**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

Harrisburg, PA 17105-3265

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| Review of Universal Service and Energy Conservation Programs | M-2017-2596907 |

**STAFF REPORT**

**I. Overview and Summary**

 This Staff Report has been prepared for the Pennsylvania Public Utility Commission (Commission) by the Law Bureau with the assistance of the Bureau of Consumer Services (BCS) in compliance with the Commission’s directive in *Review of Universal Service and Energy Conservation Programs*, Docket No. M‑2017‑2596907 (Order entered May 10, 2017). That order directed that this Staff Report outline the statutory, regulatory, and policy frameworks of existing universal service and energy conservation programs and the processes required to initiate any proposed changes and that it be published and comments accepted.

 The Electric Competition Act and the Gas Competition Act, passed in 1996 and 1999, respectively, mandated that the energy utilities have universal service programs and submit reports relative to services rendered and costs expended. Universal service programs have four components: a customer assistance program (CAP), a low-income usage reduction program (LIURP), a customer assistance and referral evaluation services (CARES) program, and a hardship fund program.[[1]](#footnote-1) The universal service programs of large utilities are subject to an approval process, for which the Commission has designated BCS as the responsible bureau. The smaller utilities must submit universal service plans and comply with reporting requirements.

 The requirements for universal service programs are further addressed in Commission regulations and/or policy statements. Under Pennsylvania law, changes to the LIURP regulations or the universal service reporting requirements (USRR) would require a rulemaking proceeding. Changes to the CAP Policy Statement or creation of new policies can be implemented through further policy statement(s) or established as regulations pursuant to a rulemaking proceeding.

**II. Introduction**

 “Universal service and energy conservation” is a collective term for the “policies, protections and services that help low-income customers[[[2]](#footnote-2)] to maintain service” as mandated by the Electric and Gas Competition Acts.[[3]](#footnote-3) The four universal service programs are: (1) CAP, which may provide discounted rates, arrearage forgiveness, and/or other benefits for enrolled low-income residential customers; (2) LIURP,[[4]](#footnote-4) which provides weatherization and usage reduction services to help them reduce their utility bills; (3) CARES, which provides information and referral services for low-income, special needs customers; and (4) hardship fund, which provides grants to customers who have had their utility service terminated or are threatened with termination.[[5]](#footnote-5) These universal service programs may include pilot programs beyond the required programs. The individual utilities frequently use other names to refer to their specific programs. The next section shall detail the statutory, regulatory, and policy frameworks underlying these programs.

**III. Historical Perspective**

This Commission and various stakeholders began to formally address low-income policies, practices, and services at least as early as 1984. *See Recommendations for Dealing with Payment Troubled Customers*, Docket No. M-840403.[[6]](#footnote-6) As a result of that proceeding, the energy utilities began filing usage reduction programs and considering how to address arrearages for low-income customers.

*Customer Assistance Program*

 The Commission’s CAP Policy Statement at 52 Pa. Code §§ 69.261-69.267 (adopted in 1992 and amended in 1999 and 2010) applies to Class A electric distribution companies (EDCs) and natural gas distribution companies (NGDCs) with gross annual operating revenue in excess of $40 million.[[7]](#footnote-7) It provides guidance on affordable payments and arrearages and establishes a process for utilities to work with BCS to develop CAPs. The Commission balances the interests of customers who benefit from CAPs with the interests of the other residential customers who pay for such programs. *See* *Final Investigatory Order on CAPs: Funding Levels and Cost Recovery Mechanisms*, Docket No. M-00051923 (Dec. 18, 2006) (*Final CAP Investigatory Order*) at 6-7.

*Low-Income Usage Reduction Program*

 The Commission’s LIURP regulations at 52 Pa. Code §§ 58.1 – 58.18 (adopted in 1993 and last amended in 1998) require covered energy utilities[[8]](#footnote-8) to establish fair, effective, and efficient energy usage reduction programs for their low-income customers.[[9]](#footnote-9) The programs are intended to assist low-income customers in conserving energy and reducing residential energy bills.

