for the remainder of a program year – even though those rates are categorically unaffordable. Such a result would lead to increased collections costs which may offset any benefit gained through imposition of a maximum CAP threshold. Nevertheless, in setting forth its vague proposal to impose maximum CAP credits, OCA did not quantify the costs it anticipates would be saved - nor the impact on termination and collections rates for those subject to an arbitrary credit limit.

Ultimately, maximum CAP credits are a blunt instrument, which impose an arbitrary threshold on all participants irrespective of the circumstances of the household and their ability to maintain service to their home. As such, we strongly oppose OCA's factually deficient proposal.

6. LIURP Prioritization for Customers with High CAP Credits

In initial Comments, OCA recommends the Commission evaluate whether customers with high LIRA credits should be prioritized for LIURP as an additional cost-mitigation measure. (OCA Comments at 9-10). CAUSE-PA supports this recommendation and agrees that LIRA customers with disproportionately high usage should receive targeted outreach to provide comprehensive LIURP services as quickly as possible to help reduce LIRA costs. CAUSE-PA discusses at length in initial Comments the reasons for targeting customers with high usage and also recommends reducing usage thresholds for increased LIURP eligibility, allowing more low income customers to access this important assistance. (CAUSE-PA Comments at 31-33).

7. HUD Recipient Participation in CAP

The OCA recommends in its initial Comments that the Commission should "consider the extent of participation in CAP by HUD recipients." (OCA Comments at 10). OCA argues that tenants in public and assisted housing receive utility allowances from the Department of Housing and Urban Development (HUD) and that providing assistance above and beyond HUD allowance would "appear to substitute ratepayer dollars for HUD Dollars." Id.

This is simply not the case and evidences a misunderstanding of the basic principles of public housing policy. Many households receiving HUD utility allowances receive the allowance

in the form of a *reduction in rent* – not in a subsidy to the household to actually make payment on their utility bills.¹⁴

Utility allowances provided to public housing recipients are insufficient to pay for a household’s utility costs, as they are an “estimation” of monthly utility costs, often based on building averages,¹⁵ and do not account for actual monthly household energy costs.¹⁶ There is consistently a lag between an increase in rates and a utility allowance adjustment. Utility allowances are thus a proxy and almost always “stale” in terms of approximating energy costs. Landlords and housing authorities are only required to *review* a utility allowance once each year and are only required to *adjust* the allowance if rates increase by more than 10%.¹⁷ Consequently, many households – particularly those with larger families or household members with medical equipment needs – have higher utility costs than accounted for in this approximation due to said medical equipment and household inefficiencies.

As discussed above, utility allowances, *when provided*, are typically credits that reduce the household’s obligation *to pay rent*. However, in the context of multifamily housing, owners who receive a housing allowance must take into account utility allowances every year in determining the rent obligations of tenants.¹⁸ In other words, households receiving a utility allowance are not

¹⁴ See, e.g., U.S. Dept. of Housing and Urban Dev’t, “Utility Allowances” available at https://www.hud.gov/program_offices/public_indian_housing/programs/ph/phecc/allowances (“The PHA provides a utility allowance to the household through a *reduction in the household’s monthly rent*.”)

¹⁵ Use of building averages to determine average usage can have a big impact on a household’s deemed allowance. For example, if one or more units in the building is unoccupied for a portion of the year, the estimation could artificially decrease the household’s utility allowance. The same issue arises when some building residents are enrolled in CAP – but others are not – because the rates for some units are lower.

¹⁶ See 24 C.F.R. § 5.603 (defining “utility allowance” as “an amount equal to the *estimate* made or approved by PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.”); see also 24 C.F.R. § 982.517.

¹⁷ See HUD, Methodology for Completing a Multifamily Housing Utility Analysis: Notice H-2015-04 (June 22, 2015).

¹⁸ *Id.*

provided with duplicative or overlapping utility assistance. Rather, the rent portion of their monthly housing allowance will *increase* to account for the assistance received.

It is also important to keep in mind that public housing assistance is only available to the poorest and most vulnerable Pennsylvanians – including seniors, veterans, families with children, and victims of domestic violence. It is a program designed to help lift people out of poverty by providing stable and affordable housing, and it allows people time to build resources and recover. Providing an affordable utility rate to public housing recipients does not “substitute” federal housing assistance, as OCA claims. Federal subsidized housing assistance contributes to the affordability of the rent to be paid by the tenant, it does not reduce the tenant’s NFG bill nor provide any additional means through which the subsidized tenant could pay the NFG bill. NFG’s LIRA remains a critical and necessary support to subsidized housing Pennsylvanians and is not duplicative of HUD allowances.

