



800 North Third Street, Suite 205, Harrisburg, Pennsylvania 17102  
Telephone (717) 901-0600 • Fax (717) 901-0611 • www.energypa.org

March 1, 2017

Rosemary Chiavetta, Esq., Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, Pennsylvania 17120

**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:

Enclosed for filing please find the reply comments of the Energy Association of Pennsylvania to the Commission's Secretarial Letter at the above-referenced docket.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicole W. Gear", with a long horizontal flourish extending to the right.

Nicole W. Gear  
Manager, Policy & Research

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

---

**REPLY COMMENTS OF THE ENERGY ASSOCIATION OF PENNSYLVANIA  
TO SECRETARIAL LETTER**

---

**I. INTRODUCTION**

The Energy Association of Pennsylvania (“EAP” or “Association”) submits the following Reply Comments on behalf of its electric distribution company (“EDC”) and natural gas distribution company (“NGDC”) members<sup>1</sup> to the various parties commenting upon the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) Secretarial Letter dated December 16, 2016 regarding its initiative to review and revise the existing Low-Income Usage Reduction Program (“LIURP”) regulations. Initial responses were due to the Commission 30 days following publication in the *Pennsylvania Bulletin*, i.e., January 30, 2017, with reply comments permitted 30 days thereafter. EAP incorporates its original Comments filed on January 30, by reference.

---

<sup>1</sup> Electric Utility Members: Citizens’ Electric Company; Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Pike County Light & Power Company; PPL Electric Utilities; UGI Utilities, Inc.-Electric Division; Wellsboro Electric Company; and West Penn Power Company. Gas Utility Members: Columbia Gas of Pennsylvania, Inc.; Pike County Light & Power Company; National Fuel Gas Distribution Corp.; PECO Energy Company; Peoples Equitable Division; Peoples Natural Gas Company LLC; Peoples TWP LLC; Philadelphia Gas Works; UGI Central Penn Gas, Inc.; UGI Penn Natural Gas, Inc.; UGI Utilities Inc.; and, Valley Energy Inc.

The Energy Association of Pennsylvania submits these reply comments to address some positions and suggestions raised by certain stakeholders in filed comments.

Individual EAP members may also express their views on these issues in separate company filings. The Association urges the Commission to hold a stakeholder meeting once it has reviewed all responses and replies at this docket. Many important issues have been raised by the responses to the Secretarial Letter and EAP believes that customers would best be served by addressing these issues in a collaborative setting involving all stakeholders.

## **II. COMMENTS**

### **A. The Role of Utilities and Scope of LIURP**

Under the regulatory compact, the role of the regulated utility is to provide adequate, efficient, safe and reasonable service<sup>2</sup> pursuant to laws and regulations established by the General Assembly and the Commission. Under this regulatory relationship wherein the Commission approves retail rates, investor-owned utilities are granted a monopoly franchise for service and the right to earn a profit (rate of return) on fixed assets. The Commission, via the authority set forth in the Competition Acts<sup>3</sup> among others, requires utilities to offer a variety of universal service programs, including LIURP. Universal service programs generally target families earning at or less than 150 percent of the Federal Income Poverty Guideline (“FPIG”) in order to help them afford essential utility service. LIURP constitutes one component of a comprehensive strategy by utilities to assist low-income customers meet payment obligations while at the same time easing

---

<sup>2</sup> 66 Pa.C.S. § 1501.

<sup>3</sup> Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. §§ 2801-2812, The Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2201-2212

the costs of collection activities, uncollectable expenses, and write-offs that would otherwise be paid by the remainder of the residential rate base.

Ratepayer dollars are directed to universal service programs with the expectation that lower bills for low-income households will lead to fewer delinquencies which in turn will inure to the benefit of all residential ratepayers. Thus, to the extent that the commenters' remarks suggest that LIURP can be improved by budget or broad programmatic expansion, EAP would disagree. LIURP is, and should remain, a targeted program provided by utilities to "assist low income customers conserve energy and reduce residential energy bills."<sup>4</sup> LIURP, and other utility universal service programs, is not intended to be a "catch-all" solution for all Pennsylvanians who might struggle to pay their bills or for remediation of housing stock deficiencies in the Commonwealth. The social agency of last resort is – and should remain – a function of government or private entities whose mission is dedicated to such causes, not regulated utilities. EAP would gladly work alongside other stakeholders to encourage the General Assembly to make low income energy assistance a priority in Pennsylvania. For example, EAP has and continues to advocate before the Department of Human Services with regard for a dedicated state funding stream to match the federal Low Income Home Energy Assistance Program ("LIHEAP") grant.

