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October 16, 2017

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

Re: Review of Universal Service and Energy Conservation Programs Opinion and Order, Docket No. M-2017-2596907

Dear Secretary Chiavetta:

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

Sincerely,

A handwritten signature in blue 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**

Review of Universal Service and
Energy Conservation Programs

:

Docket No. M-2017-2596907

**REPLY COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA
TO OPINION AND ORDER**

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”) members¹ to the various parties commenting upon the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) Opinion and Order entered on May 10, 2017. Initial responses were due to the Commission 30 days following publication in the Pennsylvania Bulletin, i.e., August 8, 2017, with reply comments permitted 30 days after stakeholder meetings were held. EAP and member utilities participated in the Commission-convened stakeholder meetings on September 13 and 14, 2017. EAP incorporates its original Comments filed on August 8, 2017 by reference.

¹ 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.; Leatherstocking Gas Company, LLC; 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 positions and suggestions raised by certain stakeholders in filed comments and during the September 2017 stakeholder meetings. Individual EAP members may also express their views on these issues in separate company filings. EAP continues to offer its comments as a basis for discussion and not with the intention of providing a definitive answer to the issues raised at this stage of the proceeding. EAP welcomes and appreciates the collaborative approach outlined via the Opinion and Order to solicit comments, encourage discussion via a stakeholder meeting, and allow for continued dialogue.

II. COMMENTS

EAP reiterates its points from its initial comments to the Opinion and Order as well as in comments to the LIURP review docket² regarding the essential role of utilities. The core purpose of the utility remains unchanged: to provide “adequate, efficient, safe, and reasonable” service.³ Pennsylvania’s EDCs and NGDCs are committed to plan, develop, and operate utility infrastructure with reliability and safety as their primary focus. Additionally, and apart from these core functions, Pennsylvania utilities initiated customer assistance programs under guidelines established by the Commission. The General Assembly sought to codify these programs in the respective Competition Acts,⁴ which served as reinforcement of the utilities’ role in assistance programs benefiting their low-income customers. These programs also inure to wider benefit as they can serve as a means by which utilities seek to lower the cost of collection activities,

² EAP Comments dated January 30, 2017 to the Commission’s *Initiative to Review and Revise the Existing LIURP Regulations at 52 Pa. Code §§ 58.1 – 58.18*, Docket No. L-2016-2557886.

³ 66 Pa.C.S. § 1501.

⁴ The Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. §§ 2801-2812; and the Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2201-2212. Universal service programs as defined by these statutes as the policies, practices and services, such as CAP, usage reduction programs, service termination protections and consumer education that help low-income customers maintain utility service. *See* 66 Pa C.S. §§ 2202 and 2803.

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

USECP program offerings are targeted assistance provided by utilities and are just one piece of a societal puzzle aimed at helping low-income families afford the cost of living in the Commonwealth. Utility programs are not intended to be a “catch-all” solution for every Pennsylvanian who might struggle to pay his energy bills. EAP and its member utilities 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 for a dedicated state funding stream to match the federal Low Income Home Energy Assistance Program (“LIHEAP”) grant.

EAP also believes that what is feasible for other states may not be directly applicable to the success of energy assistance programs in Pennsylvania. Some commenters have suggested in particular that the Commission look to neighboring states such as New York or New Jersey whose energy assistance programs have energy burden targets much closer to 6%. What these commenters fail to mention, however, is that these programs are then by necessity much smaller in scope and cost than Pennsylvania’s utility-funded programs. In New Jersey, for example, the Universal Service Fund (funded by New Jersey utility ratepayers) is offered only to LIHEAP recipients (a co-application is necessary for enrollment) and the programs spent \$157.6 million in 2014.⁵ In neighboring Maryland, the comparable universal service program and arrearage forgiveness is similarly limited. The current bill discount program is limited to state LIHEAP recipients and totaled just \$38.3 million in 2015. Maryland ratepayers are only asked to pay \$0.36 per month, or \$4.32 per year, for this program. Arrearage forgiveness totaled \$17 million during

⁵ U.S. Department of Health and Human Services. Administration for Children and Families. LIHEAP Clearinghouse. “New Jersey Ratepayer Funded Programs.” <https://liheapch.acf.hhs.gov/dereg/states/njsnapshot.htm>

