



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

January 30, 2017

Rosemary Chiavetta, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd 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 comments of the Energy Association of Pennsylvania to the Commission's Secretarial Letter at the above-referenced docket.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole W. Gear", with a stylized flourish at the end.

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) :
Regulations at 52 Pa. Code §§ 58.1 – 58.18

Docket No. L-2016-2557886

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

I. INTRODUCTION

On December 16, 2016, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) issued a Secretarial Letter to seek stakeholder input on several topics in order to inform the scope of a future rulemaking to update the Commission’s existing Low-Income Usage Reduction Program (“LIURP”) Regulations at 52 Pa. Code §§ 58.1 – 58.18. The Secretarial Letter seeks to leverage knowledge and experience gained by the utilities and other stakeholders since the existing LIURP regulations were promulgated in 1993 and amended in 1998 in order to improve the program and maximize ratepayer and participant benefit. In addition to seeking comments overall on necessary updates to the existing LIURP regulations, the Commission outlined fourteen specific questions for stakeholders to address. The Energy Association of Pennsylvania (“EAP”) respectfully submits this general response to the Commission’s Secretarial Letter on behalf of its Electric Distribution Company (“EDC”) and Natural Gas Distribution

Company (“NGDC”) members¹, assuming that prior to the issuance of proposed amendments to the existing regulations, stakeholders will have the opportunity to discuss in a collaborative setting. Individual EDC and NGDC members may also submit individual company comments targeted to their specific service territories.

II. BACKGROUND

The Commission and various stakeholders first formally addressed low income policies, practices, and services in 1984 after the enactment of Act 114 of 1986, which provided the Commission the authority to order conservation and load management programs. *See, Recommendations for Dealing with Payment Troubled Customers*, Docket No. M-840403 As a result of that proceeding, electric and natural gas utilities began filing low-income usage reduction plans and considering how to address arrearages for low-income customers.

LIURP and other low-income programs were further addressed by the enactment of retail choice legislation in the 1990s. The Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. §§ 2801-2812, became effective on January 1, 1997. The Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2201-2212, became effective on July 1, 1999. The primary purpose of the competition statutes was to introduce competition into the retail electric generation market and the natural gas retail market for small volume customers.

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.; 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 General Assembly, in enacting retail choice legislation, highlighted the importance of continuing to help low-income customers maintain utility service. Under both retail choice statutes, universal service and energy conservation programs² are subject to the administrative oversight of the Commission, which must ensure that the utilities run the programs in a cost-effective manner. *See* 66 Pa.C.S. §§ 2203(8) and 2804(9). The Commission is charged with ensuring that universal service and energy conservation services are appropriately funded and available in each utility distribution territory. *Id.* Although the statutes do not define “affordability,” the Commission’s Policy Statement on Customer Assistance Programs provides some guidance on the concept of affordable payments. *See*, 52 Pa. Code §§ 69.261-69.267. The Commission’s goal of balancing the interests of customers who benefit from the programs with the interests of the customers who pay for the programs is a paramount consideration in examining customer affordability and cost-effectiveness of all universal service programs.

The Commission’s primary means of ensuring the availability and affordability of LIURP are the reporting requirements and triennial review of company programs vis-à-vis company Universal Service and Energy Conservation Plans (“USECP”) as outlined in 52 Pa. Code § 54.74 (a) (electric) and § 62.4 (a) (gas). The Commission further elaborated on this responsibility by promulgating the Universal Service and Energy Conservation Reporting Requirements regulations (“Reporting Requirements”). 52 Pa. Code §§ 54.71- 54.78 (electric) and §§ 62.1 - 62.8 (gas). These Reporting Requirements require each Natural Gas Distribution Company (“NGDC”) serving more than 100,000 residential accounts and each Electric Distribution Company (“EDC”) serving more than 60,000 residential accounts to submit an updated USECP every three years to

² Defined by those 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.

the Commission and its Bureau of Consumer Services for approval. 52 Pa. Code §§ 54.74 and 62.4.

The primary goal of utility LIURPs is to assist low-income residential customers “conserve energy and reduce residential energy bills... [which] should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectable accounts expense, collection costs and arrearage carrying costs.” *See*, 52 Pa Code § 58.1 LIURP is targeted toward customers with annual incomes at or below 150 percent of the federal poverty income guidelines (“FPIG”), with an allowance for companies to spend up to 20 percent of their annual program budgets on those customers with incomes between 150 and 200 percent of FPIG. *See* 52 Pa Code § 58.2 LIURPs prioritize high energy users whose measures offer the greatest opportunity for bill reduction. In general, as described in the Commission’s annual Universal Service Report, EDCs target those customers with annual usage of at least 6,000 kWhs and NGDCs target customers with annual usage of at least 130 Mcfs. Where possible, utilities target those customers who are also payment troubled (in arrears). LIURP is available to both homeowners and renters, although renters need landlord approval for program measures.