*CARES and Hardship Funds*

CARES and hardship funds,[[10]](#footnote-10) unlike CAPs, are not covered by express policy statements. CARES and hardship funds, unlike LIURP, do not have extensive regulatory provisions. For EDCs, Section 54.72 defines CARES, CARES benefits, hardship fund, and hardship fund benefits. Section 54.74 provides that universal service and energy conservation “may include CAP, LIURP, CARES, and Hardship Funds and other programs, policies and protections.” Section 54.75 specifies what EDCs must report regarding CARES and hardship funds. Similarly, for NGDCs, Section 62.2 defines CARES, CARES benefits, hardship fund, and hardship fund benefits. Section 62.4 provides that universal service and energy conservation “may include CAP, LIURP, CARES, and Hardship Funds and other programs, policies and protections.” Section 62.5 specifies what NGDCs must report regarding CARES and hardship funds.

*Competition Acts*

 The Electricity Generation Customer Choice and Competition Act (Electric Competition Act), 66 Pa. C.S. §§ 2801-2812 (1997), and the Natural Gas Choice and Competition Act (Gas Competition Act), 66 Pa. C.S. §§ 2201-2212 (1999), opened the electric and natural gas markets, respectively, to competition. Their universal service provisions tie the affordability of electric service to a customer’s ability to maintain utility service. The Competition Acts require the Commonwealth to continue, at a minimum, the policies, practices, and services that were in existence to assist low-income customers in affording utility service, as of the effective dates of the respective Competition Acts. 66 Pa. C.S. § 2802(10) for electric and § 2203(7) for gas. Universal service programs are subject to the administrative oversight of the Commission, which must ensure that the utilities run the programs in a cost-effective manner and that services are appropriately funded and available in each utility distribution territory. 66 Pa. C.S. § 2804(9) for electric and § 2203(8) for gas.

*Universal Service Reporting Requirements*

 The Commission’s Universal Service and Energy Conservation Reporting Requirements (Universal Service Reporting Requirements or USRR) for electric utilities at 52 Pa. Code §§ 54.71-54.78 (1998) require each EDC serving more than 60,000 residential accounts to submit an updated universal service and energy conservation plan (USECP) every three years to the Commission for approval. 52 Pa. Code § 54.77. Similarly, the Commission’s USRR for natural gas utilities at 52 Pa. Code §§ 62.1-62.8 (2000) require each NGDC[[11]](#footnote-11) serving more than 100,000 residential accounts also to submit an updated USECP every three years to the Commission for approval. 52 Pa. Code § 62.7. These utilities are required to include CAP, LIURP, CARES, and hardship fund programs in their universal service portfolios. The Commission has made BCS responsible for monitoring and evaluating the utilities’ universal service programs as part of the USECP approval process for the larger utilities. Under the USRR,[[12]](#footnote-12) certain EDCs and NGDCs provide data annually to the Commission detailing the degree to which universal service programs within its service territory are available and funded, including usage data and allocation of funds.[[13]](#footnote-13)

Universal service reporting requirements are less formalized for the smaller utilities. Pursuant to Section 54.77, small EDCs (less than 60,000 residential accounts) are required to have universal service plans and to report the following information to the Commission every three years:

(1) The universal service and energy conservation plan.

(2) Expenses associated with low-income customers.

(3) A description of the universal service and energy conservation services provided to low-income residential customers.

(4) The number of services or benefits provided to low-income residential customers.

(5) The dollar amount of services or benefits provided to low-income residential customers.

Further, the small EDCs are exempt from Sections 54.74 – 54.76 relating to universal service and energy conservation plans; annual residential collection and universal service and energy conservation program reporting requirements; and evaluation reporting requirements. Pursuant to Section 62.7, small NGDC (less than 100,000 residential accounts) are required to have universal service plans and have the same reporting obligations as the small EDCs. Similarly, they are exempt from Sections 62.4 – 62.6 relating to universal service and energy conservation plans; annual residential collection and universal service and energy conservation program reporting requirements; and evaluation reporting requirements.