FY 2015 and is funded by federal LIHEAP dollars or the Regional Greenhouse Gas Initiative (“RGGI”) funds. Originally, arrearage benefits were only allowed once in a lifetime but a modification has since allowed additional benefit after a period of seven years. Other cold-weather states such as Michigan and Minnesota spent \$77 million and \$28 million of ratepayer dollars on their utility-funded energy assistance programs respectively.⁶ Compare this to the \$418 million Pennsylvania’s regulated utilities spent in 2015 on universal service programs.⁷

As noted by PECO in its initial comments to the Opinion and Order, any additional decrease in program recipients’ energy burden would inevitably increase the costs of these programs even further.⁸ The Office of Consumer Advocate (“OCA”) aptly notes, “it is clear that residential ratepayers do not have the capacity to provide sufficient funds to serve every low-income customer.”⁹ On average, each customer is already asked to pay more than \$50 a year¹⁰ for assistance programs; this is in addition to the funding collected from customers for mandated Act 129 energy efficiency programs, DSIC and customer choice surcharges, as well as costs collected for state taxes, or to install / move utility meters as required by state law and PUC regulation – all of which is typically invisible to the average consumer as it is bundled into her electric or natural

⁶ U.S. Department of Health and Human Services. Administration for Children and Families. LIHEAP Clearinghouse. “Michigan Ratepayer Funded Programs.” <https://liheapch.acf.hhs.gov/dereg/states/misnapshot.htm>; U.S. Department of Health and Human Services. Administration for Children and Families. LIHEAP Clearinghouse. “Minnesota Ratepayer Funded Programs.” <https://liheapch.acf.hhs.gov/dereg/states/mnsnapshot.htm>

⁷ Pennsylvania’s Universal Service Program benefits are not limited to LIHEAP recipients exclusively. The PUC’s annual Universal Service Report indicates total EDC and NGDC spending on universal service was \$418.1 million in 2015. See Pennsylvania Public Utility Commission Bureau of Consumer Services, “2015 Report on Universal Service Programs & Collections Performance of the Pennsylvania Electric Distribution Companies & Natural Gas Distribution Companies.” Appendix 5 – Universal Service Program 2015 Spending Levels & Cost Recovery Mechanisms, p. 58.

⁸ PECO estimates that “for every 1% decrease to the energy burden...residential customers will experience a \$16 million (20%) increase in CAP costs”; PECO comments to the Opinion and Order dated August 8, 2017 at p.7.

⁹ OCA comments to Opinion and Order dated August 8, 2017, pp. 8-9.

¹⁰ Pennsylvania Public Utility Commission Bureau of Consumer Services, “2015 Report on Universal Service Programs & Collections Performance of the Pennsylvania Electric Distribution Companies & Natural Gas Distribution Companies.” Appendix 5 – Universal Service Program 2015 Spending Levels & Cost Recovery Mechanisms, p. 58.

gas rates. EAP asks the Commission to be mindful of this as it weighs options that may lead to the expansion of these programs.

Furthermore, EAP does not believe the suggestions to mandate uniformity in USECPs across the Commonwealth are appropriate. EAP and its member utilities continue to believe ratepayers receive great benefits by allowing for the continued customization and flexibility currently permitted in the existing process and regulations, which grants each utility the opportunity to customize its plan for the specific needs of its service territory and unique customer base. There is no uniformity among customer demographics, their credit or payment histories, or the percentage of people who need assistance paying their bills from one utility to another. In some service territories, people who might be income-eligible for CAP are able to regularly and routinely pay their bill, and are not payment troubled. In others, significant segments of income-eligible consumers are enrolled in CAP. EAP does not believe there is a pressing regulatory reason for mandating that USECP programs be uniform in terms of percentage of population served, program design, or specific manner of cost recovery.

With these ideas in mind, EAP offers the following comments to highlight where utilities can agree with other stakeholders and where practical, programmatic, or cost concerns inhibit company consensus.

A. CAP

i. Eligibility

EAP believes that eligibility could be redefined to include those customers who meet the program's income guidelines¹¹, as utilities agree it behooves the recipient and the rest of the residential rate base to help payment-troubled low income customers as early as possible to avoid

¹¹ OCA comments to Opinion and Order dated August 8, 2017, pp. 9-10.

increased arrearages. EAP cautions against the Commission mandating such expansion of program eligibility, however, as the costs for automatically enrolling each income-eligible customer would far outweigh the benefits.