LIURP funds are included in utility rates as part of distribution costs and are recovered from residential customers. While the exact recovery mechanism for LIURP costs varies across utilities, the cost of LIURP and other universal service programs may be disproportionately paid by non-low income residential ratepayers.³ The funding levels are based on a “needs assessment” – which historically has been based on data such as census and utility data, although no data requirements have been established – that is approved by the Commission. *See* 52 Pa Code §§

³ This could occur where the costs of a utility’s Commission-approved USECP is not recovered from those residential customers on a customer assistant program (“CAP”). In such cases, LIURP costs for those customers are recovered from other residential ratepayers.

58.4(a) and 58.4 (c) The utilities administer the program using both non-profit and for-profit contractors.

Under most utilities' LIURPs, program measures are installed on a payback recovery basis of seven years or less for the majority of program measures, with some exceptions allowing payback of up to 12 years. Recovery is determined by the time it takes to recover the cost of the installed program measure through the projected energy savings the measure brings the household. *See* 52 Pa Code § 58.11 (a).

According to the most recent Universal Service Report (2015) compiled by the Commission, EDCs spent a total of \$32.2 million in 2015 and are projected to have spent \$34.5 million in 2016 on LIURP. NGDCs spent \$19.7 million in 2015 and are projected to have spent \$19.2 million in 2016. Utility LIURP spending for 2015 was nearly \$52 million, out of a total \$418 million spent each year on universal service programs (LIURP, CAP, Customer Assistance Referral and Evaluation Services aka CARES, and individual hardship programs) overall. In total, the 15 major electric and natural gas companies that are required to participate in LIURP have spent over \$665 million from 1988-2014 by providing weatherization treatments to more than 496,894 low-income households across Pennsylvania. As these funds are often directly recovered from residential ratepayers, the utilities have an onus to ensure that they are properly utilized in administering LIURP and other universal service programs.

Pennsylvania's electric and natural gas utilities have worked diligently to implement and administer these programs for over twenty years. Considering the passage of time since their initial implementation, revisiting and reevaluating the regulations may be prudent. However, EAP and member companies tacitly endorse this reevaluation of LIURP regulations with the following overarching concerns in mind:

- LIURP is a utility-run program paid for by residential ratepayers. Its scope, reach, and capabilities are predicated on the goal of energy conservation. Future amendments to existing regulations should avoid straying from this specific purpose. A future rulemaking should not purport to place utilities as Commonwealth's social agencies of last resort for weatherization or housing services, particularly as it would make residential ratepayers the funding source of such efforts.
- LIURP success should not be redefined so as to be solely predicated on a measurement of energy savings. Homes may see an increase in energy use post-treatment, but this does not mean the program failed them or the program's purpose. EAP believes the cost effectiveness of individual measures and the program overall can be measured in a myriad of ways. EAP hopes to work with stakeholders on a method that best incorporates all the goals of LIURP.
- The needs assessment process and criteria should be updated and standardized. Any proposed regulations should also clarify the purpose of the needs assessment; a needs assessment should not be the sole determinant of a utility's LIURP – otherwise this could overburden the ratepayers of utilities with a high percentage of low income customers.

III. COMMENTS

1. Are the existing regulations meeting the charge in 52 Pa. Code § 58.1? If not, what changes should be made?

EAP believes that in general the programs meet the regulatory charge and the intent of the General Assembly as set forth in Act 114 of 1986 and the competition statutes. Should further changes be recommended by other stakeholders, EAP welcomes the opportunity to explore them at a future meeting.

2. How should LIURPs be structured to maximize coordination with other weatherization programs such as DCED's WAP and Act 129 programs?

