

COMMONWEALTH OF PENNSYLVANIA



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August 8, 2017

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

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

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

Respectfully Submitted,

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Certificate of Service

\*238248

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Comments in the manner and upon the persons listed below:

Dated this 8<sup>th</sup> day of August 2017.

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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COMMENTS  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Dated: August 8, 2017

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## I. INTRODUCTION

On May 10, 2017, the Commission issued an Order for the Review of Universal Service and Energy Conservation Programs. Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907, Order (May 10, 2017). In its Order, the Commission identified the following categories for Comments: (1) program design; (2) program implementation; (3) program costs; (4) program cost recovery; (5) program administration; (6) program report; and (7) program evaluation. Order at 3-4. The Order also directed Law Bureau to prepare a Staff Report. On July 14, 2017, the Commission issued a Secretarial Letter and its Staff Report. Pursuant to the Commission's May 10, 2017 Order, the Staff Report outlines the statutory, regulatory, and policy frameworks of existing universal service and energy conservation programs and the processes required to initiate proposed changes. The Secretarial Letter accompanying the Staff Report and the May 10, 2017 Order requested Comments from interested stakeholders on August 8, 2017. A two-day stakeholder meeting will be held on September 13<sup>th</sup> and 14<sup>th</sup>, and Reply Comments will be due 30 days thereafter. The OCA appreciates this opportunity to provide these Comments.<sup>1</sup>

The Commission has also initiated two parallel proceedings. On December 16, 2016, the Commission issued a Secretarial Letter requesting comments regarding 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 requested written responses thirty days after publication in the *Pennsylvania Bulletin* and written reply responses

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<sup>1</sup> The OCA was assisted in the preparation of these Comments by its consultant, Roger D. Colton. Roger Colton is a principal in the firm of Fisher Sheehan & Colton, Public Finance and General Economics. Mr. Colton provides technical assistance to a variety of public utilities, state agencies and consumer organizations on rate and consumer service issues for telephone, water/sewer, natural gas and electric utilities. Mr. Colton's work focuses on low-income energy issues, and he has testified and published extensively in this area.

thirty days thereafter. The Secretarial Letter was published in the *Pennsylvania Bulletin* on Saturday, December 31, 2016. The OCA filed Comments in that proceeding on January 30, 2017 and Reply Comments on March 1, 2017.

The Commission has also opened a proceeding at Docket No. M-2017-2587711 to address Energy Affordability for Low-Income Customers. By Order entered May 15, 2017, the Commission initiated a study regarding home energy burdens in Pennsylvania. The Order anticipates that the study will be concluded by the Bureau of Consumer Services (BCS) by February 5, 2018 and that BCS will report its finding to the Commission by May 5, 2018. Thereafter, the Commission will make public the final report and may provide for Comments and Reply Comments.

Pennsylvania's universal service programs are required under the Electric Generation Customer Choice and Competition Act and the Natural Gas Choice and Competition Act. The General Assembly recognized the value of these programs and specifically included the need for these programs as part of both the electric restructuring legislation (Electric Choice Act) and the natural gas restructuring legislation (Natural Gas Choice Act). 66 Pa. C.S. § 2801, *et seq.* and 2201, *et seq.* Of particular note from the Electric Choice Act are the following sections:

**66 Pa. C.S. § 2802(17):** There are certain public purpose costs, including programs for low-income assistance, energy conservation and others, which have been implemented and supported by public utilities' bundled rates. The public purpose is to be promoted by continuing universal service and energy conservation policies, protections and services, and full recovery of such costs is to be permitted through a nonbypassable rate mechanism.

**66 Pa. C.S. § 2802(10):** The Commonwealth must, at a minimum, continue the protections, policies and services that now assist customers who are low-income to afford electric service.

**66 Pa. C.S. § 2804(9):** The commission shall ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric distribution territory. Policies, activities and services

under this paragraph shall be funded in each electric distribution territory by nonbypassable, competitively neutral cost-recovery mechanisms that fully recover the costs of universal service and energy conservation services. The commission shall encourage the use of community-based organizations that have the necessary technical and administrative experience to be the direct providers of services or programs which reduce energy consumption or otherwise assist low-income customers to afford electric service. Programs under this paragraph shall be subject to the administrative oversight of the commission which will ensure that the programs are operated in a cost-effective manner.

66 Pa. C.S. §§ 2802(17), 2802 (10) and 2804(9).

Similarly, the Natural Gas Choice Act provides for the development of universal service programs by natural gas companies as follows:

**66 Pa. C.S. § 2203(7):** The commission shall, at a minimum, continue the level and nature of the consumer protections, policies and services within its jurisdiction that are in existence as of the effective date of this chapter to assist low-income retail gas customers to afford natural gas services.

**66 Pa. C.S. § 2203(8):** The commission shall ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each natural gas distribution service territory. The commission shall encourage the use of community-based organizations that have the necessary technical and administrative experience to be the direct providers of services or programs which reduce energy consumption or otherwise assist low-income retail gas customers to afford natural gas service. Programs under this paragraph shall be subject to the administrative oversight of the commission, which shall ensure that the programs are operated in a cost-effective manner.

66 Pa. C.S. §§ 2203(7) and 2203(8).

Under this direction of the Commission, Pennsylvania utilities, consumer representatives, and advocacy groups have worked together to develop universal service programs that are available and appropriately funded. Participation in these programs has grown dramatically since the restructuring legislation was enacted over 20 years ago. Programs operated by natural gas distribution companies (NGDCs) at the end of 2015 served 160,891 participants. BCS 2015 Report at 41. Programs operated by electric distribution companies (EDCs) at the end of 2015 served 285,337 participants. 2015 BCS Report at 42. Combined, more than 446,228 customers



are enrolled in the universal service programs for EDCs and NGDCs in Pennsylvania. 2015 BCS Report at 42. The total cost of all universal service programs was \$418,104,450 at the end of 2015, with \$363,243,322 of this amount representing the Customer Assistance Programs (CAP).<sup>2</sup> Appendix A, Colton White Paper at 3, 8. This funding of the universal service programs is supported almost entirely by residential customers. Since 2006, when the Commission last examined universal service programs, the costs of the universal service programs have grown from \$321,001,505 to \$418,104,450. Costs have fluctuated during this time period given the changing price of energy and economic conditions, but residential ratepayers, even low and moderate income customers, continue to shoulder significant costs to support these programs. 2006 BCS Report at 68; Appendix A, Colton White Paper at 10. As discussed herein, one of the key recommendations that the OCA has made below is that the Commission reconsider its policy of allocating the costs of universal service programs only to residential customers.

It is the OCA's position that the universal service programs of each EDC and NGDC should be designed and fully funded to meet the need in the service territory as determined by an appropriately conducted needs assessment. The OCA recognizes that circumstances, including demographics, rates, and levels of energy usage will vary across Pennsylvania, meaning that the level of necessary enrollments, and corresponding funding levels, will be different for each EDC and NGDC. The key, however, is that every low-income, payment-troubled customer be fully informed of the universal service programs and be provided an opportunity to enroll in the programs if the program can provide benefits to the customer and to the utility through improved utility bill payments.

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<sup>2</sup> The OCA would note that some water utilities in Pennsylvania provide bill assistance programs for low-income, payment-troubled customers. The costs of those programs are not reflected in these Comments.

The OCA also recommends here that the definition of low-income, payment-troubled contained in the Commission's CAP Policy Statement and regulations be modified to more promptly identify customers facing payment difficulties and to focus on these payment difficulties before they become unmanageable. See, 52 Pa. Code § 69.262 (CAP Policy Statement); 52 Pa. Code § 62.2 (regarding natural gas companies); 52 Pa. Code § 54.72 (regarding electric companies); Appendix A, Colton White Paper at 9-12. The OCA continues to support the extensive bill affordability programs being offered by Pennsylvania utilities, but the OCA is also mindful of the substantial costs of these programs borne by residential customers and the need for the programs to be cost-effective. When CAP was first initiated, the Commission stated that it was "designed to be a more cost-effective approach for dealing with issues of customer inability to pay than are traditional collection methods."<sup>3</sup> See also, Appendix A, Colton White Paper at 9. The OCA submits that the definition of "low-income, payment-troubled" in the Commission's CAP Policy Statement and regulations should be revised to better achieve this purpose. 52 Pa. Code § 69.262; 52 Pa. Code § 62.2 (regarding natural gas companies); 52 Pa. Code § 54.72 (regarding electric companies); see also, Appendix A, Colton White Paper at 11-12. The purpose of the OCA's revision is to better target the limited available resources to prevent customers from falling so deeply into debt.

Of critical importance, the OCA submits that no low-income customer in Pennsylvania should be terminated, or threatened with termination, without having first been fully informed of, and if qualified, entered into a CAP or other universal service program. Programs must be fully available and able to respond to all low-income, payment-troubled customers before they are placed in the termination process. The OCA submits that customers should be reached before termination becomes imminent when the first signs of payment difficulty become apparent. The

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<sup>3</sup> CAP Policy Statement Order, Docket No. M-00991232, at 1 (March 31, 1999).

OCA would also note that a utility's credit and collection practices play an integral role in encouraging regular payment patterns and in preventing unmanageable and unsolvable payment problems. The OCA is not able to address the utilities' collection practices in these Comments without further information. The Commission, however, may wish to review these practices in considering universal service.

In the remainder of these Comments, the OCA provides an Appendix A which contains the White Paper of Roger D. Colton to Office of Consumer Advocate entitled "The Customer Assistance Program ("CAP") as a Universal Service Program in Pennsylvania (Supplement)" prepared by Mr. Colton for the OCA (Colton White Paper). Mr. Colton, a leading nationally recognized expert on universal service programs, originally prepared this White Paper as part of the OCA's 2006 Comments regarding Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms at Docket No. M-00051923. Mr. Colton has updated that White Paper for the purposes of these Comments. As noted earlier, Mr. Colton has vast experience in addressing low-income payment issues and has been extensively involved in the design of Customer Assistance Programs in Pennsylvania and throughout the nation. The OCA has also attached Appendix B which contains a survey of other states' funding and allocation of universal service costs among the customer classes. The OCA has prepared this survey to assist in this examination.

Through these Comments, the OCA provides its key recommendations to the Commission. The OCA's Comments here provide a discussion of the universal service topic issues identified by the Commission in its Order. The OCA would note that not all of these issues require a change to the CAP Policy Statement. A continuation of the stakeholder collaboratives conducted by many EDCs and NGDCs to examine best practices is necessary to

best meet the needs of low-income consumers in Pennsylvania. The OCA looks forward to reviewing the Comments in this proceeding and participating in the upcoming stakeholder collaborative. The OCA seeks to ensure affordable utility service for all consumers.