The Commission already declined to adopt a similar proposal made by OCA in comments to the Final CAP Policy Statement.¹⁹ OCA nevertheless avers that language included in the policy allows for the issue to be revisited. Specifically, OCA requests that the Commission require NFG to provide data necessary for consideration as to the appropriateness of restricting public housing recipients from participating in LIRA. (OCA Comments at 10). CAUSE-PA urges the Commission to again reject OCA’s recommendation, consistent with its earlier Final CAP Policy Statement.

For these reasons, CAUSE-PA affirms that households should not be excluded from LIRA if they receive public housing assistance. Such a policy would have a discriminatory effect on many of the poorest households across NFG’s service territory.

¹⁹ Final CAP Policy Statement at 97-98.

C. LIHEAP Grant Refunds

In its initial Comments, OCA argues that, while NFG proposed an additional discount tier (90%) to meet target energy burden standards, the Proposed 2022 USECP does not address the impact the additional discount may have on unused LIHEAP grants. (OCA Comments at 10-11). OCA bases this concern on an expectation - unsubstantiated by data - that the reduction of energy burden standards to low income customers will cause more LIHEAP grants to be returned to the Department of Human Services (DHS). (OCA Comments at 10-11).

CAUSE-PA agrees with OCA that it is important to fully utilize all available assistance, including LIHEAP dollars, to maximize the efficacy of programs and improve affordability. However, we do not share the concern regarding LIHEAP grant dollars may be returned to DHS, nor do we believe the receipt of LIHEAP grants should be a determining factor in the calculation of affordability for LIRA customer bills. In CAUSE-PA's initial Comments, we note NFG's complicated history with its handling of LIHEAP grants and the Commission's ordering of NFG to cease including LIHEAP grants in the calculation of LIRA discounts. As directed by the Commission, NFG subsequently removed LIHEAP as a component of its LIRA discount calculation, applying grants only to the asked-to-pay amount as required by law. (CAUSE-PA Comments at 2). Indeed, consideration of LIHEAP grants in setting CAP rates is strictly prohibited and would be a violation of NFG's LIHEAP vendor agreement. CAUSE-PA enumerates additional reasons below for disagreement with OCA's concern regarding grant returns to DHS.

As the Commission recognized in its Final CAP Policy Statement and Order, LIHEAP assistance is limited in its reach.²⁰ Customers are not required to apply their LIHEAP grant to one specific service (electric or gas) and may opt instead to apply their grant to help pay the high cost

²⁰ Final CAP Policy Statement and Order at 50-52.

of deliverable fuel.²¹ As the Commission concluded, customers participating in CAPs, like LIRA, should not be penalized through the imposition of higher rates for assigning their LIHEAP grant to a specific utility.²² Further, not all low income households are eligible for LIHEAP. Immigrant consumers are particularly vulnerable, often facing disproportionately higher energy burden levels, yet many are ineligible for the program or may be apprehensive of participating in a federal assistance program.²³

As the Commission has previously acknowledged, LIHEAP is a federal program with a finite budget, and relies on an annual appropriation that could be eliminated in the federal budget in any given year.²⁴ Unlike many other federal assistance programs, LIHEAP is not an “entitlement” program, and grant amounts can change dramatically from year to year.²⁵ Further, LIHEAP does not provide an unlimited amount of assistance dollars, and is inadequate to serve all CAP/ LIRA customers – let alone all low income customers who may be eligible for assistance for regulated or unregulated home heating service through the program. Once LIHEAP funding is expended – or the program otherwise closes for the season – there is typically no additional assistance available until the following program year.

Finally, it is important to keep in mind that LIHEAP “refunds” are not reallocated back to the federal government. Any grant funding returned to DHS is, rather, reapportioned to other Pennsylvanians in need of home energy assistance.

²¹ Final CAP Policy Statement and Order at 50-52 (“As low-income customers may participate in more than one CAP – or may use their LIHEAP grant to obtain a deliverable fuel source – these provisions are no longer appropriate as they could require households to choose between CAPs or between a CAP and a necessary fuel delivery.”); 52 Pa. Code § 69.265(9).