The Pennsylvania Department of Community and Economic Development's ("DCED") Weatherization Assistance Program ("WAP") is funded and evaluated by the U.S. Department of Energy ("DOE"). As with LIURP, the measures are provided through a network of agencies operating in all counties of the Commonwealth. Additional funds for this program are provided by the U.S. Department of Health and Human Services ("HHS") via the Pennsylvania Department of Human Services ("DHS") as a part of the Low-Income Home Energy Assistance Program ("LIHEAP"). Fifteen percent of the state's federal allocation for LIHEAP is set aside for DCED's Crisis Interface Program, which provides emergency weatherization services such as the repair or replacement of heating systems, broken window repair or replacement, and pipe-thawing. Eligibility is determined via overall LIHEAP eligibility by DHS. DCED's standard weatherization service is open to those whose income is at or below 200 percent of FPIG, and both renters and homeowners may qualify. Prioritization is based on a point and ranking system using multiple factors such as household size, ages of occupants, and energy use. EAP and member utilities

participate in DHS's LIHEAP Advisory Council and DCED's Weatherization Advisory Panel in order to continue progress toward further collaboration between the state's programs where possible.

EAP believes an opportunity to coordinate LIURP with WAP lies in eliminating the 20 percent maximum utilities can spend on customers who are between 150 and 200 percent when deemed appropriate by the utility due to under-participation/ineligibility of customers at 150% or below. Due to the restrictions on WAP as a function of its federal funding, changing other eligibility requirements or the prioritization system for jobs are likely not possible.

With the passage of Act 129 of 2008, the Commission was charged by the Pennsylvania General Assembly to establish an energy efficiency and conservation program ("EE&C Program") for the state. The EE&C Program requires each EDC with at least 100,000 customers to adopt a plan to reduce energy demand and consumption within its service territory. 66 Pa. C.S. §2806.1. The Commission allows for individual EDCs to tailor their EE&C plans, which includes residential and low-income home audits and rebates toward implementing audit recommendations, such as appliance or air conditioner replacement to high efficiency models. Furthermore, the statute specifically targets those residential customers at or below 150 percent of FPIG with additional measures via Act 129 above and beyond utility universal service programs:

The plan shall include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines. The number of measures shall be proportionate to those households' share of the total energy usage in the service territory. The electric distribution company shall coordinate measures under this clause with other programs administered by the commission or another Federal or State agency. The expenditures of an electric distribution company under this clause shall be in addition to expenditures made under 52 Pa. Code Ch. 58 (relating to residential low income usage reduction programs). *See* 66 Pa.C.S. §§ 2806.1 (b)(1)(i)(G)

As with each company's Universal Service Plan, each EDC's Act 129 plan is reviewed and approved by the Commission with input from stakeholders to ensure compliance with statute and regulation. EAP believes to the extent EDCs are able, they are already coordinating their Act 129 conservation programs with LIURP.

3. How can utilities ensure that they are reaching all demographics of the eligible populations in their service territories?

Utilities are bound by LIURP requirements that customers "with the largest usage and greatest opportunities for bill reductions relative to the cost of providing program services shall receive services first." *See* 52 Pa. Code § 58.10 Utilities must therefore prioritize these customers first, irrespective of other demographic characteristics. However, utilities work hard in their outreach efforts to eligible populations for all universal service programs, including LIURP. Each utility's LIURP involves a myriad of communications methods, which may include targeted advertisements or outreach, outreach through local businesses, presentations at community meetings, participation in local events, web site information, and referrals during calls in to the utility. The purpose of these activities is to establish multiple touch-points to develop "warm" leads who, by the time they contact the program or are contacted by the program, are ready to proceed with an assessment. These outreach efforts are typically outlined and approved by the Commission in USECPs. To the extent other stakeholders believe certain demographics are not being reached, EAP welcomes discussion on this topic at a future meeting.

4. What design would better assist/encourage all low income customers to conserve energy to reduce their residential energy bills and decrease the incidence and risk of payment delinquencies? How does energy education play a role in behavior change?

EAP member utilities routinely promote consumer education through their existing Universal Service, Demand Side Management, and / or Act 129 programs and believe it does have an important role to play in addressing behavior changes that may lead to energy conservation. However, EAP does not believe a specific LIURP design will cure the natural inclination of some customers to use more energy for comfort or other reasons. Best practices with regard to consumer education are shared among the utilities and can be explored at a future meeting without codifying any specifics into this rulemaking.

5. How can the utilities use their LIURPs to better address costs associated with uncollectable accounts expense, collection costs, and arrearage carrying costs?

LIURP is one vehicle for addressing costs associated with uncollectable, collections, and arrearages, but not the primary one. LIURP works best when it works in tandem with other support such as CAP to help customers reduce their arrearage and establish good payment habits which in turn helps the utility address its collection costs.

