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April 7, 2025

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: 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**

Dear Secretary Chiavetta:

The Energy Association of Pennsylvania (“EAP”) files this letter on behalf of its members in opposition to the Petition of the Pennsylvania Coalition of Local Energy Efficiency Contractors, Inc. (“PA-CLEEC”) for Reconsideration, Amendment and Clarification of the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) Final Order entered on March 13, 2025 (“Petition”) in the above-captioned proceeding. EAP has participated, filing comments and reply comments, throughout the LIURP rulemaking proceeding first initiated in 2016. Pursuant to 52 Pa. Code §5.572(e), EAP submits this responsive letter in opposition to the Petition, denying various legal conclusions and factual averments alleged in the Petition¹ and requesting that the Commission deny the relief sought by PA-CLEEC and dismiss the Petition.

Admitted by PA-CLEEC, the issues at the heart of the Petition, i.e., establishing a uniform, minimal level of LIURP funding and the use of RFPs in hiring weatherization contractors, were raised in the instant rulemaking proceeding in various comments and reply comments filed by the Petitioner. Those issues were addressed specifically by the Commission in its

¹ EAP specifically denies paragraphs 2, 7-13, 20, 23-33, 35-36 as legal conclusions; admits paragraphs 5, 14 - 18, 21-22; admits paragraph 4 only to the extent it alleges that PA-CLEEC actively participated in the LIURP rulemaking proceeding; neither denies nor admits paragraphs 4, 6, 19, and 34 which contain quotes from various Commission orders which speak for themselves; and further denies paragraph 1 and 3 as factual averments that have not been verified.

Final Order:

“As it pertains to PA-CLEEC’s recommendation to set a uniformed floor budget of 1% of public utility jurisdictional revenues, we decline to adopt PA-CLEEC’s proposal. We agree with the stakeholders that maintain that LIURP budgets should be based on the needs in a public utility’s service territory and set in public-utility-specific proceedings.” Final Order at p. 123.

“Regarding PA-CLEEC’s recommendation to modify § 58.14b to include an evaluation of the RFP process in USECP proceedings, we decline to adopt this proposal. As noted by other stakeholders, the Public Utility Code does not direct the PUC to review or regulate the selection process for universal service program administrators beyond encouraging the use of qualified CBOs. We further note that the existing provision in § 58.7(c) requires public utilities to select qualified ESPs and we have proposed additional minimum requirements for ESP qualifications in this rulemaking. Accordingly, we decline to incorporate an RFP evaluation process as part of USECP proceedings, as suggested by PA-CLEEC”. Final Order at p. 249.²

The Commission weighed PA-CLEEC’s comments and declined to take their suggestions; this is not evidence of the Commission’s failure to meaningfully address the substance of PA-CLEEC’s concerns. Clearly, the Petition does not meet the standard for reconsideration, amendment or clarification pursuant to *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 1982 Pa. PUC LEXIS 4 (1982) in that it does not raise new or novel arguments, does not raise issues which the Commission appears to have overlooked nor does it convincingly argue that the Commission erred as a matter of law.

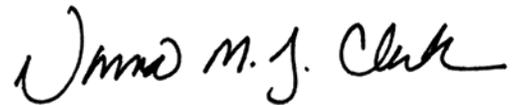
Initially, and with respect to Petitioners argument that the LIURP regulations should mandate a uniform, minimum budget for LIURP, the Commission specifically rejected that recommendation stating “that LIURP budgets should be based on the need in a public utility’s service territory and set in public-utility-specific proceedings.” Final Order at p. 123. Such a conclusion by the Commission does not overlook or fail to consider the merits of the Petitioners’ suggestion. In fact, the Commission’s decision that LIURP budgets need to be determined in individual utility proceedings rather than through a specific regulation recognizes that circumstances and demographics differ between utility territories and will change overtime as universal service programs are implemented and then revised periodically.

² The Commission likewise addressed and resolved PA-CLEEC’s comments or suggestions in other portions of the Final Order including the definition of “RFP” (p. 85); and consultation when proposing modifications to an RFP (p.136).

Additionally, with respect to the Petitioners' second suggestion, not only did the Commission specifically address and reject the recommendation³, but Petitioners request also seeks a regulatory mandate that cannot be provided as a matter of law. The Petitioners wish for the Commission to direct and standardize utilities' individual business practices regarding the selection of vendors to perform utility LIURP work. By replacing the utility's business discretion to develop an RFP, which would follow both the rules governing Universal Service Programs and adhere to reasonable business practices, with a prescriptive rule judged as "acceptable" or "fair" to certain weatherization contractors organized as PA-CLEEC, the Commission would be substituting its judgement for that of utility management. Such a result is in contravention of longstanding legal principals in Pennsylvania that the Commission's authority to interfere in the management of a regulated utility is limited and that the Commission is not empowered to act as a super board of directors. See *Phila. Suburban Water Co. v. Pa. PUC*, 808 A.2d 1044 (Pa. Cmwlth. 2002) and *Metropolitan Edison Company v. Pa. PUC*, 437 a.2d 76 (Pa. Cmwlth. 1981).

For the reasons outlined above, the Petition does not meet the *Duick* standard for determining whether to grant such a petition for reconsideration or clarification and no amendments to the new LIURP rules are warranted. The suggestions outlined in the Petition are not new or novel and were adequately considered (and then rejected) by the Commission. Accordingly, the Energy Association of Pennsylvania respectfully requests that the Commission deny the relief sought and dismiss the Petition.

Very truly yours,



Donna M.J. Clark
Vice President & General Counsel

Cc: Certificate of Service, attached

³ Final Order at p. 249.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Initiative to Review and Revise the :
Existing Low-Income Usage Reduction : **Docket No. L-2016-2557886**
Program (LIURP) Regulations at :
52 Pa Code §§ 58.1-58.18 :

CERTIFICATE OF SERVICE

I hereby certify that I have this date served true and correct copies of the forgoing document upon the persons listed below in the manner specified, in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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