## **II. CUSTOMER ASSISTANCE PROGRAMS (CAP)**

### **A. CAP Program Design<sup>4</sup>**

#### **1. Payment-troubled Customers**

As originally developed, CAPs were designed as an alternative to collection for dealing with low-income customers who had an inability to pay. The CAP Policy Statement provides:

CAPs are designed as alternatives to traditional collection methods for low income, payment troubled customers. Customers participating in CAPs agree to make monthly payments based on household family size and gross income. Customers make regular monthly payments, which may be for an amount that is less than the current bill for utility service, in exchange for continued provision of the service. Class A electric utilities and natural gas utilities with gross intrastate annual operating revenue in excess of \$40 million should adopt the guidelines in § § 69.263—69.265 (relating to CAP development; scope of CAPs; and CAP design elements) implementing residential CAPs.

52 Pa. Code § 69.261. A low-income payment-troubled customer is currently defined in the CAP Policy Statement as: “[l]ow-income customers who have failed to maintain one or more payment arrangements.” 52 Pa. Code § 69.262; see also, 52 Pa. Code § 62.2 (regarding natural gas companies); 52 Pa. Code § 54.72 (regarding electric companies). Over time, the utilities’ practices and the Commission’s Orders have moved away from the strict interpretation of “payment-troubled” to encourage the enrollment customers who are income-eligible but do not meet criterion of failing to maintain one or more payment arrangements. For example, many utilities have used an automatic enrollment for recipients of cash LIHEAP grants, not just those receiving crisis grants, regardless of the customer’s payment status.

While these initiatives have increased the size of the CAP programs and provided benefits to the CAP participants, it is clear that residential ratepayers do not have the capacity to

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<sup>4</sup> In setting forth the Comments about each issue identified by the Commission, the OCA notes that these Comments should be read as a cohesive whole, and many of the issues may address multiple categories identified by the Commission. What the OCA has categorized as a “program design issue” might also reasonably be otherwise categorized as a “program implementation” or a “cost recovery” issue. No inferences or significance should be placed on the sub-heading used by the OCA.

provide sufficient funds to serve every low-income customer without compromising affordability for many near poor and moderate income customers that support, but do not participate in, these programs. In 2015, Pennsylvania residential energy ratepayers paid over \$418 million to support universal service programs. It is essential that CAPs be targeted to maximize the benefits from these ratepayer resources.

To that end, the OCA recommends that the definition of “low-income, payment-troubled” in the Commission’s Policy Statement should be revised. In his White Paper, Mr. Colton reviews data from the BCS Reports on the extent to which low-income customers are not paying their bills, the extent of low-income customer bad debt, the extent to which low-income customers are being terminated, and the costs being borne by non-participating residential customers. Mr. Colton states:

Based on the above data, it does not appear that Pennsylvania would be well-served to make a decision, as a matter of policy, to expand or to reduce the CAP programs offered by the state’s utilities. It would appear, however, that room for expansion exists. That expansion, however, should not simply seek to enroll “more income-eligible customers” in CAP. The expansion should focus (i.e., target) any expansion efforts toward identifying (i.e., confirming the low-income status) of all income-eligible customers and enrolling those low-income who can be identified with payment difficulties. This targeting process should broadly define payment troubles. It should *not* be limited to customers who default on a payment arrangement. It should *not* be limited to customers who face the imminent disconnection of service. It should *not* be limited to customers who miss a minimum number of payments (e.g., three out of twelve). When a confirmed low-income customer misses a monthly utility bill payment to one of Pennsylvania’s utilities, that utility should initiate a process to enroll that customer in CAP. (In addition, when a confirmed low-income customer makes a late payment, this payment difficulty can be used as the first step in an “early identification” for purposes of offering CARES services.)

Retaining the income eligibility for CAP, while super-imposing a targeting provision operates the program in a manner in which they are most likely to serve both those social goals and contribute to the business goals of the utility while maintaining affordable service for all ratepayers.

Appendix A, Colton White Paper, at 11-12 (footnotes omitted)(emphasis in original).

For a full discussion of this issue, please refer to Mr. Colton's White Paper at pages 9 to 12, the OCA submits, however, that the Commission should consider targeting customers who are displaying signs of payment difficulties for enrollment in CAP rather than waiting for customers to default on a payment arrangement. The underlying goal of CAP has always been to provide customers with an affordable bill to help them avoid arrearages and termination. As the CAP program is re-examined, the Commission should evaluate how to best direct the resources to those low-income customers who are most in need of the assistance of ratepayer support. This may necessitate a change in the definition of "low-income payment-troubled customers."

## **2. CAP participation When CAP Offers No Current Bill Discount.**

For customers with a Percentage of Income Payment Plan (PIP), the customer's income and usage levels may not provide a discount for the customer. The CAP Policy Statement provides maximum percentage of income burdens, but does not identify how a customer should be treated if the customer's usage would provide a payment that is below the percentage of income payment burden. In recent Commission decisions regarding utility Universal Service and Energy Conservation Plans (USECPs), the Commission has determined that CAP participation should be permitted even if the CAP is not the least cost bill for the customer's current service. See, PGW Universal Service and Energy Conservation Plan for 2017-2020 Submitted in Compliance with 52 Pa. Code § 62.4, Docket No. M-2016-2542415, Order at 11-19 (August 3, 2017); UGI Companies' 2014-2017 USECP, Docket No. M-2013-2371824, Order at 14-15 (January 15, 2015); Peoples Natural Gas Company 2015-2018 USECP, Docket No. M-2014-2432515, Order at 9-10 (December 17, 2015); Metropolitan Edison Company 2015-2018 USECP, Docket No. M-2014-2407729, Order at 9 (May 19, 2015); Pennsylvania Electric Company 2015-2018 USECP, Docket No. M-2014-2407731, Order at 9 (May 19, 2015);

Pennsylvania Power Company 2015-2018 USECP, Docket No. M-2014-2407728, Order at 9-10 (May 19, 2015); West Penn Power Company 2015-2018 USECP, Docket No. M-2014-2407728, Order at 9-10 (May 19, 2015); PECO Energy Company 2016-2018 USECP, Docket No. M-2015-2507139, Order at 29-35 (December 8, 2016). The OCA submits that this does not mean that low-income customers should be required to pay more for their current service than they would pay under standard residential rates. If a low-income customer has a bill that is based on actual usage that is less than the percentage of income payment, the customer should be permitted to participate in the CAP by being placed on a budget billing plan and having access to arrearage forgiveness when payments are made. In many programs, this would also assist the customer in being evaluated for LIURP.

The OCA submits that CAP participation should allow low-income customers to access the lower total bill payment, not merely the lowest bill for current service. It has been well-established that affordability does not flow simply from the bills for current service. Rather, affordability flows from the total asked-to-pay amount. The asked-to-pay amount is equal to payments toward current service plus any pre-existing arrearage. CAP participation through which a low-income customer receives only the benefit of arrearage forgiveness should be established as an accepted form of CAP participation and reflected in the CAP Policy Statement.

### **3. CAP Program Designs**

The CAP Policy Statement accommodates a variety of program designs. While the OCA supports this flexibility, the OCA submits that programs that explicitly tie CAP bills to an affordable percentage of income may be more effective.<sup>5</sup> The OCA urges that program designs

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<sup>5</sup> The OCA submits that the OCA reserves its Comments regarding energy affordability for the pending Energy Affordability for Low-Income Customers at Docket No. M-2017-2587711.



should seek to ensure that, to the maximum extent practicable, CAP Bills are based on an affordable percentage of income.<sup>6</sup>

The OCA recognizes that some utilities, including Columbia Gas of Pennsylvania, offer a CAP program option that is based not on a percentage of income option, but instead on the average bill payment made by the customer in the year before entering CAP. Columbia Gas 2015-2018 USECP, Docket No. M-2014-2424462, Order (July 8, 2015). The average bill payment program option of Columbia does not appear to generate bill payment patterns that are substantively worse than the bill payment patterns of CAP participants participating in percentage of income programs. The OCA would urge, however, that if program designs other than PIPP are in place, that the bill payment patterns be monitored to ensure continued effectiveness.

The OCA recommends that the Commission articulate in its CAP Policy Statement that percentage of income programs are the preferable program design for Pennsylvania utilities. Flexibility for other options should remain if the designs can improve bill payment and remain cost-effective.

#### **4. CAP Participation Prerequisites**

In the CAP Policy Statement, there is a requirement that a customer apply for the Low Income Home Energy Assistance Program (LIHEAP) participation. LIHEAP participation should not be a prerequisite to CAP participation. Section 69.265(9)(iv) of the CAP Policy Statement allows for a customer to be penalized for failure to apply for LIHEAP. The section provides:

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<sup>6</sup> Some customers will, by program design, exceed the affordable percentage of income burdens. These customers include, for example, customers making minimum payments and customers who have reached their maximum CAP credit ceiling.

(iv) A utility may impose a penalty on a CAP participant who is eligible for LIHEAP benefits but who fails to apply for those benefits. A utility should use this option carefully and the penalty should not exceed the amount of an average LIHEAP cash benefit. If a customer applies for a LIHEAP benefit but directs it to another utility or energy provider, the CAP provider should not assess a penalty.

52 Pa. Code § 69.265(9)(iv).

LIHEAP has been under threat of significant federal budget cutbacks, or possible elimination. Even at existing funding levels, LIHEAP only reaches a fraction of income-eligible customers in Pennsylvania. LIHEAP funding to Pennsylvania does not vary based on the number of LIHEAP participants in Pennsylvania. If LIHEAP participation were to increase, the only impact that increase would have would be to decrease the LIHEAP grant provided on a per-participant basis. Even more of a problem is the fact that LIHEAP provides block grant funds to states to address home heating and cooling costs.<sup>7</sup> The OCA submits that requiring LIHEAP participation as a prerequisite to CAP participation does not expand the amount of LIHEAP dollars being devoted to CAP participants.

The OCA submits that CAP participants should be encouraged to apply for LIHEAP benefits, but no program should require participation in LIHEAP. The OCA recommends that the provision of the CAP Policy Statement allowing for a penalty be removed.

## **5. Minimum Payments**

The CAP Policy Statement provides for minimum monthly payments for gas heating, electric heating, and non-heating electric accounts. For a gas heating account, the CAP Policy Statement identifies a range for a minimum payment of \$18-\$25 per month. 52 Pa. Code § 69.265(3)(i)(A). For a non-heating account, the range for a minimum monthly payment is \$12-

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<sup>7</sup> The block grant means that a limited amount of funding is provided to each state each year. When the funds run out in any given federal fiscal year, the state is required to stop distributing funds. Funding, in other words, does not expand simply because the need expands, either in terms of households in need or the level of grant required on a per household basis.