*2005 CAP Inquiry*

 In 2005, the Commission commenced a review of CAP funding levels and cost recovery mechanisms, noting that the Commission had not, however, adopted standards or criteria for evaluating whether an individual utility’s universal service and energy conservation programs (of which CAPs are by far the largest component), are “appropriately funded.” *CAP Funding Levels and Cost Recovery Mechanisms*, Docket No. M‑00051923 (Order entered December 15, 2005) (*2005 CAP Funding Order*). That order further noted that the Commission had not resolved the question of what type of cost recovery mechanism best fulfills the statutory requirement for “full recovery” of the costs of these programs. Instead, the Commission was reviewing both CAP funding levels and cost recovery mechanisms on a case-by-case basis. For most utilities, these issues had been addressed in their restructuring proceedings or in later rate cases. In both types of proceedings, issues regarding CAPs were forced to compete for attention with a multitude of other ratemaking and policy issues. That order concluded that such CAP issues have not received the full, undivided attention of the Commission. *2005 CAP Funding Order* at 2. The result was wide discrepancies among the utilities. *2005 CAP Funding Order* at 3. The order recognized “growing importance” of CAPs as a “social safety net.” The order articulated the Commission’s “duty to develop general standards for deciding whether CAPs are ‘appropriately funded,’ and to determine what type of cost recovery mechanism best allows utilities to ‘fully recover’ CAP costs and other types of universal service costs.” *2005 CAP Funding Order* at 3. Comments were solicited.

 The CAP Funding proceeding was ultimately terminated without promulgating CAP regulations or amending the CAP Policy Statement.[[14]](#footnote-14) The Commission did, however, retain the policy of allocating CAP costs to the only customer class whose members are eligible for the program – residential customers. Since the Commission first encouraged utilities to initiate CAP programs on a voluntary basis, it has allocated CAP costs to the residential class, with a few exceptions.[[15]](#footnote-15) *Final CAP Investigatory Order* at 26 – 31.

*Pennsylvania State University Consumer Service Information System Project regarding LIURP*

In January 2009, the Consumer Services Information System Project at Pennsylvania State University (CSIS PSU), under contract with the Commission, published a long-term study on PA’s LIURP, including recommendations.[[16]](#footnote-16) No formal Commission action was taken on the 2009 CSIS PSU Report. Instead, the Commission deferred its review of the LIURP regulations in deference to possible CAP and universal service rulemakings. However, as noted above, CAP regulations were ultimately not adopted,[[17]](#footnote-17) nor were the Universal Service Reporting Requirements changed.[[18]](#footnote-18)

*Department of Human Services and Low-Income Heating and Energy Assistance Program*

 In 2009, the Pennsylvania Department of Human Services (DHS), then known as the Pennsylvania Department of Public Welfare (DPW), informed the utilities that they must apply LIHEAP grants directly to a customer’s CAP bill or “asked-to-pay” (ATP) amount. Section 69.2659(ii-iii) of the Commission’s Policy Statement (1) prohibited utilities from substituting a federal Low Income Home Energy Assistance Program (LIHEAP) grant for a CAP customer’s monthly payment, and (2) required LIHEAP grants be applied to the CAP shortfall. [[19]](#footnote-19) The 2009 LIHEAP directive from DHS conflicted with these aspects of the Policy Statement. Utilities could no longer apply LIHEAP grants to a CAP customer’s deferred arrears[[20]](#footnote-20) or to the CAP shortfall. On April 9, 2010, the Commission entered an Order suspending Sections 69.265(9)(ii-iii) of its Policy Statement.

The Commission has been working with the Department of Community and Economic Development (DCED) since 2008, on a state-wide weatherization initiative and inter-agency coordination effort regarding DCED’s Weatherization Assistance Program (WAP) and LIURP. In 2016, DCED and the Commission agreed, pursuant to a memorandum of understanding (MOU), to share data and analyses of the two agencies’ weatherization programs. This will allow for additional analysis in conjunction with the Commission’s oversight of the EDCs’ Act 129[[21]](#footnote-21) low-income programs, and will also allow CSIS PSU to compile data from these weatherization programs and perform analyses under its existing contract with the Commission.

