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July 30, 2019

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

**Re: Electric Distribution Company Default Service Plans – Customer Assistance
Program Shopping, Docket No. M-2018-3006578**

Dear Secretary Chiavetta:

Enclosed for filing please find the comments of the Energy Association of Pennsylvania to the Commission's Proposed Policy Statement Order at the above-referenced docket.

Sincerely,

A handwritten signature in black ink that reads "Nicole W. Luciano". The signature is fluid and cursive, written in a professional style.

Nicole W. Luciano
Manager, Policy & Research

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Electric Distribution Company Default Service :
Plans – Customer Assistance Program Shopping

M-2018-3006578

**COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA TO THE PROPOSED POLICY
STATEMENT ORDER**

I. INTRODUCTION

The Pennsylvania Public Utility Commission (“Commission” or “PUC”) initiated the current proceeding regarding review of current policy addressing the issue of electric distribution company (“EDC”) Customer Assistance Program (“CAP”) participant shopping with electric generation suppliers (“EGSs”) on December 20, 2018 by directing the Commission’s Law Bureau to prepare for consideration an Order to amend or create a new policy statement. At its Public Meeting of February 28, 2019, the Commission issued for comment a proposed Policy Statement on electric CAP participant shopping.

The proposed Policy Statement aims to set guidelines “for EDCs that limit harm to CAP participants while still providing CAP participants the benefits of the retail electric market.”¹ The Commission found, via EDC default service proceedings, that harm was occurring to both CAP participants and non-CAP participants when shopping CAP customers were paying higher rates with an EGS than their EDC’s applicable price to compare (“PTC”). The Commission notes that PPL found, and it agreed, that harm comes to CAP participants by exceeding their CAP credits at

¹ Proposed Policy Statement Order, p. 1.

a faster rate – putting them in jeopardy of being removed from CAP – and to non-CAP participants who subsidize CAP participants by bearing the increased costs related to CAP.² As a result of these recent findings, the Commission is proposing the development of uniform guidelines for CAP shopping via this proposed Policy Statement Order.

The Energy Association of Pennsylvania (“Association” or “EAP”) submits the following Comments on behalf of its electric distribution company (“EDC”) members³ to the proposed Policy Statement Order. EDC members may also submit individual company comments targeted to their specific experience with CAP shopping in their service territories.

EAP believes the goal of the proposed Policy Statement is laudable, with a few caveats:

- EDCs have little visibility regarding customer contracts with EGSs, and therefore cannot administer or otherwise enforce the Commission’s proposed provisions of CAP shopping products.
- The Commission should delay any action on CAP shopping until its review of Universal Service Programs (including CAP)⁴ and Energy Burden⁵ are complete.
- Flexibility with implementation is necessary as EDCs design and implement their unique CAP shopping programs given their individual company circumstances.

² The Commission found similar evidence in the FirstEnergy Companies’ most recent default service proceeding. Proposed Policy Statement Order at pp.3-4.

³ EAP is trade association with EDC members including 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 Corporation; UGI Utilities, Inc. (Electric Division); Wellsboro Electric Company; and, West Penn Power Company.

⁴ Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907.

⁵ Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711.

- Insofar as small EDCs are not required to have CAPs, they should also not be required to have CAP shopping programs. Any future policy statement should not imply that every EDC shall have a CAP shopping program.⁶
- A Policy Statement is not the appropriate avenue for establishing mandatory reporting requirements; if the Commission envisions any regular, annual reporting requirements associated with CAP shopping, a rulemaking proceeding is the applicable process and stakeholders should be made aware as soon as possible to account for the programmatic changes and increased costs associated with additional reporting.

II. COMMENTS

A. EDCs have little visibility regarding customer contracts with EGSs, and therefore cannot administer or otherwise enforce the Commission’s proposed provisions of CAP shopping products.

While EDCs have a responsibility to promote cost-effective universal service programs, they do not have any control over a shopping customer’s rates or terms of service with an EGS. EDCs cannot – nor should they – be in the role of policing these contracts for CAP participants, just as they are not for other customers who elect to shop for their retail electric supply. The onus should be on suppliers and not EDCs to ensure compliance with the proposed restrictions. In order to implement a price ceiling or prohibition on certain fees, it should be the supplier’s obligation to respond to a CAP participation flag on the eligible customer list. EDCs cannot be responsible for auditing all CAP customer accounts to ensure compliant supplier behavior. Only suppliers are in a position to confirm whether or not they are meeting the Commission’s suggested requirements.