\$15. 52 Pa. Code § 69.265(3)(i)(B). For the electric heating account, the range for the minimum monthly payment is \$30-\$40 per month. 52 Pa. Code § 69.265(3)(i)(C). The OCA submits that the stated purpose of the minimum payment requirement is to control the overall costs of the program as well as the costs of the discount provided to CAP customers and paid for by residential ratepayers. The OCA supports the continued use of minimum payments in CAP program design.

Minimum payments are necessary to control the overall costs that non-participants pay for CAP. In addition to a cost control measure, the minimum payment is also an important tool. The minimum monthly payment requires customers to share in the monthly responsibility of the costs of electric service and to also receive the benefits of the arrearage forgiveness for that payment. The monthly minimum payment requirement also requires the customer to establish the habit of paying the electric bill on a monthly basis and to conserve the maximum CAP credits for a month when the credit is need.

Nonetheless, minimum payments can have a substantive impact on bill affordability. As a general rule, minimum payments are necessary in instances where incomes are the lowest (*i.e.*, the percentage of income payment times the customer's income does not yield a sufficiently high payment to exceed the minimum). In recent Commission Orders, minimum payments have been found to be one, if not the, primary contributors to the incidence of unaffordable bill burdens among CAP participants. See, Duquesne Light 2017-2019 USECP, Docket No. M-2016-2534323, Tentative Order at 14 (August 11, 2016), Order at 24 (March 23, 2017).

The OCA submits that unlike some program design elements, such as the maximum CAP credit ceilings, minimum payments are not program elements that need to vary based upon utility-specific characteristics. Nonetheless, there appears to be an increasing divergence in

minimum payment requirements between Pennsylvania utilities. The OCA submits that the Commission should reconsider its minimum payment requirements such that: (1) minimum payments are set based on an objective balancing of affordability and minimum payment responsibility and (2) minimum payments are set based on a uniform basis between utilities, or in the alternative, based on an objective set of factors.

## **B. CAP Program Implementation**

### **1. Annual Participation**

The CAP affordability ranges that have been established by the Commission based on a percentage of income are based on annual figures. The OCA submits that there will be some times during the year where the monthly CAP payment will exceed the monthly bill for current service and other times during the year when the monthly bill for current service will exceed the CAP payment. On a cumulative annual basis, however, the CAP payment should provide an overall discount to CAP participants. For example, a natural gas CAP participant receives a disproportionate amount of his or her CAP benefit during the heating season, and effectively returns some of that benefit to the program during the non-heating season when CAP bills exceed the bill for current service. On an annual basis, however, the overall bill should not exceed the percentage of income deemed to be affordable by the Commission.

The OCA supports the Commission's decision in some of the Commission's USECP Orders to bar low-income customers from participating in CAP only during those months in which the bill for current service exceeds the CAP payments. See, PGW's 2014-2016 USECP, Docket No. M-2013-2366301, Order at 13 (August 20, 2014); Columbia Gas 2015-2018 USECP, Docket No. M-2014-2424462, Order at 21 (July 8, 2015). The OCA recommends that the Commission add to the CAP policy Statement a requirement, applicable to all utilities, that if a

CAP participant voluntarily exits the program, the customer must remain out of the program for twelve full months. The OCA submits that such a “stay out” provision for voluntary exits prevents a customer from “gaming the system” and increasing the CAP costs paid by non-participants by enrolling in CAP during those months in which the customer will receive benefits and exiting the program during those months in which the customer would not receive a benefit.

## **2. Involuntary CAP Exits For Nonpayment**

The OCA supports a provision in the CAP Policy Statement regarding the treatment of CAP customers who exit CAP due to nonpayment. There are two elements to the involuntary exits. The OCA urges the Commission to reaffirm its prior decisions that removal from CAP is not an appropriate utility response to nonpayment. When a customer is enrolled in CAP, that customer will no longer be charged a bill at standard residential rates. If the customer fails to make payments toward their CAP bill, the appropriate response is to place that customer into the collection cycle, including termination of service if and when appropriate. The customer should not be removed from CAP and charged the standard residential rate. If a low-income customer fails to make payments toward the current bill for service, the OCA submits that the appropriate way to gain such payments, and to control the costs of nonpayment to nonparticipants, is not by increasing the future bills to be charged.

To the extent that a CAP participant engages in nonpayment to the point of experiencing a disconnection of service for nonpayment, the OCA submits that the appropriate dollar amount to be required to gain reconnection is limited to the unpaid CAP bills (plus all associated reconnection fees, if any). The CAP participants who have had service disconnected, in other words, remain CAP participants for purposes of determining their outstanding bills. Bills for current service do not get recalculated at standard residential rates for purposes of reconnection.

### **3. Current Bill Payment At The Time Of Recertification**

The OCA submits that the Commission should be clear in its CAP Policy Statement that the recertification of CAP participants only involves a recertification and reverification of income eligibility information. For example, it is not appropriate to impose a requirement that, at the time of recertification, a CAP participant must bring his or her payments toward bills for current service as a recertification prerequisite. See, 2016 PPL Electric Utilities Stratified Management Audit at 381.<sup>8</sup> The utilities should respond to nonpayment of bills for current service by placing nonpaying CAP participants into the termination and collection cycle. The certification procedure should not be used as a collection tool.

### **4. Arrearage Forgiveness**

One essential component of CAP is the arrearage forgiveness component. All arrears incurred prior to CAP participation should be subject to arrearage forgiveness. Recently, however, one utility urged that if a customer had an arrears from a prior address, that arrears was not subject to forgiveness. The OCA submits that the Commission should incorporate into its CAP Policy Statement the principle that all arrearages incurred prior to enrollment in CAP should be subject to arrearage forgiveness. The source or timing of where and when those arrears were incurred does not change the nature of pre-existing arrearages subject to forgiveness.

The OCA submits that the Commission should also incorporate its recent policy determinations regarding the circumstances under which arrearage forgiveness will be granted under the CAP Policy Statement. The purpose of arrearage forgiveness is two-fold: (1) to ensure that bills are not made unaffordable because of required payments toward pre-existing arrearages

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<sup>8</sup> The 2016 Stratified Management Audit stated “if the customer is in a collections status, the overdue amount must be satisfied before the customer can be recertified.” Management Audit at 381.

and (2) to encourage customers to continue to make their payments towards their CAP bills (by responding to those payments through a reduction in pre-existing arrearages).

The Commission has, on a case-by-case basis, articulated the policy that arrearage forgiveness should be granted as complete payments are made, irrespective of whether those payments were made in a “timely” fashion. Two different processes have developed regarding the application of arrearage forgiveness to payments that have been missed. Under the first approach, the Company provides arrearage forgiveness for each on time and in-full CAP payment, regardless of existing CAP arrears. See, PGW USECP 2017-2020, Docket No. M-2016-2542415, Order at 34-36 (August 3, 2017); UGI 2011-2013 USECP Final Order, Docket No. M-2010-2186052, Order at 32-33 (October 31, 2011) (UGI USECP 2011-2013). The OCA supports allowing CAP customers to receive arrearage forgiveness for any month in which the customer made an on-time and in-full CAP payment. The monthly forgiveness allows a CRP customer to continue to reduce their debt and provides motivation for a customer to stay current in the monthly CAP payments, even if they have otherwise fallen behind on prior payments. This arrearage forgiveness policy also would address the income instability often experienced by low-income households.

Under the second approach, the Company applies arrearage forgiveness retroactively to any months missed once the CAP customer catches up on any missed payments. Duquesne Light Company (Duquesne), PPL Electric Company (PPL), National Fuel Gas Distribution Company (NFG), and the UGI Companies have voluntarily allowed CAP customers to receive arrearage forgiveness for any monthly payments once the entire CAP balance is paid in full. Duquesne Light Company 2014-2016 USECP Final Order, Docket No. M-2013-2350946, Order at 3 (May 9, 2011) (Duquesne USECP 2014-2016); PPL Electric Revised 2014-2016 USECP

Final Order, Docket No. M-2013-2367021, Order at 6 (September 11, 2014) (PPL USECP 2014-2016); UGI Revised 2014-2017 USECP, Docket No. M-2013-2371824, Order at 16 (January 15, 2015) (UGI USECP 2014-2017); NFG 2011-2013 USECP Final Order, Docket No. M-2010-2192210, Order at 12 (May 9, 2011) (NFG USECP 2011-2013). The OCA recommends that arrearage forgiveness be granted when a bill is completely paid, for any month in which it is completely paid.

The OCA submits that providing retroactive arrearage forgiveness encourages customers to catch up on missed payments. The OCA submits that CAP programs frequently serve households that are dependent upon wage earners employed in low-wage jobs that frequently receive unstable or inconsistent incomes. Low-wage employees tend to be hourly employees. A lack of sufficient hours in a given month may reflect the decisions of the employer, or may reflect other events in a customer's life, including illness of the worker or a worker's family member, the need to address parental responsibilities at school, or other similar life events. Low-wage employees are also a population of employees who lack paid vacation and sick leave, flex time, or other time-related benefits to ensure that they receive a consistent income stream.

These factors should be recognized in the arrearage forgiveness component of the program design. The OCA submits that both of the approaches that have been implemented on a case-by-case basis should be incorporated into the CAP Policy Statement to establish a consistent policy across the CAP.

## **5. Social Security Numbers**

The Commission has addressed the issue of Social Security Numbers (SSNs) in a series of proceedings involving USECPs. See, for example, PECO 2013-2015 USECP, Docket No. M-2012-2290911, Order at 36-38 (April 4, 2013); PGW 2014-2016 USECP, Docket No. M-2013-



2366301, Order at 10-11 (August 20, 2014). The OCA submits that the Commission should incorporate its policy on SSNs into the CAP Policy Statement. The OCA has privacy concerns about utilities maintaining records of customer SSNs. The OCA also questions the legality, under federal law, of whether a public benefit (such as CAP) can be made contingent upon a customer providing his or her SSN. The OCA notes that many income-eligible Pennsylvania customers may not have SSNs and use alternate forms of identification in lieu of Social Security numbers.

The OCA urges the Commission to incorporate its SSN policy into the CAP Policy Statement to ensure that the policy is generally applicable to all utility programs. There are many potential issues that are raised by requiring a customer to provide a Social Security number: (1) potential security issues with maintaining Social Security numbers and how the Company will protect this information;<sup>9</sup> (2) issues regarding the disposal of the SSN, if the customer leaves the service territory; (3) the implications if the requester does not have a Social Security number; (4) the potential unwillingness of a customer to provide the Social Security number; and (5) an evaluation of the costs of implementing such a requirement against the benefits of having this information.