**IV. Open Universal Service Proceedings**

Comments filed in these three open universal service proceedings do not need to repeat the histories detailed in this Staff Report, but stakeholders are welcome to provide supplemental details or amendments regarding the history and background of universal service in the Commonwealth in those comments or comments to this Staff Report.

**A. *LIURP Review* – Docket No. L-2016-2557886** – By Secretarial Letter issued December 16, 2016, the Commission commenced *Initiative to Review and Revise the Existing LIURP Regulations at 52 Pa. Code §§ 58.1 – 58.18*, Docket No. L‑2016‑2557886. Comments and reply comments have been received. After consideration of those comments, as well as the relevant LIURP-related comments filed in *Review of Universal Service and Energy Conservation Programs*, Docket No. M‑2017-2596097, staff will formulate a recommendation regarding LIURP to the Commission.[[22]](#footnote-22)

 **B. *Energy Affordability for Low-Income Customers* – Docket No. M‑2017‑2587711** – In 1992, the CAP Policy Statement established maximum energy burden ranges for low-income customers by heating source and income level. See Section 69.265(2)(i)(A‑C)By Order entered May 5, 2017, the Commission initiated a study regarding home energy burdens in Pennsylvania[[23]](#footnote-23) as a necessary first step in evaluating the affordability, cost-effectiveness, and prudence of universal service programs.

 BCS, in conjunction with other necessary Commission bureaus, has been directed to initiate a study to determine what constitutes an affordable energy burden for Pennsylvania’s low-income households and, based on this analysis, whether any changes in the Commission’s CAP Policy Statement or other Universal Service and Energy Conservation Program Guidelines are necessary to bring these programs into alignment with any affordability recommendations. As part of this study, BCS shall finalize a scope of work by June 19, 2017. Additionally, BCS has been directed to conclude the study by February 5, 2018, and to report its findings to the Commission by May 5, 2018

 Thereafter, the Commission will publish the final report and provide a comment and reply comment period as necessary. This study should complement the Commission’s current LIURP inquiry and possible rulemaking[[24]](#footnote-24) and serve to inform any potential future changes to the CAP Guidelines.

**C. *Review of Universal Service and Energy Conservation Programs* – Docket No. M -2017-2596907 –** By Order entered May 10, 2017, at this docket, the Commission initiated a comprehensive review of the entire universal service and energy conservation model.[[25]](#footnote-25) Because the universal service programs are intertwined regarding design, budgeting, administration, reporting, and evaluation, the Commission found that it would be appropriate to incorporate the Commission’s current work on LIURPs and energy affordability matters into this comprehensive review.

To initiate this comprehensive review, the Commission ordered the Law Bureau to develop for this Commission’s review a report on the statutory, regulatory, and policy frameworks of existing universal service programs and the steps required to initiate any proposed changes, by June 9, 2017. This Staff Report is in response to the Commission’s directive.

The May 10, 2017 Order also invited stakeholders to submit comments by August 8, 2017. Comments may include, but are not limited to, issues of program design, implementation, costs, cost recovery, administration reporting, and evaluation. The comments may also address the Staff Report.

The May 10, 2017 Order directed that BCS convene a stakeholder meeting by October 7, 2017. The stakeholder meeting is tentatively scheduled for September 13 and 14, 2017, in Harrisburg, PA. Stakeholders will have until 30 days after the stakeholder meeting to submit reply comments. Reply comments may address issues raised at the stakeholder conference as well as previously filed comments. Thereafter, within 45 days, BCS is to report to the Commission a summary of the comments, feedback, and options developed.

The Commission will consider the initial feedback and results of the review of its LIURP Regulations and energy burden levels, as well as the reports from Law Bureau and BCS that are part of the instant comprehensive review, in making a determination regarding appropriate future actions, such as an *en banc* hearing, an Advanced Notice of Proposed Rulemaking, or a revised Policy Statement.