6. How can LIURPs best provide for increased health, safety, and comfort levels for participants?

EAP believes that to the extent the Commission allows for greater spending on health and safety measures (such as mold or asbestos remediation) those costs could be prudently recovered

by residential ratepayers through LIURP, provided that overall LIURP budgets do not increase or funds are not mandated to be diverted from primary program purposes, and that health and safety measures are not included in cost effectiveness measurements. Health and safety measures may be most appropriate when the measure would allow for full weatherization of a home that would otherwise be ineligible for full weatherization. Increased health and safety may be an outcome of LIURP, but it is not the stated goal of the program. EAP also notes that greater program spending on health and safety measures may come at the expense of program savings, as many of these measures will not or cannot meet the current seven to twelve year recovery payback period. These issues may better be resolved by other programs or providers. EAP would welcome further discussion on how best to balance health and safety concerns and related barriers to enrolling participants in the program while meeting the programs' savings goals. Any proposal must take into account the additional administrative costs necessary to facilitate the coordination and report on the initiative.

The Commission might consider working with DHS toward a set-aside for LIHEAP WAP funds to address health and safety measures, as was recently done in Connecticut. Approximately 1.25 percent of the state's LIHEAP block grant amount was included in the state LIHEAP plan specifically to address health and safety measures in coordination with their state's version of WAP. Through this partnership, Connecticut will be able to remediate many health and safety issues, allowing full weatherization in homes that otherwise would have been classified as ineligible.⁴ DCED's WAP is currently working toward a similar pilot program proposal to address

⁴ LIHEAP Performance Management Update, October 2016. Performance Measures Implementation Work Group, LIHEAP Performance Management, Administration for Children and Families, U.S. Department of Health and Human Services, https://liheappm.acf.hhs.gov/sites/default/files/private/updates/newsletters/October_2016_PM_Newsletter.pdf

deferrals caused by structural issues in the hopes DCED may recommend it to DHS for inclusion in a future LIHEAP State Plan. This pilot is an example of a means to address health, safety, and comfort issues without tapping into ratepayer dollars.

7. How can LIURPs maximize participation and avoid disqualifications of households due to factors such as housing stock conditions?

EAP contends that it is not the role of utilities, nor within the jurisdictional scope of LIURP, to address the Commonwealth's housing stock conditions. The primary purpose of LIURP is to reduce energy consumption via conservation in order to help make energy bills more affordable, not to remediate or rehabilitate all low income housing stock. Utilities partner with other community agencies (e.g. Habitat for Humanity) in order to comprehensively address issues where possible. Unlike public utilities, housing finance agencies are state-designated entities designed and created to help finance the construction and rehabilitation of affordable rental housing; for Pennsylvania, this agency is the Pennsylvania Housing Finance Agency ("PHFA"). Because PHFA has processes in place to verify the incomes of building residents, they play a role in targeting energy efficiency programs to specific populations. PHFA can also allocate funding with a preference given to projects that reduce residents' energy usage. Utilities are not in favor of diverting LIURP funds to remediate all structural deficiencies, as this is not their primary purpose nor is it the role of utilities to address housing stock issues.

8. What is the appropriate percentage of federal poverty income level to determine eligibility for LIURP?

EAP believes further leeway (more than 20 percent of LIURP budgets) should be given to permit utilities to offer measures to customers whose incomes are at or below 200 percent of FPIG when deemed appropriate by the utility due to under-participation/ineligibility of customers at 150% or below. Ideally, the Commission should consider doing away with any limitation on spending up to 200 percent altogether, leaving the discretion to the utilities to address the needs of their specific service territories. Some utilities have many customers and availability to work exclusively at 150 percent of FPIG while other utilities may have larger constituencies under 200 percent. As mentioned above, this would also help to coordinate LIURP projects and customers with those in DCED's WAP.

9. With the additional energy burdens associated with warm weather, what if any changes are necessary to place a great emphasis on cooling needs?

Pennsylvania remains a primarily cold-weather state, and EAP does not believe LIURP should address warm weather or cooling needs at this time. If the Commission or other stakeholders wish to proceed, EAP would caution against making it a primary purpose of LIURP. Addressing customer heating needs (e.g. window repair or replacement, energy conservation education, etc.) also provides benefit to customers in the summer by way of reducing their energy needs year-round. Natural gas utilities would also face unique challenges in addressing cooling needs as gas is not typically a cooling energy.

10. What are options to better serve renters, encourage landlord participation, and reach residents of multifamily housing?