The OCA submits that a utility should not require a customer to provide his or her SSNs as prerequisite to program participation. Moreover, while the utilities may request such SSNs, before doing so, utilities should notify and educate consumers that the request is not, and may not be, mandatory. The OCA submits that the utilities should adopt alternatives to the provision of SSNs for those not likely to have SSNs. Finally, utilities should not provide access to SSNs to

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<sup>9</sup> The Federal Trade Commission has a “Red Flags Rule” regarding the security and protection of Social Security Numbers and has particular provisions with respect to how public utilities must manage this information. See, 16 C.F.R. §§ 682.1, 682.3 (2012); 12 C.F.R. §§ 222.90(b)(5), 222.90(d)(1) (2012).

anyone not requiring access to determine program eligibility and should not maintain records of the SSN beyond the time required to use the SSN to determine program eligibility.

## **6. Zero Dollar Income CAP Participants**

The OCA submits that the Commission should incorporate its recent policy decisions regarding the treatment of zero dollar income CAP participants into the CAP Policy Statement to ensure that the policy determination is applied equally statewide. Columbia Gas USECP 2015-2018, Docket No. M-2014-2424462, Order at 26 (July 8, 2015); Duquesne Light Company 2014-2016 USECP Final Order, Docket No. M-2013-2350946, Order at 6-7 (May 9, 2011) (Duquesne USECP 2014-2016); PECO Energy USECP 2013-2015 Order, Docket No. M-2012-2290911, Order at 13 (April 4, 2013)(PECO USECP 2013-2015); UGI Revised 2014-2017 USECP, Docket No. M-2013-2371824, Order at 20 (January 15, 2015) (UGI USECP 2014-2017); PGW 2014-2016 USECP Final Order, Docket No. M-2010-2186052, Order at 26-29 (August 22, 2014)(PGW USECP 2014-2016). The OCA agrees that the zero dollar income CAP participants may be treated differently than other CAP participants in some respects. The OCA submits that the use of the state LIHEAP program's zero dollar verification form as a means of determining the accuracy of a claim of zero dollar income seems reasonable. Moreover, the OCA recognizes that a zero dollar income is not a sustainable income. Accordingly, the OCA submit that a zero dollar income CAP participant should be required to recertify income on a more frequent schedule (*e.g.*, every four months or every six months) than other CAP participants.

The OCA submits that imposing burdensome verification procedures such as a mandatory notarized form documenting the lack of income is not reasonable. The Commission through a series of USECP Orders appears to have adopted a reasonable policy approach to the treatment of zero dollar incomes. The OCA submits that, instead of articulating this policy on a

case-by-case basis, this policy should instead be incorporated into the CAP Policy Statement to be equally applicable to all utilities (and equally available to all CAP participants).

## 7. CAP Asset Tests

Recently, some utilities have suggested the use of an asset test for CAP participants. The OCA submits that the Commission should not allow asset tests to be placed into the CAP Policy Statement. From a policy perspective, assets are not necessarily sufficiently liquid to be able to be used for utility bill payments. One reason that the asset tests are banned in the federal Food Stamp program (now known as SNAP, the Supplemental Nutrition Assistance Program), for example, is that such funding is not considered to be an “available resource” to help meet a household’s food shopping needs. In addition, asset tests tend to exclude an entire class of people in need. Asset tests tend to exclude people who have recently lost their jobs (or who are temporarily unemployed), those who are recently divorced, those who have recently lost a family’s primary wage earner through death or disability, and people who may well have assets but have limited or fixed income to pay their monthly utility bills such as the elderly. In this respect, the literature on asset tests tend to agree that such tests are age discriminatory (*e.g.*, an aging person whose spouse dies, leaving them without income but with a home).<sup>10</sup>

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<sup>10</sup> Roger D. Colton, Owning up to the Problem: Limiting the Use of an Assets Test in Determining Home Energy Assistance Eligibility (April 2013). The study concluded at page 25:

There can be little question but that an assets test is most likely to have its most exclusionary impact on older households in the five study states considered in this discussion. Application of an assets test to limit LIHEAP eligibility tends to adversely affect older households more than households in general for two reasons...

First, older households disproportionately tend to be homeowners rather than renters...Second, not only are older householders more likely to be homeowners in general, but older householders also tend to have higher equity value in their home and thus have higher asset levels.

[http://www.fsconline.com/downloads/Papers/2013%2004%20Assets\\_Test\\_for\\_LIHEAP.pdf](http://www.fsconline.com/downloads/Papers/2013%2004%20Assets_Test_for_LIHEAP.pdf)

In addition to these policy reasons to oppose an asset test, there are administrative difficulties as well. To the extent that a low-income person has assets in the form of real estate (e.g., a home), someone would need to make a determination not only of what the value of the home is, but also what the net value of the home is (*i.e.*, the equity in the home minus whatever debt is owed on the home). Moreover, the assets are not convertible to cash (*i.e.*, as an available resource) without cost. The sale of a home or automobile, for example, is not done without cost to the seller. Also, an asset such as an automobile, if sold could impact the customer's ability to work on a regular schedule. Finally, the disposition of assets in circumstances where a household needs the value to help pay basic needs is often made under duress. Under such circumstances, it is unlikely that the household would receive the full value of the asset as they would have had the asset disposed of in an arms-length transaction. The OCA submits that to require a low-income customer to dispose of assets at less than full value, and to incur costs in the process of disposal, as a requirement to enter a program such as CAP would be counter-productive in both the short- and long-term.

#### **8. Annualized, Not Annual, Income**

The OCA submits that the CAP Policy Statement should be revised to make clear that income eligibility for CAPs should be determined on an annualized, not simply an annual, basis. One utility recently sought to use income tax information as one basis for determining CAP eligibility. Income tax returns, however, report a full twelve months of income. While OCA does not oppose the use of an annual income to establish CAP income-eligibility, neither does the OCA support the exclusive use of annual income. The CAP Policy Statement should reflect the fact that 30-, 60- or 90-day annualized income is an appropriate basis for establishing CAP eligibility.

## **C. CAP Program Costs**

### **1. Introduction**

The OCA submits that universal service programs must balance the costs of the programs against the burden that those programs impose on non-participating ratepayers. It is imperative to understand that the issue is not one of balancing the benefits to low-income customers against the costs to non-low-income customers. Non-participants include both low-income customers (including those that have not been identified as confirmed) and the near-poor.

Residential ratepayers already support more than \$400 million per year in assistance for universal service programs. We know, however, that this assistance reaches only a portion of low-income customers. In addition, we know the customers between 150% and 250% of the Federal Poverty Level continue to have difficulty affording utility service. According to the PathwaysPA study, The Self Sufficiency Standard for Pennsylvania 2010-2011, a family of four in Dauphin County, Pennsylvania would need to earn \$47,040, or 257% of the Federal Poverty Level, in order to meet the self-sufficiency standard.<sup>11</sup> In Philadelphia County, that same family of four would need to earn \$59,501, or 270% of the Federal Poverty Level, in order to meet that same self-sufficiency standard.<sup>12</sup> In light of these facts, it is essential that the costs of the CAP are reasonable and that the programs are cost-effective.

The OCA recommends the following actions with respect to the CAP program costs: (1) maximum CAP credit ceilings; (2) customer co-payments toward preprogram arrearages; and (3) recognizing HUD utility allowances as energy assistance.

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<sup>11</sup> The Self Sufficiency Standard for Pennsylvania 2010-2011, Report at 3, PathwaysPA <http://pathwayspa.org.mytempweb.com/wp-content/uploads/2014/01/Self-Sufficiency-Standard-2010-2011.pdf>

<sup>12</sup> Id. at 4.

**a. Maximum CAP Credits**

The CAP Policy Statement establishes a maximum CAP credit for gas heating use of \$840 and for electric heating use of \$1400. 52 Pa. Code § 69.265(3)(v)(A). For non-heating use, the maximum CAP credit is \$560. 52 Pa. Code § 69.265(3)(v)(B). The total CAP credit a customer may receive for heating and non-heating combined is \$1400 per participant. 52 Pa. Code § 69.265(3)(v)(C).

The OCA supports maintaining maximum CAP credits for two reasons. Maximum CAP credits are an effective cost control mechanism. CAP credit ceilings help to balance the interests of CAP participants and non-participants. The OCA submits that public policy also does not support providing unlimited support for affordability assistance.

The OCA submits, however, that the current maximum CAP credits set forth in the CAP Policy Statement were established in 1999, and no longer realistically reflect the needs of the CAP participants. The CAP credit should not be tied to a limit that is nearly twenty years old. The OCA proposes that instead of a fixed ceiling on CAP credits, the maximum CAP credits should be indexed to the individual utility's average annual rates, including default service price (electric) or supplier of last resort price (natural gas), so that the amount of the maximum CAP credit makes sense given the fluctuations in energy costs in the service territory and distribution rate changes.

Limitations, however, should be placed on the maximum CAP credit ceilings, and the maximum CAP credit need not be uniform between utilities. Differences in the maximum CAP credit may be supported for several reasons, including differences between utilities, the differences in housing quality between utility service territories, and the differences in CAP participant incomes between utilities, amongst other factors.

The maximum CAP credit should also vary by Federal Poverty Level so that the maximum CAP credit does not disproportionately affect the lowest income customers. Two attributes of households in lower Poverty Level ranges necessarily cause these households to experience the need for higher CAP credits. First, lower Poverty Levels have lower percentage of income affordability ranges. These lower affordability percentages are then applied against lower incomes. A household paying 5% of a \$5,000 income, for example, will, by arithmetic, make a smaller payment (and thus have a higher CAP credit) than a household paying 8% of a \$10,000 income. CAP credit ceilings should be income neutral.

CAP participants should also be provided reasonable notice that they are approaching their maximum CAP credit ceiling. Participants, in other words, should be provided reasonable opportunity to adjust their consumption (and the rate at which they are incurring CAP credits) before having their CAP credits capped.

Further, the OCA recommends that a stronger link be developed between the maximum CAP credits and weatherization efforts such as the Low Income Usage Reduction Program (LIURP). The OCA recommends that if the customer is at risk for reaching the maximum CAP credit, the customer should be evaluated to see if they would benefit from LIURP.

The OCA submits that the exemptions to the maximum CAP credits should also be maintained. The exemptions provide:

A utility may exempt a household from a CAP control feature if one or more of the following conditions exist:

- (A) The household experienced the addition of a family member.
- (B) A member of the household experienced a serious illness.
- (C) Energy consumption was beyond the household's ability to control.

(D) The household is located in housing that is or has been condemned or has housing code violations that negatively affect energy consumption.

52 Pa. Code § 69.265(3)(vi). CAP participants who are otherwise unable to control their energy usage due to circumstances outside of their control, such as illness or poor housing stock that cannot be weatherized, should not be penalized under the CAP Policy Statement.