**VII. Other Related Proceedings**

 **A. Utility Base Rate Cases and Rider Proceedings –** Currently, and in the past, utilities and stakeholders have on occasion addressed universal service and energy conservation issues in base rate cases and other proceedings such as demand-side management (DSM) dockets. This approach has, at times, created anomalies and inconsistencies with universal service guidelines and LIURP regulations. The Law Bureau and BCS typically do not participate in these types of proceedings.

 **B. Energy Efficiency and Conservation (EE&C) Program Proceedings Pursuant to Act 129 – Docket Nos. M-2008-2069887 (Phase I), M‑2012‑2289411 (Phase II), and M‑2014‑2424864 (Phase III) –** The Commission has been charged by the Pennsylvania General Assembly (General Assembly) with establishing an energy efficiency and conservation program (EE&C Program) relative to electric usage and consumption. The EE&C Program requires each EDC with at least 100,000 customers to adopt an EE&C plan to reduce energy demand and consumption within its service territory. 66 Pa. C.S. § 2806.1 (Act 129). On January 15, 2009, the Commission adopted an Implementation Order at Docket No. M-2008-2069887 establishing the standards each plan must meet and providing guidance on the procedures to be followed for submittal, review and approval of all aspects of EE&C plans.[[26]](#footnote-26)

 The Commission is also charged with the responsibility to evaluate the costs and benefits of the EE&C Program by November 30, 2013, and every five years thereafter. Further, the Commission must adopt additional incremental reductions in consumption if the benefits of the EE&C Program exceed its costs. 66 Pa. C.S. § 2806.1(c)(3). In addition, the Commission was charged with the responsibility to compare the total costs of the EE&C Program to the total savings in energy and capacity costs. If the Commission determines that the benefits exceed the costs, the Commission shall set additional incremental requirements for reduction in peak demand for the 100 hours of greatest demand or an alternative reduction approved by the Commission. 66 Pa. C.S. § 2806.1(d)(2).

 By order entered on June 19, 2015, the Commission tentatively adopted additional incremental reductions in electric consumption and peak demand for the period of June 1, 2016 through May 31, 2021, designated Phase III. The incremental reductions thereafter became final by operation of law.[[27]](#footnote-27) The June 19, 2015 EE&CP order also has specific provisions related to low-income customers, as did the earlier EE&CP orders.[[28]](#footnote-28)

**VIII. Processes For Going Forward – Regulation, Policy, or Statute**

*A. Commission Regulations and Policies*

 An agency’s regulations are valid and binding only if they are within the agency’s statutory authority, reasonable, and promulgated in accordance with the requirements set forth in the Commonwealth Documents Law, the Commonwealth Attorneys Act and the Regulatory Review Act.[[29]](#footnote-29) Any regulations or amendment to the agency’s regulations not promulgated in accordance with these requirements are invalid and not enforceable. *Germantown Cab Co. v. Philadelphia Parking Authority*, 993 A.2d 933 (Pa. Cmwlth. 2010). Any changes to the LIURP regulations or the USRR will require a rulemaking proceeding in compliance with the Commonwealth Documents Law, Commonwealth Attorneys Act, and Regulatory Review Act.

 Changes to the CAP Policy Statement or statements of new policies[[30]](#footnote-30) regarding universal service matters can be implemented through further policy statements or can be establish as regulations pursuant to a rulemaking proceeding.

*1. Regulatory Review Process, i.e., Rulemaking*

Regulations are subject to the Regulatory Review Act and may include an advance notice.

*a. Stage 1: Proposed Rulemaking*

1. (Optional: The agency may issue an advance notice of proposed rulemaking (ANOPR) to solicit public comment before officially entering the regulatory review process.)
2. Proposed rulemaking (Order, Annex, and Regulatory Analysis Form) is drafted by agency staff and counsel.
3. Proposed rulemaking requires approval at PUC Public Meeting.
4. Proposed rulemaking is sent to Attorney General (AG)/Budget Offices. AG reviews for form and legality; Budget Office reviews for fiscal impact and creates the fiscal note.
5. Proposed rulemaking is delivered to Legislative Committees, *Pa. Bulletin,* and the Independent Regulatory Review Commission (IRRC). Delivery to these regulatory entities must occur on the same day.
6. Proposed rulemaking is published in the *Pa. Bulletin* for public comments. Comment periods must be at least 30 days but may be longer and may allow reply comments.
7. At the close of the public comment period, IRRC has its own 30-day comment period. The close of the public comment period marks the beginning of the agency’s two-year regulatory deadline to deliver the final-form rulemaking.