⁶ For example, the proposed Policy Statement at 69.274(a) currently reading, “An EDC should develop a CAP participant electric generation shopping program consistent with the guidelines provided in...” could be changed to, “If an EDC elects to develop a CAP participant electric generation shopping program, it should be consistent with the guidelines provided in...”

If a supplier is found to be ignoring the proposed CAP shopping restrictions, it is the supplier, rather than the EDC or the customer, who should be held responsible.

The Commission's proposed Policy Statement instead places the onus on EDCs and CAP customers instead of EGSs to enforce EGS contracts. The proposal also seemingly punishes the CAP customer for (perhaps inadvertently) contracting with an EGS for a product that does not meet these proposed guidelines by removing them from CAP.⁷ EAP does not believe a CAP customer should be disenrolled from CAP due to an error on the part of the EGS. Disenrollment and reenrollment are expensive and complicated and should be avoided in order to continue to ensure an eligible low-income customer receives the benefits of the program.⁸

EAP suggests the Commission revise its proposed Policy Statement to include requirements and restrictions relative to EGSs and their product offerings that do not imply EDC enforcement or regulation and do not unduly punish CAP participants.

B. The Commission should delay any action on CAP shopping until its review of Universal Service Programs (including CAP) and Energy Burden are complete.

The Commission currently has two ongoing investigations relative to CAP design and implementation: *Review of Universal Service and Energy Conservation Programs*, Docket No. M-2017-2596907; and *Energy Affordability for Low-Income Customers*, Docket No. M-2017-2587711. In addition, the Commission issued a Secretarial Letter on July 17, 2019 regarding *Staff Review of CAP Final Billing Methods*, Docket No. M 2019-3010190, seeking additional information relative to the execution of CAP.

⁷ See Proposed Policy Statement §69.276 (b) regarding Eligibility, p. 11.

⁸ In the Commission's Order on the First Energy Companies' Default Service Programs, Docket Nos. P-2017, 2637855 *et al.* the Commission directed EGSs to return retail electric customers to default service or enroll them in a compliant contract. The Order also stipulated that EGSs "are obligated to determine if the customer is participating in the . . . Customer Assistance Programs," (Order granting reconsideration of September 4, 2018 Opinion and Order entered November 1, 2018, p. 41). EAP believes similar stipulations should be included in the proposed Policy Statement.

The findings and ultimate impacts of these proceedings, and their eventual implementation by the EDCs, will have unknown effects on CAP programs, participants, enrollment, and costs. EAP believes to the extent the Commission wishes to proceed with a proposed Policy Statement on CAP shopping that it allows time and flexibility for the results of these review dockets.

C. Flexibility with implementation is necessary as EDCs design and implement their unique CAP shopping programs given their individual company circumstances.

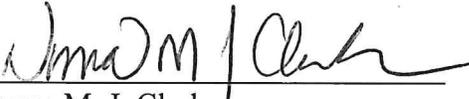
EAP appreciates the Commission's decision to offer proposed guidelines for CAP participant shopping via a proposed Policy Statement. EDCs anticipate working alongside the Commission and other stakeholders as customary in the evaluation of the default service proceedings.

One potential method for EDCs to effectively maintain limitations on EGSs who wish to serve CAP participants would be to require EGSs to offer a rate-ready percentage-off-PTC product. A rate ready, percentage-off-PTC product is a variable rate product that results in the customer paying an agreed-to, fixed percentage off the EDC's PTC. While the price the customer pays would change with the EDC's PTC changes, the percentage the customer would save in relation to the PTC would remain the same. However, some companies may not be able to accommodate rate-ready billing at this time. EAP again suggests that, to the extent possible, the mechanics for ensuring compliance with these proposed provisions should lie with the EGS.

III. CONCLUSION

EAP appreciates the opportunity to provide comments on the Commission's proposed Policy Statement on CAP participant shopping. EAP agrees that some limits may be necessary for the protection of both CAP and non-CAP residential customers. For the reasons stated above, EAP respectfully asks for the Commission to continue to allow for flexibility in CAP program design and implementation as it relates to CAP shopping.

Respectfully submitted,



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