²² Final CAP Policy Statement and Order at 53.

²³ Final CAP Policy Statement and Order at 50.

²⁴ Pa. Dept. of Human Services, Low-Income Home Energy Assistance Program Final State Plan, Fiscal Year 2021, at i (2020) (explaining federal funding).

²⁵ See *id.* at i-ix (detailing changes from previous program year).

The Commission, through the development and ultimate publication of the Final CAP Policy Statement and Order, already evaluated data related to LIHEAP. CAUSE-PA submits no further examination is necessary to determine anticipated impact of the revised energy burdens on LIHEAP grants. The Commission has clearly articulated the limited scope of LIHEAP grants relative to need and should therefore require NFG to implement its proposed revised energy burdens without delay and without requiring NFG to unnecessarily examine the anticipated impact of the revised energy burdens on LIHEAP grants.

D. Definition of Household Income

In its initial Comments, OCA submitted similar concerns to CAUSE-PA regarding NFG's plan to continue including child income in the residential household income calculation. CAUSE-PA and OCA both argue that NFG's approach to calculating household income is inconsistent with the Commission's Final CAP Policy Statement - which follows the statutory definition included in 66 Pa. C.C. § 1403 (relating to definitions). (OCA Cmts at 11; CAUSE-PA Cmts at 22). This definition holds that only the gross income of *adults* in a residential household will be included in a calculation of household income. NFG noted in Comments to the Commission's July 15 Order that they currently use, and intend to keep using, the LIHEAP State Plan's definition of household income in order to maintain coordination of programming. (NFG Comments at 8). CAUSE-PA maintains that, while coordination of programming is a worthy endeavor, streamlining in this case will do more harm than good and it places NFG out of compliance with statutory requirements. CAUSE-PA provided detailed explanation relevant to the reasons child income should not be included in initial Comments and incorporates them by reference here. (CAUSE-PA Comments at 20-23).

OCA recommended in initial Comments that “NFG’s policy should be modified to utilize the Public Utility Code’s definition of the calculation of household income and the LIHEAP State Plan’s definition of household income. CAUSE-PA concurs with this recommendation and strongly urges the Commission to require NFG to make the necessary changes to its Plan to ensure the exclusion of child income in the residential household income calculation.

E. Outreach to Customers Below 50% of the Federal Poverty Level

In initial Comments, OCA states concern that NFG has not taken necessary steps to target the 0-50% population in its outreach, especially considering NFG’s historically low participation of customers in this lowest tier of poverty. NFG has the lowest percentage of participation from this tier than any other regulated gas or electric company in the Commonwealth. (OCA Comments at 13-14). OCA suggests methods to improve outreach to this population including grassroots community initiatives and NFG going to where customers “live, work, play and pray” to proactively engage customers to inform them of available assistance before they may fall behind in paying their utility bills. (OCA Comments at 15). OCA notes that such engagement may result in improved participation in LIRA which then results in improved payment patterns for low income customers and fewer disconnections from service for non-payment. (OCA Comments at 16).

CAUSE-PA agrees with OCA that outreach is of critical importance. Taking a proactive approach to reach customers who would benefit from available assistance programs to allow them to maintain life-sustaining service to their homes is vital and CAUSE-PA supports all initiatives recommended by OCA. As CAUSE-PA mentioned in initial Comments, we believe NFG’s outreach and education programming suggested is a good start, but to reach the Company’s stated LIRA enrollment goals and other universal service program goals, NFG will need to further

enhance education and outreach initiatives as well as training provided in house and to collaborating agencies. An important piece of that training would be to show low income households how to calculate their individual household energy burden. (CAUSE-PA Comments at 26).

While CAUSE-PA supports OCA's suggestions for improving outreach and education and the reasoning for the suggestions, we submit that enhanced program education and outreach will not have the intended effect if the programming on which the outreach is based is consistently underfunded or inadequate to provide affordable bills to low income customers. As discussed above, compounding barriers such as increasing the minimum payment – which would directly impact the 0-50% FPL population more than other income tiers. Moreover, imposition of an enrollment cap would stifle program growth – which is directly at odds with OCA's proposal to increase targeted outreach efforts. CAUSE-PA submits that outreach and education is a critical component of the entire package of universal service provisions and the better the program, the better the product, and the easier it will be to enroll customers.