EAP's member utilities currently work with their portfolio of universal service programs to assist each customer's individual circumstances in the most efficient, least-cost manner; broadening CAP eligibility so as to mandate all low-income customers participate would drastically impact the ability of a utility to tailor benefits to a particular customer. EAP believes the costs of such mandates borne by the rest of the residential rate base would ultimately disproportionately hurt those customers who are earning just above the income guidelines and potentially jeopardize their ability to afford their energy bills; for this group of customers, each additional cost is felt significantly without the "safety net" of eligibility for utility (or many government) assistance programs. Furthermore, stringent mandates are particularly burdensome to Pennsylvania's natural gas utilities whose customers have options when it comes to choosing how to heat their homes. Deliverable fuel vendors are not required to offer customer assistance programs or provide "affordable" bills¹²; increasing the costs of these programs on natural gas ratepayers may incentivize them to switch fuels.

Additionally, EAP believes not all low-income customers are inherently payment troubled or will want energy assistance from their utility to come in the form of CAP participation. If a customer is automatically enrolled in CAP, this presents unique challenges for the utility to educate the customer as to the rights and responsibilities related to program participation. For example, should the customer be auto-enrolled and get behind in CAP to the point of termination, it closes the door on future payment arrangement opportunities for that customer. Given these

¹² Although many are approved vendors to receive federal LIHEAP grants on behalf of their customers.

reasons, EAP encourages the Commission to allow for broadening of the eligibility requirements without mandates.

ii. Recertification

EAP member utilities agree with some parties' suggestions to improve and streamline the recertification process. Many utilities already allow for recertification on a less than annual basis if the customer's income is unlikely to change¹³, i.e., their income is primarily from a fixed source such as Social Security or a pension. Similarly, EAP agrees that perhaps those customers claiming zero income should have to recertify on a more frequent basis, e.g., every six months instead of every year.¹⁴ EAP believes the Commission should also explore the extent of time for which a customer can continue to claim zero income. EAP also agrees that, generally, annualized income is an equivalent to annual income for CAP eligibility.¹⁵ However, utilities need to maintain flexibility with regard to use of each in order to maintain program integrity. For example, utilities may not rely on annual income from a prior year's tax returns if the customer is applying late in the following year. To the extent the commenters wish for these clarifications to be written into the CAP Policy Statement, EAP reserves the right to comment further on the Commission's proposed language change to ensure the appropriate flexibility for program design and avoid prescriptive mandates that would erode the utility's ability to consider the special circumstances of the customer.

iii. Program Design Elements

As noted above, EAP believes the current USECP regulations allow for the appropriate level of flexibility and customization for utilities to tailor their individual programs to meet the

¹³ OCA comments to Opinion and Order dated August 8, 2017, p. 45.

¹⁴ *Ibid*, p. 21.

¹⁵ *Ibid*, p. 23

needs of their unique service territories. To the extent other commenters wish to see an increase in particular design elements across the Commonwealth, some utilities may be open to exploring these ideas in future plan proceedings on a pilot; however, EAP cautions against viewing the pilots as precedent for utilities to follow in future individual USECP proceedings or codifying any particular design or design element into USECP regulations or the CAP Policy Statement. For example, some commenters wish for all utilities to design their CAP programs as percentage of income payment plans (PIPP). While many have program design elements similar to the PIPP, it may not be beneficial for all customers or all customers of a particular service territory. The Commission should continue to allow for utilities to explore other cost-effective program designs without favoring any one in particular.

EAP members generally agree that if maximum CAP credits will be retained in a future CAP Policy Statement, such language should allow for flexibility to meet the various program designs already successfully utilized by utilities. Many companies note that only a small percentage (4-5%) of CAP customers ever reach their maximum credits, and utilities are typically willing to allow for exhaustion exemptions to accommodate CAP customers experiencing extenuating circumstances. Again, EAP would caution against mandating utilities to maintain or re-establish maximum CAP credits via regulation.

EAP contends that the impacts of any sweeping change or mandates relative to program plan design should be weighed against the costs not only to low-income customers but to all customers asked to pay for these programs. Further, recommendations regarding program design cannot be finalized without the result of the energy burden study currently underway at the Commission. EAP encourages the Commission to allow for approved (and soon to be approved)

USECP plans, particularly new and innovative programs and pilots, to be run through to completion with full opportunity for evaluation before any wholesale changes are made.

iv. LIHEAP & CAP

EAP agrees with comments that recommend the removal of the LIHEAP participation prerequisite for CAP from the Commission's CAP Policy Statement.¹⁶ For the most part, utilities do not prohibit enrollment for or remove participants from CAP for failure to participate in LIHEAP, nor do they penalize any participant for not doing so. LIHEAP grants can only be assigned to one participating vendor. If a customer applies for a LIHEAP grant and needs assistance with both her gas and electric bill, she is not permitted to "split" the grant between the two but must assign the full grant amount to one utility. Utilities do not wish to create additional burdens or penalties on CAP participants for having to make this choice between vendors. EAP member utilities will continue to encourage LIHEAP participation and make their eligible customers aware of the program; should the Commission wish to amend the CAP Policy Statement regarding LIHEAP, EAP believes language encouraging utilities to promote LIHEAP participation could be substituted for the current penalty provision.