## **B. Issues Related to the Needs Assessment**

While the Office of Consumer Advocate ("OCA") conceded that the LIURP needs assessment should continue to focus on the unique situation of each utility service territory,

---

<sup>4</sup> 52 Pa Code § 58.1

they proceeded to outline seven additional recommendations for required factors for the assessment.<sup>5</sup> The commenters comprising the PA Energy Efficiency for All Coalition (“PA-EEFA”) made similar recommendations. In particular, both entities recommend that the Commission establish a policy for the length of time over which it would be reasonable and appropriate to provide service to *all* eligible customers (emphasis added).<sup>6</sup> EAP agrees with these commenters that the LIURP needs assessment could benefit from additional clarity and standardization, but believes this is best achieved via discussion and collaboration first at a stakeholder meeting prior to regulation promulgation by the Commission.

EAP does not agree, however, with the initial recommendation to regulate a completion timeframe for the program, particularly any regulation that would mandate all eligible customers be serviced by a particular future date. Placing such an obligation on regulated utilities is unreasonable and unachievable in light of the variety of weatherization programs in operation across the Commonwealth – i.e., LIURP, Act 129 weatherization, DOE-funded WAP, and LIHEAP crisis intervention – and the reality that there exists a limited pool of contractors competent and able to do the work. Such a mandate also ignores the fact that low income customers frequently move, and may cycle in and out of LIURP needs, so households included in the needs assessment today may be different from those in the near future. In addition to benefiting the individual program participants, LIURP should be evaluated on a cost-benefit analysis to the remainder of the residential rate base that funds the program. The exponential costs of weatherizing *every* potentially eligible

---

<sup>5</sup> Office of Consumer Advocate Comments to Secretarial Letter, Docket No. L-2016- 2557886, p. 11-12.

<sup>6</sup> PA Energy Efficiency for All Coalition Comments to Secretarial Letter, Docket No. L-2016-2557886, p.

home in the Commonwealth would not prove cost-effective – and the financial impact of imposing a single “length of time” to serve all eligible customers would be dramatic for ratepayers in service territories with a high proportion of the rate base comprised of low income customers.

The additional variables suggested by OCA, such as type of housing, average age of housing stock, or type of heating fuel used by the customer is not information or data regularly collected or easily discoverable by utilities. The costs – and the associated privacy concerns – associated with having all utilities undertake such a comprehensive survey of their territories to gather this information on all customers would far outweigh the benefits gained by the modifications they might produce in increased efficiency of LIURP. Implementation of such parameters is better suited, if at all, to a government-run program such as WAP or crisis intervention.

The OCA’s recommendation to replace the 0.2% budget guideline set forth in 52 Pa. Code §58.4 (a) with language to support budgets based on the service territory needs would create too much ambiguity in the LIURP budgeting process. The 0.2% guideline establishes a useful benchmark from which to establish budgets. The development of LIURP budgets should consider not just the needs assessment, but also the overall cost burden on the service territory’s ratepayers. Either budgets should be determined through (i) the USP proceeding based on current needs and ratepayer cost impacts (and not subject to prior programming requirements or projected future needs beyond the current USP); or (ii) a fixed percentage of jurisdictional revenues that is the same for all utilities.

