



Energy to do more®

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August 14, 2019

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

Enclosed, please find the Reply Comments of the UGI Utilities, Inc. – Electric Division  
("UGI Electric") in the above-captioned matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Mark C. Morrow'. The signature is fluid and cursive.

Danielle Jouenne  
Mark C. Morrow

Counsel for UGI Utilities, Inc. –  
Electric Division

cc: Kriss Brown, Law Bureau, *via email at kribrown@pa.gov*  
Tiffany Tran, Law Bureau, *via email at tiftran@pa.gov*

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**REPLY COMMENTS OF UGI UTILITIES, INC. – ELECTRIC DIVISION**

**I. INTRODUCTION**

UGI Utilities, Inc. – Electric Division (“UGI Electric”) appreciates this opportunity to submit reply comments addressing issues and proposals raised in the initial comments to the Pennsylvania Public Utility Commission’s (“Commission”) Proposed Policy Statement on electric distribution company (“EDC”) Customer Assistance Program (“CAP”) participant shopping (“Proposed Policy Statement”) issued for comment on February 28, 2019. UGI Electric incorporates its initial comments by reference and supports the initial comments filed concurrently by the Energy Association of Pennsylvania (“EAP”).

UGI Electric is a “public utility” and an EDC as those terms are defined under the Public Utility Code, 66 Pa. C.S. §§102 and 803, and provides electric distribution, transmission, and default electric supply services to approximately 62,000 customers in portions of Luzerne and Wyoming counties. Approximately 56,000 of UGI Electric’s retail customers are residential customers. UGI Electric is a small EDC in terms of customer base, but its annual operating revenue is still in excess of the \$40 million threshold set by the CAP Policy Statement at 52 Pa. Code §§ 69.261 et seq, and therefore it is required to offer a CAP to eligible residential customers. UGI Electric has not and does not currently offer a CAP participant shopping program in its current

Commission-approved electric default service plan at Docket No. P-2016-2543523 (Order entered November 9, 2016).

UGI Electric's reply comments addresses the following points in response to the initial comments filed at this docket on July 30, 2019:

- The comments indicate it is highly unlikely, even for the largest EDC systems, EGSs will offer CAP customers products that conform with the Commission's proposed rules for protecting CAP and non-CAP customers from excess costs. Conversely, it is clear developing systems to track and enforce compliance will be costly to the stakeholders to which such costs are allocated, and particularly so for smaller EDCs.
- In light of this information, it is highly unlikely that proposals can be adopted which workably enhance choice while protecting the interests of choice and non-choice customers, and particularly so for smaller EDCs. Thus, the Commission should reconsider the wisdom of establishing guidelines for such proposals generally, and instead permit CAP customers to be served by the default service provider unless an EDC voluntarily proposes otherwise and the proposal is deemed to be in the public interest. Alternatively, should the Commission decide it still wishes to establish guidelines for CAP choice, it should only do for larger EDCs and initially exempt smaller EDCs. Should experience prove that workable solutions can be achieved on the systems of larger EDCs, the Commission can always reconsider its small EDC exemption, and the experience gained on larger systems can hopefully help smaller EDCs develop workable solutions at less cost.

- The primary purpose of a policy statement is to provide useful guidance reducing the likelihood of future litigation (and associated costs to EDCs and EGSs); any final policy statement at this docket should more clearly address enforcement responsibilities and cost recovery.

## II. REPLY COMMENTS

### A. STAKEHOLDERS SHOULD NOT BE REQUIRED TO INCUR COSTS AND IMPACT CAP CUSTOMER INTERESTS ABSENT A DEMONSTRATED AND CREDIBLE INTEREST AMONG EGSs TO OFFER SERVICE TO CAP CUSTOMERS UNDER THE COMMISSION'S FINAL GUIDELINES

The Retail Energy Marketing Association (“RESA”) comments strongly suggest its members are unlikely to make service offers to CAP customers under the terms proposed in the Proposed Policy Statement,<sup>1</sup> and make no commitment to do so under those or its proposed alternative terms. Instead, RESA proposes to “balance” the interest of promoting CAP participant choice again cost protections for CAP and non-CAP customers by:

- allowing CAP customers to sign contracts with EGSs up-to twenty percent above an EDC’s Price-to-Compare (“PTC”), with no adjustments during the life of fixed-term contracts<sup>2</sup>;
- imposing extensive new obligations on EDCs<sup>3</sup>; and

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<sup>1</sup> On page 8 of its initial comments RESA states the Proposed Policy Statement “creates an unsupportable pricing benchmark” and “likely eliminates the ability of EGSs to offer low-income customers fixed duration contracts”. On page 12 of its initial comments RESA indicates its members would not be willing to offer variable rate contracts to CAP customers as well stating “EGSs are generally comfortable providing a truly fixed 12-month price as such offers can be hedged ... [t]he same is not true of a price that might change over time depending on the PTC rate change ... unpredictable fluctuations caused by the reconciliation process ... cannot be effectively hedged.”

<sup>2</sup> RESA Exhibit A, p. A-iii.

<sup>3</sup> RESA Exhibit A, p. A-iv.