Despite the work of advocates, community groups, and utilities, too many instances remain where lack of landlord permission has prohibited customer participation. To the extent the Commission and other stakeholders wish to target landlords and / or owners of multifamily dwellings, EAP believes the issue should be thoroughly explored before regulations are proposed. The target of benefits for usage reduction programs are residential ratepayers – resulting in their comfort, health, and safety and improved payment ability – not building owners who are operating a residential rental business. As LIURP is currently recovered through residential ratepayers, it would be inappropriate to subsidize commercial accounts with LIURP funds.

11. Should the requirements regarding a needs assessment in developing LIURP budgets, as outlined in 52 Pa. Code § 58.4(c), be updated to provide a calculation methodology uniform across all utilities? If so, provide possible methodologies.

EAP supports needs assessment tests or tools that allows for flexibility to be reflective of the differences in service territories, income levels, housing stock, etc. EAP would be willing to participate with other stakeholders to work toward a consensus improved methodology. However, resulting regulations should clarify the purpose of the needs assessment. If the Commission allows for the use of a needs assessment as the sole determinant of the amount of a utility's LIURP budget, this could financially overburden the residential ratepayers of utilities with a high percentage of low income customers. In short, EAP would support a standardized and clear needs assessment

methodology with measurable criteria as long as that needs assessment provided sufficient flexibility to account for differences in utility service territories.

12. Should the interplay between CAPs and LIURPs be address within the context of LIURP regulations? If so, how?

EAP does not believe CAP should be addressed within the context of LIURP regulations at this time. As noted in the Secretarial Letter, CAP participation is not a requirement for LIURP eligibility. High usage, arrears, and income parameters are the primary eligibility for LIURP services. *See* 52 Pa. Code § 58.10. Utilities strive to enroll LIURP participants into their CAPs where appropriate, and some utilities focus their LIURP on CAP participants, as the impact helps both the customer in maintaining their utility service and good payment history and the utility in reducing its CAP shortfall. The regulatory scheme for universal service must balance the benefit of maintaining CAP eligibility for low-income consumers facing high energy bills with the increasing cost burden of the program to non-CAP residential customers, including those eligible for CAP or just above the income guidelines for CAP eligibility. This balance cannot be achieved if cost effective energy conservation efforts for CAP participants are not promoted and supported by existing utility administered programs such as LIURP.

13. Are there specific “best practices” that would better serve the LIURP objectives which should be standardized across all the utilities? If so, what are they? For example, is there a more optimal and cost effective method(s) of procuring energy efficiency services so as to maximize energy savings at lower unit costs?

The Commission's current regulations already provide a good framework for LIURP best practices. The appropriate measures, budget level, outreach efforts, and agency coordination are dependent on the demographics, location, housing stock, and weather conditions of the particular utility. Best practices with respect to these utility-specific issues should be determined in utilities' individual universal service plan proceedings and continued to be shared among utilities via their regular interactions both within and outside EAP. EAP would also note that best practices are liable to change over time as the environment changes and technology advances, making any codification of a specific current "best practice" into regulation impractical. To the extent individual member companies have a current best practice they wish to highlight, we direct the Commission to their individual comments.

14. The Commission also welcomes stakeholder input on other LIURP issues or topics.

EAP also agrees that it may be an appropriate time to explore the codified payback requirements at § 58.11 (a) in favor of a whole-job basis, or one where each individual measure is evaluated on an industry standard recommended useful life, or some other measurement. Secretarial Letter p. 3 EAP continues to believe that energy conservation and universal service plans should remain tailored to each service territory. The Commission should avoid uniformity for its own sake as it comes at the expense of the unique demographics, conservation service providers, budgets, etc. of each EDC or NGDC and the ratepayers who ultimately fund these programs. EAP encourages the Commission to consider holding a stakeholder meeting once it has reviewed the responses and replies to this Secretarial Letter and prior to drafting amendments to the existing regulations.

IV. CONCLUSION

EAP respectfully requests that the Commission consider these comments as it develops the rulemaking on this issue.

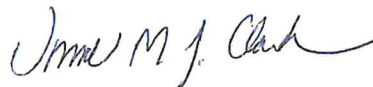
Respectfully submitted,



Terrance J. Fitzpatrick

President & CEO

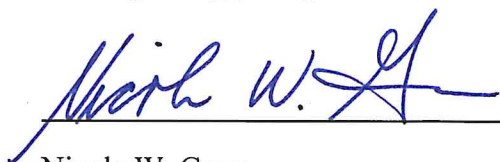
tfitzpatrick@energypa.org



Donna M.J. Clark

Vice President & General Counsel

dclark@energypa.org



Nicole W. Gear

Manager, Policy & Research

ngear@energypa.org

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

Date: January 30, 2017