

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Harrisburg, Pennsylvania 17120**

**Pennsylvania Public Utility  
Commission, et al.**

**Public Meeting September 21, 2023  
3037368-ALJ  
Docket No. R-2022-3037368, et al.**

**v.**

**UGI Utilities, Inc. Electric Division**

**STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR.**

Before the Commission for disposition is the Recommended Decision (RD) approving the Joint Petition for Approval of Settlement of All Issues (Joint Petition or Settlement) filed in the base rate case of UGI Utilities, Inc. Electric Division (UGI Electric or Company).

The Settlement includes numerous modifications to UGI Electric’s universal service programs. Most significantly, the Settlement provides that UGI Electric will conduct an interim pilot to automatically enroll non-shopping customers who receive a grant from the Low Income Home Energy Assistance Program (LIHEAP) into its Customer Assistance Program (CAP). The Settlement further provides that when the Pennsylvania Department of Human Services (DHS) notifies the LIHEAP Advisory Committee that it is ready to share LIHEAP participant income data with utilities, UGI Electric will begin to implement the required modifications to its IT system and processes within a reasonable timeframe so that the Company may utilize the DHS data to automatically enroll non-shopping LIHEAP recipients into CAP and/or recertify their income and eligibility.

Based on my review, I would modify the Settlement to remove both the interim pilot and the continued use of automatic enrollment supported by DHS data sharing (collectively, automatic enrollment modifications). I am not persuaded that these proposals are lawful or reasonable, and they also appear to conflict with a policy position recently adopted by the Commission.

On May 5, 2023, DHS circulated a proposed data sharing agreement between DHS and public utilities to the members of DHS’ LIHEAP Advisory Committee with a request for comments. In its comments, filed on September 8, 2023, the Commission made clear that utilities should use the data received from DHS to enroll customers in universal service programs consistent with their Commission-approved Universal Service and Energy Conservation Plans (USECPs). Currently no electric distribution company and no natural gas distribution company has Commission approval to automatically enroll any customers into a CAP. The Commission

developed this policy in response to a proposal to require utilities participating in data sharing with DHS to automatically enroll customers into CAPs.<sup>1</sup>

The Commission is to ensure that universal service programs are “appropriately funded” and operated in a “cost-effective manner.”<sup>2</sup> The Settlement before us today includes no information on the projected enrollment and costs associated with the automatic enrollment modifications, nor is there information on the impact to customer rates. The interim pilot has no cost-containment provisions that are often present in pilots, such as limits on enrollment, budgets, or the length of the pilot. UGI Electric is not required to report to the Commission the results of the interim pilot or seek approval before continuing to automatically enroll non-shopping LIHEAP recipients into CAP. This is a departure from the standard practices of reviewing and evaluating the results of pilot programs before making them permanent.

In addition to my concerns about the lawfulness and reasonableness of the automatic enrollment modifications in this specific Settlement, I am becoming increasingly uncomfortable with the modification of universal service programs within base rate cases, especially in base rate cases that result in black box settlements. As I have previously stated, the design, budgeting, and administration of universal service programs is a complex undertaking for our public utilities. I have also commented about the Commission’s responsibility to balance the interests of the residential customers who benefit from universal service programs and the residential customers who pay for universal service programs. We should also keep in mind that universal service costs are often recovered through automatic adjustment clauses. This makes the Commission’s review of projected costs and budgets even more important.

This complexity and the need for balance are best addressed in USECP proceedings. If UGI Electric wished to adopt an automatic process to enroll LIHEAP recipients into its CAP, it should have filed a petition with the Commission to amend its existing USECP to incorporate this new practice. The Commission would have been able to evaluate the impact of this proposed change on the cost of UGI Electric’s CAP and the overall cost-effectiveness of its USECP. Such review is especially important because the Commission has recently expressed concerns about the cost of UGI Electric’s CAP.<sup>3</sup>

Earlier this year, the Commission addressed the relationship between universal service programs and base rate cases in its Notice of Proposed Rulemaking for the Low Income Usage Reduction Program (LIURP) Regulations.<sup>4</sup> In that Order, the Commission stated “[t]he appropriateness, effectiveness, and prudence of the cost of universal service is determined in a USECP proceeding. How those universal service costs are recovered is addressed in a rate

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<sup>1</sup> The Commission recently sought stakeholder comments on whether automatic enrollments into universal service programs without customer consent might be feasible. Having reviewed these comments, I am concerned that such automatic enrollments may not be consistent with the statutory mandate and goals of universal service. See *2023 Review of All Jurisdictional Fixed Utilities’ Universal Service Programs Secretarial Letter*, Docket No. M-2023-3038944 (issued March 27, 2023) at 3, #4.

<sup>2</sup> 66 Pa.C.S. §2804(9).

<sup>3</sup> *UGI Utilities, Inc. – Gas Division and UGI Utilities, Inc. – Electric Division Universal Service and Energy Conservation Plan for 2020-2025*, Docket No. M-2019-3014966 (Order entered June 16, 2022).

<sup>4</sup> *Initiative to Review and Revise the Existing Low-Income Usage Reduction Program (LIURP) Regulations at 52 Pa. Code §§ 58.1—58.18*, Docket No. L-2016-2557886 (Order entered May 18, 2023).

case.”<sup>5</sup> Also in that Order, the Commission stated that requiring LIURP budgets to be set in USECP proceedings is intended “to ensure that modifications conform to regulatory or policy-level considerations.”<sup>6</sup> It may be time to expand this reasoning to encompass all universal service programs – their designs and costs.

If parties continue to use base rate cases to address matters that are more appropriately reviewed within a USECP proceeding, and if those cases result in agreements that are contrary to Commission policy and contrary to the public interest, then those parties risk the rejection of their agreements. I also strongly encourage Commission bureaus to utilize the expertise of the Commission’s Bureau of Consumer Services in reviewing any universal service matters, as appropriate.

Finally, it is well-established that the terms and conditions of settlements are not relied upon as precedential.<sup>7</sup> The Settlement itself provides that the terms and conditions of the Settlement are limited to the facts of this specific case and are the product of compromise for the sole purpose of settling this case. As such, the Commission is free to take any position with respect to automatic enrollment into universal service programs as it continues its examination of this issue.

Despite my concerns over the automatic enrollment modifications in the Settlement, I find the majority of the Settlement to be in the public interest. Therefore, I will vote to adopt the Recommended Decision.

**Date: September 21, 2023**



**JOHN F. COLEMAN, JR.  
COMMISSIONER**

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<sup>5</sup> *Id* at 36-37.

<sup>6</sup> *Id* at 36.

<sup>7</sup> *Pa. Pub. Util. Comm’n v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2020-3018835 (Order on Reconsideration entered April 15, 2021), at 18.