*b. Stage 2: Final-Form Rulemaking –Either Final-Form or Final-Omitted Form*

1. (Optional: The agency may issue an advance notice of final rulemaking (ANOFR) to solicit additional public comment.)
2. Comments are reviewed, and the final-form rulemaking is drafted by agency and counsel.
3. Final-form rulemaking requires approval at PUC Public Meeting.
4. Final-form rulemaking is delivered to Legislative Committees and IRRC. Delivery to these entities must occur on the same day. Delivery must occur within two years of the close of the public comment period.
5. Final-form rulemaking is presented at IRRC Public Meeting.
6. If IRRC approves, final-form rulemaking is sent to AG/Budget Offices. AG reviews for form and legality; Budget Office reviews for fiscal impact and creates the fiscal note.
7. If AG approves, final-form rulemaking is delivered to *Pa. Bulletin****.*** Regulation is final and enforceable upon publication.

*2. Commission Policy Statement Process*

Policy statements are not subject to the Regulatory Review Act and may have one or two phases.

*a. Optional Proposed Policy Phase*

1. Proposed policy statement(Order, Annex, and Regulatory Analysis Form) is drafted by counsel.
2. Proposed policy statement requires approval at PUC Public Meeting.
3. Proposed policy statement is sent toBudget Officefor review of fiscal impact.Budget takes up to 10 days to create a fiscal note.
4. Proposed policy statement is delivered to*Pa. Bulletin*for publication and public comment.

*b. Final Policy Phase*

1. Policy statement(Order, Annex, and Regulatory Analysis Form) is drafted by counsel.
2. Policy statement requires approval at PUC Public Meeting.
3. Policy statement is sent toBudget Officefor review of fiscal impact.Budget takes up to 10 days to create a fiscal note.
4. Proposed rulemaking is delivered to*Pa. Bulletin*for publication.

*B. Statutory Amendment*

 The ultimate process would be to consider seeking an amendment or addition to the Commission’s enabling legislation, Title 66. Any statutory provisions would be up to the discretion of the General Assembly and subject to approval by the Governor.

**IX. Publication of This Staff Report, Comments, and Use by Stakeholders**

 As directed by the Commission in Ordering Paragraph No. 1 of the May 10, 2017 Order at Docket No. M‑2017‑2596907, this Staff Report addresses the statutory, regulatory, and policy frameworks of existing Universal Service and Energy Conservation Programs and the processes required to initiate any proposed changes to these existing statutory, regulatory, and policy frameworks. The Staff Report will be published in the *Pennsylvania Bulletin*, available on the Commission’s website, and served on all parties of record in this proceeding.

 This Staff Report is being released as an informal staff opinion provided solely as an aid to stakeholders interested in the subject matter and those stakeholders that intend to file comments in accordance with Ordering Paragraph No. 2 of the May 10, 2017 Order at Docket No. M‑2017‑2596907. It is not binding on the Commonwealth or the Commission, nor is it indicative of how the Commission may decide to act on the subject matter in this or other dockets.[[31]](#footnote-31) 52 Pa. Code § 1.96.

 Contact persons for matters related to this Staff Report are Louise Fink Smith, finksmith@pa.gov, and Tiffany Tran, tiftran@pa.gov, in the Law Bureau, and Joseph Magee, jmagee@pa.gov, and sdewey@pa.gov, in BCS. Additionally, Word®-compatible versions of comments at this docket are to be emailed to the contact persons and to the following email account RA-PCLAW-LIURP@pa.gov.