**b. Customer Copayments Toward Preprogram Arrearages**

Arrearage forgiveness costs constitute a significant portion of the total cost of CAP programs in Pennsylvania, and some utilities have integrated a policy of requiring a nominal CAP participant co-pay towards the arrearages. See, Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2017-2020 Submitted in Compliance with 52 Pa. Code § 62.4, Docket No. M-2016-2542415, Order at 10 (\$5 co-pay towards pre-program arrearages); Peoples Natural Gas USECP 2015-2017, Docket No. M-2014-2432515, Order at 14 (December 17, 2015) (\$5 co-pay towards pre-program arrearages). According to the BCS reports, with some exceptions, (*e.g.* Columbia and Equitable), arrearage forgiveness costs represent between 10% and 30% of the total CAP costs in 2015. BCS 2015 Report at 45-46. The OCA submits that the Commission should consider requiring a co-payment towards pre-existing arrearages.

The OCA proposes that the Commission consider imposing a percentage of income co-payment of between 0.5% and 1.0% of income for three reasons. First, while payments toward pre-existing arrears should not make the total asked-to-pay amounts unaffordable, neither should the customers be free from responsibility toward the pre-existing arrearages. Second, co-payments based on a percentage of income create a situation where customers who can afford to pay more toward their pre-existing arrearage will be called upon to pay more. For example, a customer paying 0.5% of a \$5,000 income toward pre-existing arrearage pays less than a customer paying 0.5% of a \$10,000 income. Finally, to the extent that a CAP participant can



retire a portion of a pre-existing arrearage through an affordable co-payment, non-participants should not be called upon to pay those bills. A percentage of income-based co-payment meets all three tests of reasonableness.

**c. Recognizing HUD Utility Allowances As Energy Assistance**

The OCA submits that customers who are tenants of public and/or assisted housing should be allowed to participate in CAP, and thus receive arrearage forgiveness, where appropriate, but should not receive the set of full CAP credits. Tenants of public and assisted housing receive HUD energy bill subsidies referred as “utility allowances.” Under federal law, utility allowances are designed to pay the full energy bills of such tenants.<sup>13</sup> Unlike LIHEAP, HUD utility allowances are not paid to the utility, but rather provided as a rent credit.<sup>14</sup> Given the government-provided subsidies, the OCA submits that ratepayer dollars should not be paid to households who are already receiving a government subsidy designed to pay the entire energy bill of the household.

**D. CAP Program Cost Recovery**

The OCA submits that the Commission should consider two program cost recovery issues in this comprehensive evaluation of universal service programs. First, the Commission should establish by regulation a process to prevent the double-collection of bad debt and working capital

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<sup>13</sup> This is in contrast to LIHEAP which is designed to pay a portion of a household’s heating bill.

<sup>14</sup> For example, a tenant that has a rent of \$400 per month and a utility allowance of \$150 per month, will receive a \$150 credit toward their rent, leaving an out-of-pocket rent expense of only \$250. The theory is that this rent credit will thus “free up” \$150 in household income that can be used to pay utility bills. Only when a utility allowance exceeds the rent will a cash payment be made to the tenant (e.g., a rent of \$200 and a utility allowance of \$250 will reduce the out-of-pocket rent to \$0 with the \$50 excess paid in cash to the household.)

costs. Second, the Commission should reconsider its decision that universal service costs should be borne exclusively by the residential customer class.<sup>15</sup>

### **1. CAP Cost Offsets**

The OCA submits that the Commission should establish by regulation that, in each base rate case, Pennsylvania utilities should be required to apply bad debt and working capital offsets reflecting changes in the base CAP participation from the level used to establish base rates. This recommendation is consistent with the existing CAP Policy Statement. The CAP Policy Statement provides:

In evaluating utility CAPs for ratemaking purposes, the Commission will consider both revenue and expense impacts. Revenue impact considerations include a comparison between the amount of revenue collected from CAP participants prior to and during their enrollment in the CAP. CAP expense impacts include both expenses associated with operating the CAPs as well as the potential decrease of customary utility operating expenses. Operating expenses include the return requirement on cash working capital for carrying arrearage [and] uncollectible accounts expense for writing off bad debt for these customers. When making CAP-related expense adjustments and projections, utilities should indicate whether a customer's participation in a CAP produced an immediate reduction in customary utility expenses and a reduction in future customary expenses pertaining to that account.

52 Pa. Code § 69.266. Notwithstanding the clear statements in the CAP Policy Statement, the OCA submits that this issue has been disputed in numerous base rate proceedings. The OCA submits that there is a strong basis for making at least routine expense adjustment involving bad debt and working capital. The right to identify additional expense adjustments, as needed, in a future proceedings should also be reserved.

In general, the bill for a participant in CAP can be divided into two parts: (1) the CAP bill (*i.e.*, the asked-to-pay amount for which the CAP participant bears payment responsibility) and

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<sup>15</sup> To the extent that the Commission declines to reconsider this decision, the Commission should reaffirm its decisions over the past 25 years that the PGW cost allocations should be maintained.

(2) the CAP credit (*i.e.*, the difference between the CAP participant's bill at standard residential rates and the CAP bill). Before a low-income customer becomes a CAP participant, the two parts of the bill are not separately recognized. The low-income customer who is not in CAP receives a single bill. When that customer cannot otherwise afford to pay his or her total bill, the amount of the bill that remains unpaid eventually becomes uncollectible. For those low-income customers that are not CAP participants, those uncollectible dollars are included in base rates.

When a customer enrolls in CAP, the two parts of the bill are separately recognized. In contrast to the unified bill that is described above, the CAP participant is provided an affordable bill (CAP bill), which the CAP participant is expected to pay. The remainder of the bill (CAP Credit) is charged to CAP non-participants through the Universal Service Surcharge. Accordingly, when a low-income customer enrolls in CAP, the portion of the bill that the customer previously could not pay, and that was included as an uncollectible expense in base rates, now becomes the CAP Credit and is recovered on a dollar-for-dollar basis through the reconcilable Universal Service Surcharge. As CAP participation increases above the CAP base participation levels used to set base rates, a higher and higher dollar amount is allowed to collect that increased amount of CAP Credits through the Universal Service Surcharge. When the Universal Service Surcharge is reconciled to reflect actual CAP costs, the CAP Credits passed through the Universal Service Surcharge will increase as CAP participation increases if CAP participation increases above the base number.

Base rates, however, remain the same. It is important to remember that each utility has already set its base rates as though the unpaid bills from those customers above the CAP base number will be a part of uncollectibles. Through its base rates, the utility continues to collect that uncollectible expense as though no net addition of CAP participants has occurred.

Since the Universal Service Surcharge is reconcilable, as CAP participation increases, utilities collect the entire default amount of increased CAP Credits associated with any increased participation as though that additional shortfall is a “new” expense. Even though the utility will make an upward adjustment in the costs it collects through the Universal Service Surcharge, it is not required to make a corresponding downward adjustment to base rates to remove those dollars that were already included in base rates as uncollectible expense, but are now instead being collected through the Universal Service Surcharge as part of the CAP Credits. In fact, however, the participation by low-income customers in CAP does not create “new” costs. Instead, participation in CAP simply moves the unpaid bills out of the group of customers known as “residential” customers and into the group of customers known as “CAP participants.” To allow the dollars of CAP Credits to be added to the Universal Service Surcharge without correspondingly adjusting for those dollars that already have been included in base rates allows a utility to collect those dollars in both places, thus creating the double collection.

The OCA submits that Pennsylvania utilities should only be able to recover their costs once. With CAP Credits, a utility should only recover the incremental costs imposed as a result of a customer’s participation in CAP. Uncollectible expenses associated with residential customers that are not CAP participants are recovered in base rates. When a customer becomes a CAP participant, the portion of the bill no longer billed to that participant (*i.e.*, the CAP Credit), is instead collected from non-participants through the Universal Service Surcharge. As the dollars are added to the Universal Service Surcharge, the dollars should be correspondingly subtracted from base rates.

The working capital offset to the CAP cost recovery reflects the fact that rather than the billed revenue recovered as CAP Credits being charged to confirmed low-income customers, that

billed revenue will instead be collected through the Universal Service Surcharge charged to CAP non-participants who are primarily non-low-income customers. Since non-low-income customers have a better payment profile – they pay more of their bills and they pay their bills in a more timely fashion – moving the dollars from low-income bills to non-low-income bills will result in the dollars being collected in a more complete and timely fashion, and will thus generate a carrying cost savings.<sup>16</sup>

The OCA submits that the Commission should establish by regulation that, in each base rate case, Pennsylvania utilities should be required to apply bad debt and working capital offsets reflecting changes in the base CAP participation from the level used to establish base rates.

## **2. Interrelationship Between CAP And LIHEAP**

The Commission has not fully addressed the relationship between the Low Income Home Energy Assistance Program (LIHEAP) and CAP since the Department of Human Services (DHS) changed its LIHEAP policy in 2009. In 2009, DHS adopted a policy that required LIHEAP payments to be applied to the “asked-to-pay” amount of a customer’s bill. The “asked-to-pay” amount is the amount that has been determined to be affordable for the low-income customer in accordance with the Commission’s CAP Policy Statement. This change in DHS

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<sup>16</sup> The basis for adopting a bad debt and working capital offset to prevent the over-recovery of arrearage forgiveness credits is the same as the basis for adopting an offset to prevent the over-recovery of CAP Credits. The existing arrears of customers who will become CAP participants above the base CAP participation rate used are already included in base rates. When low-income customers that are not CAP participants at the time of the base rate case become CAP participants in the future, those pre-existing arrears will become subject to forgiveness. To the extent that those pre-existing arrears are actually forgiven, they will be collected from non-participants through the Universal Service Surcharge.

Even though the Company makes an upward adjustment in the costs they collect through the Universal Service Surcharge to reflect the forgiven arrears, they are not required to make a corresponding downward adjustment to their base rates. In fact, however, the participation by low-income customers in CAP does not create “new” costs through arrearage forgiveness. Instead, participation in CAP simply moves the unpaid bills out of the receivables attributable to the group of customers known as “residential” customers and into the “arrearage forgiveness” attributable to the group of customers known as “CAP participants.” To allow the dollars of arrearage forgiveness credits to be added to the Universal Service Surcharge without correspondingly subtracting those dollars from base rates allows the Company to collect those dollars in both places, thus creating a double collection.

policy necessitated changes to the Customer Assistance Programs operated by Pennsylvania utilities to avoid imposing additional costs on non-CAP customers. The CAP Policy Statement does not reflect the changes to LIHEAP policy. Rather decisions have been made on a case by case basis since that time. The OCA submits that the Commission's regulations should address the integration of CAP and LIHEAP.