CAUSE-PA therefore supports OCA's recommendations for improved outreach across the board as a pivotal part of the providing assistance to keep customers connected to vital utility services. CAUSE-PA submits that providing outreach to customers highlighting improved Plan offerings, as recommended by CAUSE-PA throughout initial Comments and in these Reply Comments, would enhance the effectiveness of said outreach.

F. Hardship Fund Requirements

In initial Comments, OCA expresses concern regarding the limitations placed on NFG's Neighbor for Neighbor (NFN) hardship fund grant. OCA affirms the Commission's concerns that it appears as though, with the addition of 151-200% FPL as a qualifier for NFN that *only* customers

in that income range would qualify. (OCA Comments at 17-18). OCA explains that NFG's response to the Commission's July 15 Order provides inadequate explanation as to whether the grant is, indeed, available to those whose incomes fall below 150% FPL. CAUSE-PA shared a similar concern that, the way the language in the Plan is structured related to NFN, it does appear as though this is an income limitation and not an expansion, as NFG articulates in their response. (CAUSE-PA Comments at 40). OCA notes support of customers between 151% and 200% FPL being eligible for the grant and also recommends that all customers between 0-150% FPL should be eligible for a NFN grant. (OCA Comments at 18-19). Likewise, CAUSE-PA recommended that the Commission direct NFG to amend language in the Company's Plan to clearly state that the income threshold for grant eligibility is household income from 0-200% FPL. (CAUSE-PA Comments at 40).

CAUSE-PA concurs with OCA's observations and recommendations and reaffirms our position noting the need for clarifying amendments made to the Plan to clearly articulate income threshold eligibility. (CAUSE-PA Comments at 40).

OCA additionally shares the Commission's and CAUSE-PA's concerns related to how a "good faith" payment is defined. OCA states, "To the extent the term "good faith" is utilized in the Company's Plan, it should be expressly defined." (OCA Comments at 19). CAUSE-PA strongly agrees with OCA. OCA further points out that NFG excludes LIHEAP payments as "good faith" payments, a practice with which OCA strongly disagrees. OCA notes that if a customer affirmatively sought to make payments through the use of LIHEAP and then could not afford to make payments beyond what LIHEAP provided, they should not be excluded from receiving a NFN grant. Thus, LIHEAP payments should also be considered payments made in "good faith." (OCA Comments at 19). CAUSE-PA agrees with OCA and supports the inclusion

of LIHEAP payments as a “good faith” payment, should prior payment requirements be allowed to persist. CAUSE-PA maintains our position that prior payment obligations be removed as a precondition to accessing eligibility for hardship fund assistance. (CAUSE-PA Comments at 41).

G. Calculation of Discount Rate

OCA raises a concern in initial Comments regarding NFG’s calculation of the LIRA discount rate. Specifically, OCA takes issue with NFG’s approach of rounding to the nearest discounted rate, which could have NFG rounding *down* to the nearest percent. Should NFG round down, OCA estimates approximately half of LIRA customers could be faced with a higher and unaffordable energy burden. OCA therefore recommends that NFG’s methodology be modified to round *up*. (OCA Comments at 20).

CAUSE-PA also shared concerns in initial Comments with NFG’s discount program design, discussing its overall complexity and recommending quarterly reporting for NFG indicating the number of households receiving a bill each month exceeding target energy burdens. (CAUSE-PA Comments at 10). We looked at how the program could be improved over the time. CAUSE-PA recommended that, if this exceedance continues after two years, NFG transition away from the discount program to a Percentage of Income Program (PIP) design. (CAUSE-PA Comments at 10).

CAUSE-PA appreciates and supports OCA’s recommendation to make this immediate correction to the discount calculation to improve affordability for low income customers. We believe this adjustment will help NFG better implement the revised energy burden standards as delineated in the Commission’s Final CAP Policy Statement and Order.²⁶

²⁶ Final CAP Policy Statement and Order at 13.

III. CONCLUSION

CAUSE-PA appreciates the Commission's thoughtful consideration of the issues raised above and in our initial Comments. We urge the Commission to act in accordance with our Comments and Reply Comments to ensure that all customers – regardless of income – are able to access safe, affordable service within the NFG service territory.

Respectfully Submitted,

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