- rejecting any EDC implementation and administration cost responsibility, instead placing the full cost burden on non-CAP customers through universal service and energy conservation charges.<sup>4</sup>

Likewise, WGL Energy Services, Inc. (“WGL”), in its comments, makes no commitment to provide service offerings to CAP customers under the Proposed Policy Statement guidelines or otherwise. Instead, it argues EGS service offerings can provide benefits other than cost, and proposes an informal OCMO process for authorizing CAP service offerings priced above the PTC.

In its comments, PPL Electric Utility Corporation (“PPL”) chronicles the harm its CAP and non-CAP customers have incurred as a result CAP customer selection of EGS service offerings priced above the PTC. PPL also notes its efforts to balance the interests of promoting choice while protecting CAP and non-CAP customer interests by enabling EGSs to provide a fixed-price service (thereby presumably permitting hedging) to CAP customers under its Standard Offer Program (“SOP”). As PPL notes, even though SOP service prices were not adjusted if they subsequently exceeded the PTC, only two EGS SOP service offerings to CAP customers were initially offered and no service offerings have been available since May of 2018.

Absent any demonstrated and credible prospect an EGS(s) will actually provide service offerings to CAP customers under the guidelines finally established by the Commission, the public interest would not be served by requiring EDCs and EGSs to incur costs to implement systems and business practices which are highly unlikely to be used. Thus, the Commission should reconsider the wisdom of establishing guidelines for CAP choice programs at this time. Alternatively, as UGI recommended in its initial comments (UGI initial comments, pp 3-5), the Proposed Policy

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<sup>4</sup> RESA Exhibit A, p. A-v. While RESA states the “costs of EDC programs intended to restrict the ability of low-income customers to shop are not appropriately recovered from EGS”, RESA initial comments p. 16, the clear purpose of the Proposed Policy Statement is to preserve CAP customers’ right to shop while not imposing costs and risks on CAP and non-CAP customers alike.

Statement should clarify that it is only establishing guidelines for default service proceedings where CAP Choice is proposed by an EDC. Since such proposals will presumably only be made where there is a demonstrated and credible prospect of EGS service offerings, unnecessary implementation costs can be avoided.

If the Commission decides to establish CAP choice guidelines for default service proceedings regardless of EGS interest, it should provide an exemption for EDC's serving 100,000 customers or less. This exemption is justified given the almost certain lack of EGS interest in investing time and money to develop systems and practices to serve CAP customers on small systems, and the smaller customer base over which EDC implementation costs can be recovered (assuming costs will not be recovered entirely from participating EGSs). This exemption could be revisited in the future if workable solutions are found to be possible on larger EDC systems, and the lessons learned from large EDC implementation efforts could then hopefully assist smaller EDCs in developing solutions at less cost.

**B. ANY FINAL POLICY STATEMENT SHOULD MORE CLEARLY ADDRESS ENFORCEMENT RESPONSIBILITIES AND COST RECOVERY**

As the EAP notes in its initial comments, binding rules need to be established by regulation (EAP initial comments, p. 3). The adoption of regulations are subject to the regulatory review process which can take time, but the inclusive nature of that process helps ensure that the interests of all relevant stakeholders, including the General Assembly, are considered before policies are set. Moreover, once regulations are final they have the force of law and are thus more likely to be forestall the need for litigation.

Should the Commission elect not to establish its CAP choice policy in a regulation, a policy statement can also usefully signal how the Commission might resolve certain CAP choice policy issues. This in turn can also lead to less litigation time and expense and promote settlement to the benefit of all stakeholders.

Whether the Commission decides to address CAP choice issues by regulation or policy statement, the greatest potential for reduced litigation time and expense will occur if the Commission clearly addresses fundamental CAP choice issues. The initial comments have clearly identified several such issues.

The first of these issues is what enforcement responsibilities EDCs should have. Currently, only EDCs having so-called rate ready, as opposed to bill-ready, billing systems have significant access to information about the unit rates charged by EGSs, and then only for those EGSs for which they provide billing services. This means that EDCs will often not know if EGSs are charging rates in excess of the default service rate, and as RESA notes in its comments, EGSs are generally reluctant to share their customer rate information with EDCs. Clarifying this important issue in any final regulation or policy statement should help reduce the potential for litigation over this issue.

Second, as the comments from OCA, RESA and others indicate, there is a need for clear rules concerning how communications with CAP customers are to be conducted so that they can meaningfully make decisions that may jeopardize their continued CAP eligibility. Relatedly, there is a need for clear rules concerning how and when CAP eligibility is to be restored if a CAP customer makes a decision he or she subsequently wishes to change.

Third, the initial comments make it clear that there is certain to be disagreement among stakeholders as to how the costs of implementation are to be recovered – as UGI noted in its initial

comments it believes that RESA's preferred method of recovering costs through universal and energy conservation charges raises serious legal and public policy concerns.

Finally, as noted in the comments of EAP, the Commission should make sure that any final public policy decisions it makes about these or other CAP choice issues is consistent with the public policy decisions it makes in its other open dockets concerning universal service policies.

### **III. CONCLUSION**

UGI Electric again appreciates the opportunity to provide these reply comments on the Commission's Proposed Policy Statement on CAP participant shopping and respectfully requests that the Commission consider these comments in the development of its final policy statement.

Respectfully submitted,



Danielle Jouenne  
Mark C. Morrow  
Counsel for UGI Utilities, Inc. –  
Electric Division