EAP does not, however, support the suggestion to enroll LIHEAP recipients automatically into CAP for all utilities, for many of the same reasons noted above with regard to CAP auto-enrollment generally. In addition, there are customers for whom the LIHEAP grant is sufficient to address their energy bill for a particular heating season. Utilizing this least-cost method of meeting an individual customer's need helps mitigate costs for the rest of the program that are borne by other ratepayers.

¹⁶ OCA comments to Opinion and Order dated August 8, 2017, p. 12-13.

B. HARDSHIP FUNDS

EAP disagrees with commenters' suggestions for further micromanagement of utility hardship funds. Contributions for hardship funds vary by utility and most are not subject to the standard USECP cost recovery (i.e., funding does not come from residential ratepayers exclusively). Mandating any changes to hardship funds may involve the consent of funding third parties, which ultimately may jeopardize the funding stream altogether. EAP believes the Commission should avoid any attempts to create additional parameters for voluntary donations which are collected from, and sometimes managed by, third parties.

EAP also disagrees with commenters who recommend changing the funding stream of hardship grants from voluntary donations solely to base rates.¹⁷ As noted previously, the current system allows for flexibility with regard to program design and cost recovery. Some utilities fund their programs wholly with voluntary sources, community outreach, and matching corporate donations; others have Commission approval to use penalty amounts and / or credits together with their fundraising activities. EAP recommends the Commission continue to allow for this flexibility going forward.

EAP members do agree, however, that voluntary improvements can be made to increase hardship fund contributions. Many companies are actively exploring how to make it easier for customers utilizing online (e-bill, automatic withdrawal) payment methods to donate to the fund. Utilities also continue to solicit for their hardship funds throughout the year in the communities they serve without the requirement of a mandate or specific regulations. EAP believes utility

¹⁷ Joint comments of the the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Tenant Union Representative Network, and Action Alliance of Senior Citizens of Greater Philadelphia to the Opinion and Order dated August 8, 2017, p.50.

USECPs are meeting the goal of the statute in the maintenance and solicitation for funding of this particular program.

C. CARES

EAP defers to its member companies regarding the Commission staff's request from the September 2017 stakeholder meetings as to the status and scope of each individual utility's CARES program as well as improvements that could be made to said programs at little or no cost. EAP does not believe, however, that the CARES program can or should be further expanded as suggested by other stakeholders.¹⁸

Utilities do have specially-trained CARES staff who are equipped to assist customers with their unique needs. While some utilities have employed social workers on staff for their CARES programs, EAP recommends against creating a mandate. A statewide mandate of licensed social worker staff could ultimately increase the costs of the CARES programs without much in terms of increased output or program performance. Utilities cannot, as some have suggested, track outcomes outside of the customer's future ability to pay its utility bills (which utility CARES programs already do). There are privacy and other security concerns surrounding a utility referring a customer for additional support outside its jurisdiction and then inquiring as to the success of that referral either directly with the customer or with the third party. By extension, the success of the service being provided via the CARES referral should not be measured on whether or not any particular customer receives the help she was referred to; the ultimate eligibility and availability of the assistance suggested by the utility employee is determined by a third party. Utilities do,

¹⁸ EAP notes that in the initial comments of the United Way of Pennsylvania to the Opinion and Order and during the September 2017 stakeholder meetings a recommendation was made for utilities to spend five percent of their universal service dollars directly on the PA 2-1-1 program. Pennsylvania utilities strongly support United Way via their employee campaigns as well as by way of independent, individual corporate donations and sponsorship. EAP opposes any suggestion that would mandate utilities to fund PA 2-1-1 with universal service program dollars – particularly given the PA 2-1-1 program does not operate in all areas of every service territory in the Commonwealth.

however, report on the level of energy assistance received by CARES participants through LIHEAP, Hardship Funds, and third parties in the annual Universal Service Report.¹⁹