### **C. Issues Related to Multi-Family Housing**

EAP believes the commenters have made some overly broad and unworkable suggestions in their responses to the Commission’s question regarding treatment for multi-family housing via LIURP. Many of the suggestions are based on an assumption that it is the regulated utility that is obligated to institute – and their ratepayers pay for - programs aimed at correcting housing deficiencies for residential landlords. OCA recommends that the Commission define multi-family properties and that their needs should be addressed separately in utility plans via their own needs assessment and separate budget.<sup>7</sup> PA-EEFA goes even further in its comments suggesting the Commission create a focus on multi-family dwellings and a dedicated carve-out akin to the Act 129 program with specific targets for utilities. They go on to assert that increasing multi-family participation – for property owners earning a profit from a rental business - in LIURP should be a “primary goal of this rulemaking process.”<sup>8</sup>

While EAP and member companies would welcome a discussion on how to make the appropriate service territory specific adjustments to company plans to increase multi-family housing participation in LIURP, we do not believe it should be subjected to stringent regulations or specific targets. The primary impediments to addressing multi-family housing are situations where either the low-income customers are not a direct customer of the utility (master-metered) or a multi-family dwelling contains residents who are not income qualified for the program and its measures. Master-metered tenants are not the primary beneficiaries of the measures by way of making energy bills more affordable – the

---

<sup>7</sup> Office of Consumer Advocate Comments to Secretarial Letter, Docket No. L-2016- 2557886, p. 8

<sup>8</sup> PA Energy Efficiency for All Coalition Comments to Secretarial Letter, Docket No. L-2016-2557886, p. 24.

landlord is. LIURP and other universal service programs are primarily paid for by *residential* ratepayers, while landlords and master-metered accounts are generally classified as commercial ratepayers. Mandating master-meter dwelling program measures would, in effect, result in residential ratepayers subsidizing commercial customers to a commercial customer's benefit. EAP agrees with OCA in its comments that "it would not be appropriate to include the costs of a commercial customer's weatherization treatment through the LIURP funding mechanism where the bill reductions would go directly to the landlord and not the tenant."<sup>9</sup>

In addition, EDCs are already subject to specific multi-family energy savings goals in their Act 129 programs. Inevitably, the pool of eligible properties for these measures would compete against each other if another mandate was set for LIURP, risking either double counting of energy savings between the programs or worse: companies would have to decide between counting the savings for LIURP and risking millions in penalties for not meeting the savings in Act 129 for these measures.

The commenters also suggest that LIURP funding not be used to treat any housing where multi-family residents *are* direct customers of the utility unless a significant portion of the units in the building are occupied by low-income tenants.<sup>10</sup> While EAP would agree that measures that would benefit an entire building should not be funded by LIURP where a majority of residents are not income qualified for the program, we would caution against mandating any threshold requirements. Some of our member utilities will go into individually-metered multi-family dwellings to perform energy efficiency measures on one or two units if those households meet the LIURP eligibility criteria. Setting a regulatory

---

<sup>9</sup> Office of Consumer Advocate Comments to Secretarial Letter, Docket No. L-2016- 2557886, p. 13

<sup>10</sup> *Ibid.*

threshold related to building composition would preclude utilities from current practice that strives to work with as many low-income households as possible.

#### **D. Issues Related to Coordination**

Stakeholders also suggest that the best way to improve coordination between utility programs and other statewide weatherization programs is to create regulatory mandates. OCA suggests that LIURP regulations should specifically define “coordination”<sup>11</sup> while PA-EEFA goes further in suggesting that Act 129, LIURP and DCED’s WAP should operate as “integrated programs” or viewed as “independent funding streams in an integrated program.”<sup>12</sup> The group insists that the question of who pays for these measures is secondary to ensuring that the measures are performed. EAP would disagree. Each of these programs comes with a separate funding and recovery mechanism and in the case of WAP, a completely different state agency whose parameters for the program are set by the federal government. Administering a shared LIURP budget across a service territory would be prohibitively complex. It could also result in LIURP budgets becoming disproportionate to the to market penetration of the fuel source.

Integrated service delivery also complicates the prioritization of customers for treatment. 52 Pa. Code §58.10 sets forth prioritization requirements that establish the order in which customers are treated, appropriately ensuring that the highest usage customers are treated first. Integrating service delivery would require utilities to delay treating their highest usage customers first, eroding the effectiveness of LIURP.