1. *See* <http://www.puc.state.pa.us/consumer_info/electricity/energy_assistance_programs.aspx>. [↑](#footnote-ref-1)
2. A low-income customer is one with a household income at or below 150% of the Federal Poverty Income Guidelines (FPIG). [↑](#footnote-ref-2)
3. Section 2801 of the Electric Competition Act (66 Pa. C.S. § 2801), and Section 2202 of the Gas Competition Act (66 Pa. C.S. § 2201). [↑](#footnote-ref-3)
4. A utility may spend up to 20% of its annual LIURP budget on customers having an arrearage and whose household income is at or below 200% of FPIG. *See* 52 Pa. Code §§ 58.1, 58.2, and 58.10. [↑](#footnote-ref-4)
5. *See* <http://www.puc.state.pa.us/consumer_info/electricity/energy_assistance_programs.aspx>. [↑](#footnote-ref-5)
6. This docket number is also referred to as “Docket No. M-00840403.” [↑](#footnote-ref-6)
7. The CAP Policy Statement at 52 Pa. Code §§ 69.261 – 69.267 was adopted effective July 25, 1992, and amended effective May 8, 1999. [↑](#footnote-ref-7)
8. *See* 52 Pa. Code § 58.2 for the definition of “covered utility.” [↑](#footnote-ref-8)
9. Chapter 58 was effective January 16, 1993. *See* 23 *Pa.B.* 265. 52 Pa. Code §§ 58.2, 58.3, 58.8, and 58.10 were amended effective January 3, 1998. *See* 28 *Pa.B.* 25. [↑](#footnote-ref-9)
10. *See* the various testimony by utility representatives during *en banc* public input hearings at Docket No. M-840403 in which the utilities indicated that most of them intended to fund their hardship funds with voluntary contributions from utility shareholders, employees, and customers. [↑](#footnote-ref-10)
11. City NGDCs have similar requirements as well. 66 Pa. Code § 2212(b). [↑](#footnote-ref-11)
12. 52 Pa. Code §§ 54.75 and 62.5. [↑](#footnote-ref-12)
13. Universal Service collections reports can be found on the Commission’s website: <http://www.puc.pa.gov/filing_resources/universal_service_reports.aspx>. [↑](#footnote-ref-13)
14. *See Proposed Rulemaking re CAP: Funding Levels and Cost Recovery Mechanisms*. Docket Nos. L‑0006181 and M‑00051923, October 19, 2006 press release at Docket No.L‑00060181, and Joint Motion (<http://www.puc.state.pa.us/PcDocs/636806.doc>). The matter was terminated without promulgating CAP regulations at Docket No. L-00060181 or amending the CAP Policy Statement at Docket No. M‑00072036. The last order at this docket is the order proposing revision to the CAP Policy Statement. It called for comments which were submitted, but revisions to the Policy Statement were never adopted. *Proposed Revision to CAP Policy Statement* Docket No. M-00072036 (Order entered September 5, 2007). The Commission eventually withdrew the proposed rulemaking. *Proposed Rulemaking Relating to Universal Service and Energy Conservation Reporting Requirements, 52 Pa. Code §§ 54.71-54.78 (electric); §§ 62.1-62.8 (natural gas), and Customer Assistance Programs, §§ 76.1-76.6.,* Docket No. L‑00070186, and *Proposed Revision to Policy Statement on Customer Assistance Programs, 52 Pa. Code §§ 69.261-69.267*, Docket No. M-00072036 (Order entered May 10, 2012). [↑](#footnote-ref-14)
15. PGW’s cost allocation was determined prior to the Commission’s oversight of PGW. Dominion Peoples and PG Energy agreed to a cost allocation among more than residential customers through settlement agreements, which did not constitute legal precedent. *Final CAP Investigatory Order*, FN 25. [↑](#footnote-ref-15)
16. *See* Shingler, John. (2009). “Long Term Study of Pennsylvania’s Low Income Usage Reduction Program: Results of Analyses and Discussion.” Penn State University Consumer Services Information System Project. <http://aese.psu.edu/research/centers/csis/publications> (retrieved August 24, 2016). [↑](#footnote-ref-16)
17. *See* *Final CAP Investigatory Order*. As noted above, the CAP review matter was terminated without promulgating CAP regulations at Docket No. L-00060181 or amending the CAP Policy Statement at Docket No. M-00072036. [↑](#footnote-ref-17)