D. OTHER UNIVERSAL SERVICE PROGRAM ISSUES

i. USECP Plan Review Process

EAP strongly recommends the Commission continue with a procedure that allows for a collaborative process regarding USECP plan approval. The current plan submittal process provides an opportunity for the Bureau of Consumer Services (“BCS”), utilities, and stakeholders to assess which program aspects are working well and target areas for improvement. EAP asserts that recommendations related to these programs are best housed within BCS; should the approval process for these plans be transferred to the Office of Administrative Law Judge as suggested by certain stakeholders, EAP is concerned BCS’s expertise and input may be minimized and / or eliminated. A more formal, adjudicated proceeding would jeopardize the existing framework that encourages cooperation, collaboration, and compromise. Concurrently, EAP reiterates its suggestions from prior comments that some improvements to the timeline of the process may be warranted.²⁰

ii. Definition of “confirmed low income”

As other commenters and EAP have mentioned previously, the Commission should re-evaluate the definition of “confirmed low income”²¹ for its reporting requirements and with regard to the needs assessment. EAP believes there should be a uniform set of parameters applicable to all utilities. For example, EAP believes customers who “self-certify” without any income verification submitted to the utility or a third party (e.g., DHS for LIHEAP) should not be counted

¹⁹ 52 Pa. Code § 54.75 (2)(ii)(C) and 52 Pa. Code § 62.5 (2)(ii)(C).

²⁰ EAP comments to Opinion and Order dated August 8, 2017, pp. 8-10.

²¹ OCA comments to Opinion and Order dated August 8, 2017, pp. 59-60.

as “confirmed” low income. Conversely, those presently enrolled in utility USECP programs or are LIHEAP recipients or who have submitted income for a waiver of a security deposit should count as “confirmed” low income. EAP also agrees that so long as the individual remains in CAP or receiving an income-qualified benefit that the customer can remain “confirmed” longer than one year. EAP recommends the Commission consider this topic for further discussion among staff and stakeholders.

iii. Data sharing between utilities and Pennsylvania’s Department of Human Services (DHS)

The topic of a shared data between utilities and the DHS came up during the Commission’s September 2017 stakeholder meetings. Commission staff asked for utility input on the “ideal” information sharing interface that would assist utilities in confirming LIHEAP recipients for other utility energy assistance programs. EAP believes a “check box” or other approval mechanism for an individual applying for LIHEAP to permit DHS to share her information with her utilities would be beneficial. EAP member utilities in their DHS LIHEAP vendor status already receive some information on the LIHEAP recipient / customer via the voucher (grant). If utilities could receive the additional information provided to DHS – which is also reported back to the customer via the LIHEAP award letter – such as the household number and income information, utilities would have the additional information needed to determine eligibility for their programs and reach out to their customers without any additional steps or further income verification on the part of the customer.

E. ENERGY BURDEN

EAP and its member utilities understand the importance of affordable energy for all Pennsylvania customers but maintain that, with respect to assisting low-income customers, this

obligation is a function primarily of government first, as supplemented by utility customer assistance programs. As evidenced by the breadth and depth of universal service programs, Pennsylvania's utilities are committed to ensuring assistance remains available to help low income customers maintain their service and establish good payment habits, be energy efficient, and have access to additional help in crisis situations. EAP looks forward to working with the Commission and other stakeholders on this issue following the Bureau of Consumer Services' report due next year.²²

Presently, the Commission utilizes a range of energy affordability levels which vary by income and heating source and are outlined in the Commission's CAP Policy Statement.²³ As the Commission and other stakeholders weigh CAP energy burden levels in the larger context of this investigation into utility universal service programs, EAP cautions against any immediate action under this docket before BCS's report can be fully reviewed and vetted.

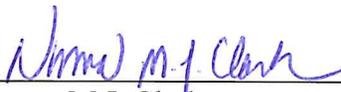
²² *Energy Affordability for Low Income Customers*, Opinion and Order dated March 16, 2017. Docket No. M-2017-258771. See also *infra* at pp. 4-5.

²³ 52 Pa. Code § 69.265.

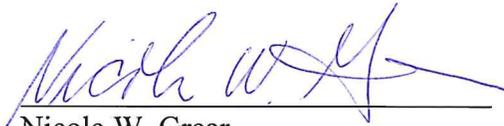
III. CONCLUSION

The goal of the comments contained herein is to encourage the Commission to continue to strive toward an optimum balance in the planning and scope of universal service programs: protecting vulnerable customers and helping them to maintain essential utility service while moderating costs for the remainder of the residential rate base. EAP respectfully requests that the Commission consider these comments as it determines next steps under this review docket.

Respectfully submitted,



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Date: October 16, 2017