EAP member companies strive toward coordination where possible. In many

---

<sup>11</sup> Office of Consumer Advocate Comments to Secretarial Letter, Docket No. L-2016- 2557886, p. 14

<sup>12</sup> PA Energy Efficiency for All Coalition Comments to Secretarial Letter, Docket No. L-2016-2557886, p.8

instances, contractors who do weatherization work for WAP are also contracted by utilities for LIURP. To the extent PA-EEFA believes that the Commission should require the utilities to “prioritize WAP agencies”<sup>13</sup> to ensure better coordination, this is, in large part, already being done. The selection criteria of agencies to perform LIURP services should be left to the utilities to determine based on the unique service territories and the companies’ procurement requirements, and not be prescribed by regulation.<sup>14</sup> EAP would argue that the Commission should not inject itself into the marketplace in this manner – by mandating the use of certain non-profits/businesses (at the expense of others). EAP would also point out that WAP agencies are by nature of time and staffing constraints limited in the number of jobs they can complete. It is impractical to believe that one agency or even a handful of agencies in each county could keep on top of the weatherization workload of all measures funded by LIURP, Act 129, and WAP.

The OCA also suggested that utilities should work with architects, commercial construction managers, and local property inspectors.<sup>15</sup> There are no obligations or incentives for these companies or agencies to partner with utilities to implement LIURP. This costly coordination would be well beyond the scope of the LIURP regulations and should be solely at the discretion of the utilities to propose in their USP if would be feasible.

#### **E. Other Issues**

- The Commission on Economic Opportunity’s recommendation that companies’ Universal Service Plans be submitted to an Administrative

---

<sup>13</sup> *Ibid*, p. 9

<sup>14</sup> The Commission on Economic Opportunity and Weatherization Providers Task Force also recommended that the regulation prescribe the types of agencies that should perform LIURP work. It is important to note that both organizations serve as LIURP contractors, and would likely financially benefit from the adoption of these recommendations.

<sup>15</sup> Office of Consumer Advocate Comments to Secretarial Letter, Docket No. L-2016- 2557886, p. 31

Law Judge for review should be rejected. The current process, working with BCS, provides adequate review and opportunity input. Subjecting the USP to an ALJ proceeding would unnecessarily complicate the process, increase costs and potentially delay implementation of LIURP.

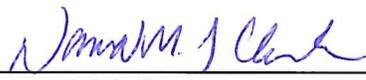
- Several parties addressed the need for LIURP regulations to address “de-facto” heating sources. Although EAP takes no position on this issue at this time, it notes that the commenters do not address issues of reconnection fees and outstanding arrearages. It is also important to note that in a de-facto heating situation the household may not be a customer of the primary heat source utility; non-customers should not be included in a utility’s LIURP.

### **III. CONCLUSION**

The issues raised by the Commission in its Secretarial Letter along with the responses of the stakeholders are not easily resolved through regulatory revisions or prescriptive new rules; rather, EAP believes that a stakeholder meeting or technical conference would be invaluable to this effort. LIURP is an important utility-provided and ratepayer-funded program that all stakeholders have an interest in ensuring runs as efficiently and beneficially as possible. EAP believes the best way to achieve the improvements and streamlining of the program sought by the Commission and other stakeholders is to remain focused on the purpose and achievable goals of utility-funded weatherization measures. We would urge the Commission and other stakeholders not to place an undue burden on ratepayers by expanding utility weatherization programs beyond their scope in an attempt to address all deficiencies in the Commonwealth’s housing stock or to solve all issues related to low-income customer payment issues and attendant utility costs.

EAP respectfully requests that the Commission consider these comments as it evaluates how revisions to the existing LIURP regulations will best address the issues raised in its Secretarial Letter.

Respectfully submitted,

  
\_\_\_\_\_  
Donna M.J. Clark  
Vice President & General Counsel  
[dclark@energypa.org](mailto:dclark@energypa.org)

  
\_\_\_\_\_  
Nicole W. Gear  
Manager, Policy & Research  
[ngear@energypa.org](mailto:ngear@energypa.org)

Energy Association of Pennsylvania  
800 North Third Street, Suite 205  
Harrisburg, PA 17102

Date: March 1, 2017