The utilities have addressed the issue in a range of different manners. Some have implemented a "CAP-Plus."<sup>17</sup> Pennsylvania Communities Organization for Change (PCOC) v. Pa. PUC, 2014 Pa. Comm. LEXIS 217, Order (Pa. Commw. April 10, 2014); Peoples v. Pa. PUC, Docket No. R-2012-2285985, Order (September 27, 2012). Others utilities, such as UGI Natural Gas, have increased the maximum CAP credit. See, UGI 2011-2013 USECP Final Order, Docket No. M-2010-2186052, Order at 32-33 (October 31, 2011) (UGI USECP 2011-2013). At the time of the change, Equitable increased the energy burden for CAP customers to account for the application of the LIHEAP grant to the "asked to pay" amount. See, Equitable Gas 2010-2012 USECP, Docket No. M-2009-2111130, Order at 17 (October 31, 2011) (Equitable 2010-2012 USECP Order).<sup>18</sup> National Fuel Gas integrates the LIHEAP grant into its calculation of the bill amount that the customer must pay on an annual basis, referred to as the annual bill target, to establish an affordable bill on an annual basis. National Fuel Gas

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<sup>17</sup> Under a "CAP-Plus" approach, the LIHEAP receipts for customers participating in the CAP program from the previous LIHEAP heating season are used to arrive at a "Plus" amount that is then added to the monthly CAP payment of all CAP customers. The "CAP-Plus" approach allows the Companies to address the DHS directive without over-collecting or under-collecting any dollars so that the affordability balance achieved in the prior design of the CAP program is maintained.

<sup>18</sup> At the time of the Commission's Order, the change to the DHS policy would have increased costs to non-CAP residential ratepayers by approximately \$3.8 million. Equitable USECP 2010-2012 Order at 16. In Equitable's 2010-2012 Revised Universal Service and Energy Conservation Plan, the Commission authorized Equitable to increase the energy burdens for its CAP customers to 8% for customers from 0-50% of the Federal Poverty Level (FPL), 10% for customers from 51-100% of the FPL, and to 11.5% for customers at 101-150% of the FPL. Equitable USECP 2010-2012, Docket No. M-2009-2111130, Tentative Order at 6. The minimum bill was also increased from \$25 to \$39. Id. Since the merger with Peoples Natural Gas Company, Equitable has evolved to Peoples' "CAP-Plus" approach.

Distribution Corporation USECP 2013-2015, Docket No. M-2013-2366232, Order at 6-7 (April 23, 2015)

As discussed in the attached White Paper, Pennsylvania has differed in the approach that it has taken to the integration of LIHEAP and CAP. Pennsylvania's CAPs do not limit enrollment to LIHEAP recipients as many other states do. See, Appendix B, CAP Programs Across the States. Unlike states such as New Hampshire, Maryland, Illinois and Colorado, where the ratepayer-funded bill assistance is limited to those households who have first enrolled in LIHEAP, Pennsylvania's CAPs reach beyond LIHEAP participants. Appendix A, Colton White Paper at 25. Mr. Colton identified the benefits provided to CAP customers based upon this approach to expand CAP beyond the limits of the LIHEAP recipients. Appendix A, Colton White Paper at 26-27.

The OCA submits, however, that the benefits provided to CAP customers must also be balanced by the costs to non-CAP ratepayers. As Mr. Colton discussed in the attached White Paper, Pennsylvania may want to examine in its CAP Policy Statement as to integrating LIHEAP and CAP programs. Mr. Colton identified many issues that should be reviewed in a determination regarding the integration of LIHEAP and CAP including: (1) LIHEAP auto-enrollment; (2) expedited recertification; (3) balancing non-participant burdens with LIHEAP participation; (4) impact of applying LIHEAP to asked-to-pay amounts; (5) mandatory LIHEAP participation as a CAP pre-requisite; and (6) LIHEAP crisis grant recipients targeted for CAP participation. Appendix A, Colton White Paper at 28.

### **3. CAP Cost Allocation Between Ratepayer Classes**

#### **a. Introduction**

Any analysis of the universal service cost allocation issue must begin with the Electric Choice Act and the Natural Gas Choice Act. First, in the Electric Choice Act, the General Assembly declared that universal service programs serve the public purpose and are to continued.<sup>19</sup> Section 2802(17) of the Electric Choice Act provides:

There are certain public purpose costs, including programs for low-income assistance, energy conservation and others, which have been implemented and supported by public utilities' bundled rates. The public purpose is to be promoted by continuing universal service and energy conservation policies, protections and services, and full recovery of such costs is to be permitted through a nonbypassable mechanism.

66 Pa. C.S. § 2802(17).

Sections 2804(9) of the Electric Choice Act then addresses the recovery of universal service costs. Section 2804(9) states:

The commission shall ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric distribution territory. Policies, activities and services under this paragraph shall be funded in each electric distribution territory by nonbypassable, competitively-neutral cost-recovery mechanisms that fully recover the costs of universal service and energy conservation services. The commission shall encourage the use of community-based organizations that have the necessary technical and administrative experience to be the direct providers of services or programs which reduce energy consumption or otherwise assist low-income customers to afford electric service. Programs under this paragraph shall be subject to the administrative oversight of the commission which will ensure that the programs are operated in a cost-effective manner.

66 Pa. C.S. § 2804(9). The Natural Gas Choice Act also addresses cost recovery as follows:

After notice and hearings, the commission shall establish for each natural gas distribution company an appropriate nonbypassable, competitively neutral cost-recovery mechanism which is designed to recover fully the natural gas distribution company's universal service and energy conservation costs over the life of these programs. Except as provided in paragraph (10), policies, activities

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<sup>19</sup> See, Appendix A, Colton White Paper at 11-15 regarding the public purpose.



and services under this paragraph shall be funded and spent in each natural gas distribution company's service territory. Nothing in this chapter shall be construed to prohibit public funding or voluntary funding by third parties of a natural gas distribution company's universal service and energy conservation programs.

66 Pa. C.S. § 2203(6).

The OCA submits that these sections of the Public Utility Code establish universal service programs as a public good in Pennsylvania that should be funded by all ratepayers. See, Appendix A, Colton White Paper at 11-20.

**b. The Benefits Of The Universal Service Programs Extend To All Customer Classes As Well As Society In General.**

The primary argument made against the sharing of the costs of the universal service programs among all customer classes is that only residential customers can participate in, and benefit from, the programs. Taken to its logical conclusion, even most residential customers should not pay for the programs as they, too, cannot participate in the program if their income is above 150% of the Federal Poverty Level. What the argument ignores is the public good and the broad based benefits of the universal service programs. The ratemaking treatment that should be accorded costs incurred for the public good is one of the broad-based allocation to all ratepayers. These arguments also ignore the substantial benefits to communities, businesses, the general economy, and the utility system that can arise from rate affordability programs. It must be recognized that universal service programs are programs that promote the public good.

As discussed in Mr. Colton's White Paper, the NRRI has defined "public good" as follows:

A public good can be defined as "any publicly induced or provided collective good" that "arise[s] whenever some segment of the public collectively wants and is prepared to pay for a different bundle of goods and services than the unhampered market will produce." (note omitted). In sharp contrast to the

private-good model..., the emphasis of the public-good model is on the total societal benefits – both direct and indirect – associated with network modernization [emphasis in original omitted]. As applied to the telecommunications network, the public-good model is based upon the premise that the costs of achieving and supporting a modern, state-of-the-art network infrastructure are ultimately borne by the general body of ratepayers as opposed to limited subsets of customers who exhibit a high demand for specific new services. The public-good model is conducive to establishing social policies which provide for a “supply driven definition” of infrastructure.

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Under the public-good model, infrastructure investment[s] that are in the “public interest” are mandated by regulatory commissions, which act as surrogates for marketplace forces for the very reason that those forces break down either because of the enormous risks involved, because of uncertainty with respect to costs and demand or both, or because of the intangible or unmeasurable societal benefits which are not valued by the marketplace.

Appendix A, Colton White Paper at 12-13.

i. Community Benefits

The OCA submits that, in general, the benefits that low income programs provide to an entire community are well-recognized. Programs for low-income customers improve the standards of living in a community, reduce homelessness and increase income available for consumer spending. As to utility-related universal service programs, there are also benefits to the community associated with public health and safety in that affordable home energy bills are directly correlated to costs associated with public health and safety. Mr. Colton, in his attached White Paper, explained in more detail:

Universal service programs help to control the need to provide local government services, the cost of which is largely borne by non-residential taxpayers. The connection between the loss of home energy services and housing abandonment has been documented in Pennsylvania. In addition, there is a documented connection between utility shutoffs and an increase in homelessness, with one of the primary studies being performed in Philadelphia. There is a direct connection between unaffordable home energy bills and the costs of providing public health services. There is a documented connection between unaffordable home energy bills and public safety costs. The benefits of mitigating the need to provide these

government services redound to the benefit of all taxpayers, including commercial and industrial entities.

Appendix A, Colton White Paper at 18-19 (footnotes omitted).

It is clear that in addressing the potential loss of utility service through CAPs and other universal service programs, benefits arise to the communities that the utility serves, and thereby to the taxpayers of those communities. As CAPs continue to grow in Pennsylvania beyond the initial stages, these benefits will become even more important to communities. These benefits cannot be ignored when considering cost responsibility for the program.

ii. Expansion of the CAP Programs has Increased the Benefits That Accrue to Businesses.

CAPs have expanded greatly over the past 20 years and are now serving many low-income customers beyond the originally designated “payment-troubled” customer – meaning a low-income customer who has failed to keep one or more payment arrangements. 52 Pa. Code § 69.262. As CAPs expand, BCS’s original conclusion in 1992 is even more important to consider. As BCS appropriately noted in its original CAP recommendation, “the problem of the inability of some low-income customers to pay their entire home energy bills is caused primarily by societal economic conditions that are unrelated to any one rate class.” (emphasis added).

Bureau of Consumer Services, Final Report on the Investigation of Uncollectible Balances,

Docket No. I-900002, Order at 157 (February 1992) (BCS Report). BCS continued:

Until such time as sufficient public revenues are available to address the poverty/energy problem, the costs for CAP programs should be viewed as a cost of operating as a public utility for which all ratepayers must share the costs. The Bureau does not find any logic to the argument that because the larger societal economic conditions are negatively affecting the ability of some low income residential customers to pay their bills, that the problem is somehow caused by the residential class and should therefore be paid for by that class. If the Commission, as a regulatory authority, decides that it is in the public interest to provide home energy services for necessities of life to disadvantaged ratepayers

without full payment, then the costs should be borne by all ratepayers who benefit from the companies operating as public utilities.

BCS Report at 157-158.

Moreover, there are other relationships between the offering of rate affordability programs and benefits to local commercial and industrial customers that must be considered. As to small businesses, Mr. Colton stated:

Small business fills a unique role in the Pennsylvania economy. Small business disproportionately offers employment opportunities to Pennsylvania residents who have limited employment skills. Indeed, workers in small firms earn, on average, 81.4% of the wages made by workers in comparable jobs in large firms.