18. On September 4, 2007, the Commission initiated a proposed rulemaking on USRR and CAPs at Docket No. L-00070186. That rulemaking was discontinued by Commission order entered on May 10, 2012 at that docket. [↑](#footnote-ref-18)
19. The CAP shortfall (also known as the CAP Credit) is the difference between the actual tariff rate for jurisdictional residential energy service and the discounted amount that a CAP participant is expected/asked to pay for that service. [↑](#footnote-ref-19)
20. When a customer enrolls in a CAP for the first time, any outstanding debt is set aside (deferred) for forgiveness. This debt is forgiven incrementally with each CAP payment. [↑](#footnote-ref-20)
21. *See* 66 Pa. C.S. § 2806.1. There are no corresponding requirements for NGDCs. [↑](#footnote-ref-21)
22. The LIURP proceeding at Docket No. L-2016-2557886 could proceed independently or as an element of the universal service, affordability, and energy burden reviews contemplated at Docket Nos. M‑2017‑2596907 and M-2017-2587711. The LIURP Secretarial Letter at Docket No. L-2016-2557886 restricted comments in the LIURP proceeding to the LIURP program. Since LIURP regulations already exist, amending the existing regulations might proceed faster than establishing new regulations, but the nuances of coordinated universal service planning could be missed without stakeholder input on coordination between the universal service programs. Staff therefore recommends that action on the LIURP regulations be deferred until any comments from the universal service proceeding at Docket No. M-2017-2506907 regarding coordinated universal service programs can be reviewed. [↑](#footnote-ref-22)
23. “Energy burden” refers to the percentage of household income that is dedicated to paying utility bills. *Duquesne Light Company USECP for 2017-2019*, Docket No. M‑2016-2534323 (Order entered March 23, 2017), at 28. [↑](#footnote-ref-23)
24. *See* the Secretarial Letter issued December 16, 2016, at Docket No. L-2016-2557886, seeking stakeholder input on a number of topics regarding the scope of a potential future rulemaking to update existing LIURP Regulations at 52 Pa. Code §§ 58.1-58.18. [↑](#footnote-ref-24)
25. *Review of Universal Service and Energy Conservation Programs*, M-2017-2596907 (Opinion and Order entered May 10, 2017). [↑](#footnote-ref-25)
26. *See EE & C, Phase I*, Docket No. M‑2008‑2069887 (Order entered January 16, 2009). [↑](#footnote-ref-26)
27. *EE&C, Phase III*, Docket No. M 2014-2424864 (Order entered June 19, 2015). [↑](#footnote-ref-27)
28. *See*, *e.g.*, June 19, 2015 Order at 55-56, 68-70, 85-86, and 113. [↑](#footnote-ref-28)
29. The applicable statutes and other provisions covering rulemakings and policy statements are:

• Regulatory Review Act – 71 P.S. §§ 745.1 – 745.14 – Formal Review Process

• Commonwealth Attorneys Act – 71 P.S. §§ 732-101 – 732-506 – Legal Review

• Commonwealth Documents Law – 45 P.S. §§ 1102 – 1208 – Rulemaking Framework

• Administrative Code – 71 P.S. § 232 – Fiscal Notes [↑](#footnote-ref-29)
30. A “statement of policy” is a document, other than an adjudication or a regulation, which has been promulgated by an agency and which sets forth “substantive or procedural personal or property rights, privileges, immunities, duties, liabilities or obligations of the public or a part thereof.” This may include but is not limited to implementations, guidelines, and interpretations. 1 Pa. Code § 1.4. [↑](#footnote-ref-30)
31. Specifically related universal service dockets include *Initiative to Review and Revise the Existing LIURP Regulations at 52 Pa. Code §§ 58.1 – 58.18*, Docket No. L-2016-2557886, and *Energy Affordability for Low-Income Customers*, Docket No. M-2017-2587711. [↑](#footnote-ref-31)