There is a reciprocal relationship between small businesses in Pennsylvania and low-wage employees. On the one hand, without small business offering low-wage employment, many of the persons who are employed in such establishments would not find job opportunities. On the other hand, without the low wage employee, many of the small businesses that produce goods and services in Pennsylvania would not be able to economically survive. The small business establishments providing low wage employment would not be able to survive if they were required to pay higher wages.

Appendix A, Colton White Paper, at 17. Requiring all customer classes to help pay for universal service programs that respond to inability-to-pay resulting from the payment of low wages is simply one mechanism to have to customer classes which benefit from the universal service program pay some part of the cost of that program. The special benefits received by small businesses as a result of universal service programs should not be overlooked.

iii. Neither Ratemaking Principles Nor Other Sections of the Public Utility Code Require that the Costs of Universal Service Programs be Borne Solely by Residential Customers.

The primary ratemaking argument that has been raised in opposition to a sharing of universal service costs by all rate classes is one of cost causation. The argument is that since residential customers are the only customers that cause these costs (or benefit from the program),

only the residential customer class should pay for these costs. The cost causation argument simply proves too much. For example, if we assume that only low-income customers benefit, and we follow the rule that costs in this case should only be allocated to those who directly benefit, we are brought to the conclusion that universal service costs should be directly assigned *pro rata* to customers who participate in the universal service programs. Clearly this would be an absurd result. In addition, there is no more reason to allocate costs to non-low-income customers under this reasoning than there is to allocate them to non-residential customers. When taken to its logical conclusion, the cost causation argument would have only low-income customers support the cost of these programs since they are the only customers that can participate in the program.

iv. Conclusion

In Mr. Colton's White Paper in Appendix A, Mr. Colton discusses in detail the many benefits of universal service programs to utilities, consumers, businesses, communities and society as a whole. Appendix A, Colton White Paper at 11-20. The inherent benefits to customer classes other than the residential classes are readily apparent. The OCA submits that the costs of the universal service programs should be recovered from all ratepayers, particularly as CAPs continue to expand.

**E. CAP Program Administration**

The General Assembly in the Electric Choice Act specifically identified community-based organizations as an integral part of the operation of universal service programs. 66 Pa. C.S. § 2804(9). Section 2804(9) of the Electric Choice Act states:

The commission shall encourage the use of community-based organizations that have the necessary technical and administrative experience to be the direct providers of services or programs which reduce energy consumption or otherwise assist low-income customers to afford electric service.

66 Pa. C.S. § 2804(9). The Commission’s regulations implement this requirement and state that the Companies must identify the use of community-based organizations in their universal service plans. 52 Pa. Code § 62.4(b)(6) (regarding natural gas utilities); 52 Pa. Code § 54.74(b)(6) (regarding electric distribution utilities).

The CAP Policy Statement also provides for different operational uses of community-based organizations:

*Administration.* If feasible, the utility should include nonprofit community based organizations in the operation of the CAP. The utility should incorporate the following components into the CAP administration:

(i) *Outreach.* Outreach may be conducted by nonprofit, community-based organizations and should be targeted to low income payment troubled customers. The utility should make automatic referrals to CAP when a low-income customer calls to make payment arrangements.

(ii) *Intake and verification.* Income verification may be completed through a certification process that is satisfactory to the utility or certification through a government agency. Intake may also be conducted by those organizations and should include verification of the following:

- (A) Identification of the CAP applicant.
- (B) The annual household income.
- (C) The family size.
- (D) The ratepayer status.
- (E) The class of service—heating or nonheating.

52 Pa. Code § 69.265(6). Since the Commission’s CAP Policy Statement and the Commission’s regulations already identify a preference for the use of Community Based Organizations, the OCA submits that CAP program administration issues may be more resolvable through “best practices” rather than through further changes to the Commission regulations or through modifications to the CAP Policy Statement. Program administration issues appear, to a greater

extent, to involve “best practices” and a policy of cooperative information sharing. The OCA recommends that as it concerns CAP program administration, the utilities should increase their use of Community-Based Organizations (CBOs) in the outreach and intake initiatives for CAP.

CBOs are more likely to have staff that is specifically trained in, and skilled with, the Company processes and procedures. A review of BCS reports from various utilities shows that CAP enrollments frequently do not occur through CBOs. Moreover, there is often virtually no overlap between hardship fund recipients and customers who were also enrolled in CAP. Despite the CAP default levels, for example, few CAP participants receive hardship fund grants.

The OCA submits that it is far more likely that customers working with a CBO will be able to access the full suite of services and benefits they need. Studies have found CBOs’ connections to the communities that they serve provide a valuable resource for CAP enrollment. Research by the National Regulatory Research Institute (NRRI) found that the entire sub-population of residential customers in payment trouble rely more on trusted community organizations for advice and assistance in responding to nonpayment than on either friends/family or on the utility itself.<sup>20</sup> The OCA submits that Pennsylvania utilities should strive to take advantage of these community-based partnerships. Research undertaken for the Water Research Foundation on “hard to reach” customers also reported that local organizations repeatedly urged that enlisting community-based partners is one of the most critical steps in reaching these customers.<sup>21</sup> The OCA submits that Pennsylvania utilities should strive to take advantage of this information.

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<sup>20</sup> Where Customers Go For Help Paying Utility Bills, NRRI (April 2003). .

<sup>21</sup> See, Engaging Hard to Reach Families and Children, Australia Department of Families, Housing, Community Services and Indigenous Affairs: New South Wales, Natasha Cortis, *et al.* (2009). .

Having identified the need to more fully incorporate CBOs in CAP outreach and enrollment, the OCA nonetheless recognizes that the way to maximize the use of such CBOs is not an issue of regulations, but rather an issue of information sharing and best practices. The OCA recommends that each EDC and NGDC have a process in place to develop greater relationships between the utility and the community-based organizations in their service territory. The OCA would note that regular universal service advisory group or stakeholder group meetings are one means of encouraging these relationships.

## **F. CAP Program Reporting And Evaluation**

### **1. Cost Savings**

The OCA submits that the Commission's regulations should include a provision to require utilities to identify and report cost savings that occur when a customer enters into the CAP program.<sup>22</sup> Through the universal service surcharge mechanism, the utility is recovering the full cost of the program in the surcharge. In general, cost savings represent those expenses that have been reduced or avoided as a result of the universal service program. An example would be reductions in collection and termination costs, or reductions in working capital expenses associated with carrying either the number of accounts in arrears or the amount of arrears per account. Bad debt expenses associated with CAP participants may also be reduced. These cost savings should be reflected in the reporting and evaluation for the universal service programs.

### **2. Rate Effects Of Program Modifications**

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<sup>22</sup> Cost savings are different from the cost offsets that were identified above. Cost offsets include costs that are already in base rates, a portion of which will now be included in the automatic surcharge recovery mechanism. The most significant cost offsets that need to be accounted for are the two discussed above: (1) an offset to avoid the double recovery of uncollectible expenses and (2) an offset to avoid the double recovery of working capital expenses embedded in base rates.



The OCA submits that the Commission's CAP Policy Statement should be modified to require the Companies to include a table in each USECP showing the annual costs for each program, the total cost for the USECP, the monthly cost of the programs on a per customer basis, and the impact of any modification to the program. This idea was first proposed by Commissioner Kim Pizzigrilli regarding Dominion Peoples' Universal Service and Energy Conservation Plan for 2009-2011. Dominion Peoples Universal Service and Energy Conservation Plan for 2009-2011, Docket No. M-2008-2044646 (January 15, 2009) (Pizzigrilli Statement). Commissioner Pizzigrilli stated:

All utilities should fully document the rate effect of modifications in future universal service plans filed with the Commission. This information is essential to the Commission's ability to make an informed decision on the merits of these proposals.

Pizzigrilli Statement at 2. While the issue arose regarding the proposed elimination of CAP participation ceilings, the OCA agrees that the cost impact on other ratepayers is an important consideration that must be evaluated in any proposed plan changes.

## **G. Other CAP Issues**

### **1. CAP Shopping**

The Commission has the statutory authority and the obligation to establish program rules for CAP customer shopping that will maintain affordable service, will provide for reasonable terms and conditions, and will ensure cost-effective programs at just and reasonable rates for those paying the costs of the program. In order to achieve these objectives, specific CAP shopping principles are necessary. Balancing the desire to bring retail competition to CAP customers with providing robust consumer protection is critical. CAP customers often struggle to keep up with their utility bills. They cannot afford to have their bills increase due to shopping decisions that result in the CAP customer being charged a higher rate than the price to compare.

Other residential customers also should not have their rates increased to pay higher universal service costs associated with shopping decisions by CAP customers that increase the total monthly bill for the customer. At the same time, the OCA recognizes that CAP customers should be able to reap the potential benefits of a competitive marketplace that other Pennsylvania consumers enjoy. Therefore, the OCA recommends that consideration be given to requiring that only certain offerings be made to CAP customers specifically addressing their needs. Options such as fixed rate products that over the term would be lower than the price to compare for the same term, guaranteed percentage discounts off the price to compare, and no cancellation fees are examples of such offerings. Maintaining affordable bills for CAP customers also benefits non-CAP customers who fund the universal service programs, many of whom are low-income or just above the poverty level themselves.

Another critical component to CAP Shopping is that effective communications and consumer education must be in place to assist CAP customers with shopping. The risks and benefits of shopping need to be explained to CAP customers in the most effective method and at the appropriate times. CAP customers must be educated as to how shopping impacts their current and future bills. CAP customers must also be aware that shopping will not negatively impact other programs such as LIHEAP or home efficiency audits. CAP customers must also be educated about the fact that supplier charges are still termination-eligible.

## **2. CAP Recertification Policies**

The CAP Policy Statement provides that “[a]n annual process that reestablishes a participant’s eligibility for CAP benefits should be required.” 52 Pa. Code § 69.265(6)(viii). The OCA recommends that the CAP Policy Statement be amended to allow for the acceptance of income recertification on less than an annual basis if the CAP participant’s income is not likely

to change from year to year. The OCA also recommends that annual recertification should not be required if the customer receives a LIHEAP grant. The OCA submits that the proposed changes will allow for reasonable assurances that the customer's income has not changed during the periods between recertification, but at the same time, will reduce the administrative burden and costs necessary for recertification of the entire CAP population on an annual basis. The OCA also recommends that "best practices" be developed to address common problems experienced with recertification.

The OCA submits, however, that not all recertification issues with the CAP programs lend themselves to resolution through changes to the CAP Policy Statement. One such problem involves the extent to which utilities lose a substantial number of CAP participants through "voluntary" exits attributable to the failure to recertify. The OCA submits that many utilities have difficult recertification processes that present substantive barriers to the process of recertification. Some of the barriers raised include significant paperwork, mandatory personal appearances to recertify, unreasonably short recertification periods, and other similar requirements. Such requirements discourage rather than encourage recertification. The OCA posits that rather than attempting to comprehensively respond to the high percentage of "voluntary" exits due to a failure to recertify through changes in the CAP Policy Statement, the process of recertification should be the subject of collaborative discussions to identify best practices in recertification.

### **3. Declining CAP Customer Enrollment**

Another issue that should be addressed as part of a review of the CAP programs, but may not be subject to resolution through changes to the CAP Policy Statement, would involve the seeming drop in CAP enrollment over the past several years. This drop appears to be happening

for both electric and natural gas utilities. For example, PGW's enrollment has seen the most a decrease from 68,458 participants in 2013 to 58,282 participants in 2015. 2015 BCS Report at 42; 2014 BCS Report at 42. Met-Ed has also seen declines from 17,517 in 2013 to 14,794 participants in 2015. 2015 BCS Report at 42; 2014 BCS Report at 42.<sup>23</sup> The enrollment decrease is often attributed to stable (or, for natural gas, declining) rates. That conclusion, however, is at odds with the fact that for many (if not most) utilities, the payment outcomes for Pennsylvania's confirmed low-income population appear to have deteriorated during the same timeframe. See, Appendix A at 10. If stable or declining bills generate reduced CAP participation, it should be expected that those stable or declining bills would generate improved bill payment outcomes as well. Whatever the cause, the Commission should be concerned about declining CAP participation rates. The question of how best to respond should be considered as part of a discussion of what best practices should be pursued to identify the barriers to CAP participation and enrollment.

#### **4. LIHEAP Auto-Enrollment**

The OCA submits that one issue that should be resolved through the CAP Policy Statement involves the issue of auto-enrollment for LIHEAP recipients. Auto-enrollment of LIHEAP recipients allows a CAP customer to be enrolled in the CAP program automatically if the CAP customer has received a LIHEAP grant within the past year. The CAP Policy Statement does not address the auto-enrollment of LIHEAP recipients. The OCA submits that the CAP Policy Statement should identify whether LIHEAP recipients may be automatically

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<sup>23</sup> The OCA notes that PPL has been an exception to these declines with increases from 37,204 CAP participants in 2013 to 46,936 CAP participants in 2015. 2015 BCS Report at 42; 2014 BCS Report at 42. On the gas side, Peoples Equitable has also seen increases from 11,263 CAP participants in 2013 to 13,799 CAP participants in 2015 (with a modest decrease from the CAP enrollment in 2014 of 14,063 CAP participants). 2015 BCS Report at 42; 2014 BCS Report at 42.

enrolled in the CAP program without some affirmative action on the part of the customer, and if so, the conditions of that enrollment.

The high degree to which LIHEAP recipients do not also participate in CAP should be of concern. While the OCA has some concerns about the auto-enrollment of LIHEAP recipients (*e.g.*, whether such auto-enrollment provides sufficient education about the obligations of entering into CAP as a “payment plan” under Chapter 14), the OCA urges the Commission to articulate in the CAP Policy Statement those circumstances under which auto-enrollment of LIHEAP recipients is appropriate, what steps must go into such auto-enrollment, and what conditions apply.

### **III. HARDSHIP FUNDS**

#### **A. Introduction**

Utility Hardship Funds are an important part of the universal service programs. Hardship Funds are required components to the Company’s universal service and energy conservation plans. See, 52 Pa. Code § 62.4(b) (for natural gas distribution companies); 52 Pa. Code § 54.74(b) (for electric distribution companies). Hardship Funds are defined in the Commission’s regulations as “a fund that provides cash assistance to utility customers to help them pay their utility bills.” 52 Pa. Code § 62.2 (for natural gas distribution companies); 52 Pa. Code § 54.72 (for electric distribution companies). Beyond the definitions of Hardship Funds and the requirement that the Company operate a Hardship Fund as part of its universal service program, the Commission’s regulations and CAP Policy Statement do not provide additional details. The OCA recommends that Hardship Fund programs should be designed to educate ratepayers about the existence of and value of such Hardship Funds and to make it easier and more expeditious to contribute to Hardship Funds.

In order to support the development of the Hardship Fund programs, the OCA discusses below its recommendations regarding the Hardship Fund program design, implementation, and administration. With respect to the program design, the OCA recommends that: (1) Hardship Fund grant dollars should not be used to pay arrears that are eligible for arrearage forgiveness and (2) CAP recipients should be eligible to receive a Hardship Fund grant. With respect to program implementation, the OCA recommends that the Companies: (1) include a monthly check-off on either the paper or electronic bill for the Hardship Fund; (2) provide an easy option for employees (or retirees) to donate to the Hardship Fund; and (3) actively solicit Hardship Fund donations beyond on-bill fundraising. With respect to Hardship Fund program administration, the OCA recommends that the utility-provided funding to a Hardship Fund program be operated under the same rules and limitations whether the Hardship Fund is administered by the utility or by a third-party.

## **B. Hardship Fund Program Design**

### **1. CAP Arrears Should Not Be Subject To Arrearage Forgiveness.**

Hardship Fund grant benefits should not be denied in the event that the Hardship Grant would not be sufficient to eliminate all account arrears, including the frozen arrears for CAP participants. The OCA's reference to "frozen arrears" is a reference to those arrears that are subject to arrearage forgiveness. Such arrears are not "owed" by a customer. They do not appear in the asked-to-pay amount in a bill tendered to the customer. Indeed, given that Hardship Funds are limited, requiring a hardship fund grant to retire arrearages that are subject to forgiveness only has the impact of reducing hardship funds that would be available to other customers who have unpaid bills that are not subject to arrearage forgiveness. Frozen arrears should not be made subject to Hardship Fund grants.

**2. CAP Participants Should Be Eligible To Receive A Hardship Fund Grant.**

The definition of Hardship Funds provides that the dollars are to be used as “cash assistance to utility customers to help them pay their utility bills.” 52 Pa. Code § 62.2 (for natural gas distribution companies); 52 Pa. Code § 54.72 (for electric distribution companies) (emphasis added). The definition is broad enough to encompass both CAP participants and non-CAP participants. The OCA submits that the Hardship Fund grants should be available to CAP participants on the same basis as they might be available to any other income-eligible customer. To the extent that a CAP participant is behind on his or her CAP bills, subject to the potential disconnection of service for non-payment, that customer is in need of a Hardship Fund grant. The OCA submits that non-participation in CAP should not be a prerequisite to receiving a Hardship Fund grant.

**C. Hardship Fund Program Implementation**

While the OCA recognizes that Hardship Funds are largely supported by voluntary contributions by ratepayers, employers, and shareholders, the OCA submits that it is appropriate for the Commission to require a fundraising component in the implementation of a Hardship Fund program. The OCA recommends that the Commission’s CAP Policy Statement provide that the companies should include a monthly check-off option to the Hardship Fund. The OCA also recommends that particular attention should be paid to ensuring that those customers who pay electronically have the ability to easily contribute to the Hardship Fund. The OCA also submits that the companies should consider holding fundraising events beyond on-bill donations.

First, in order to support the development of the Hardship funds, the OCA recommends that all utilities continue the use of a monthly bill check-off through which ratepayers can make voluntary contributions to the Company’s Hardship Fund with each bill payment. Utilities

should also continue their efforts to enroll customers in regular monthly contribution programs. Once the customer commits to a regular contribution program, participation would continue until the customer asks to take the contribution off of the bill.

Second, in particular recognition of customers' increasing desire to make electronic bill payments, the OCA recommends that utilities be required to offer a check-off on any electronic bill for Hardship Fund contributions unless it is technically infeasible or substantially uneconomical.<sup>24</sup> Electronic bill formats do not always allow a customer to easily contribute to Hardship Funds, and without an easily accessible format, an important source of potential Hardship Fund contributions could be lost. The OCA submits that a Hardship Fund contribution screen, requiring a person to make an affirmative choice about whether or not to contribute, may provide a useful mechanism.

Third, the OCA submits that each utility should actively solicit Hardship Funds donations beyond on-bill fundraising. The utility should consider holding fundraising events on at least an annual basis for the Hardship Fund. For example, PECO sponsors a golf outing each year to raise funds, and Dollar Energy holds an annual telethon in collaboration with the local Pittsburgh-based sports teams. The fundraising events could serve the dual purpose of raising funds for the program, and at the same time, raising important awareness and education about the program in the community.

Finally, the OCA submits that each utility should be required to offer a mechanism through which utility employees (and retirees) can easily make Hardship Fund contributions.

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<sup>24</sup> In the on-going Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended 66 Pa. C.S. Chapter 14, Docket No. L-2015-2508421, Notice of Proposed Rulemaking, the Commission has proposed to amend Section 56.11(5) to provide "the electronic bill must include the option for the customer to contribute to the public utility's hardship fund if the public utility is able to accept hardship fund contributions by this method." The OCA supports the Commission's efforts to address this issue in its Chapter 56 rulemaking.



Utility employees (and retirees) often work closely with consumers and understand the benefits of the Hardship Fund program to its consumers.

The importance of Hardship Funds, which can often reach a broader group of customers, cannot be overstated. The OCA submits that EDCs and NGDCs should redouble their efforts to encourage ratepayer, employee, community, and shareholder contributions to these funds.

#### **D. Hardship Fund Program Administration**

Utility-provided funding to a Hardship Fund program should be operated under the same rules and limitations whether the Hardship Fund is administered by the utility or by a third-party. Utility-provided funding includes hardship funding provided by the utility, by its investors, or by customer/employee/retiree contributions. As the Commission has correctly stated:

Section 2804(9) of Title 66 encourages the use of CBOs “that have the necessary technical and administrative experience to be the direct providers of services or programs” (emphasis added). While contracted CBOs may be used to administer universal service programs, the utilities are responsible for setting eligibility requirements, establishing program parameters, and drafting a triennial USECP for Commission approval. A contracted CBO should not dictate the eligibility requirements of a utility’s universal service program.

Duquesne Light 2017-2019 USECP, Docket No. M-2016-2534323, Order at 46 (March 23, 2017); see also, PGW 2017-2020 USECP, Docket No. M-2016-2542415, Order at 61-62 (August 3, 2017).

#### **E. Hardship Fund Program Reporting And Evaluation**

The Commission’s regulations currently require the utilities to report the following categories of information: (1) ratepayer contributions; (2) special contributions; (3) utility contributions; (4) outreach contacts; and (5) Hardship Fund benefits. 52 Pa. Code § 62.5(D) (regarding natural gas distribution companies); 52 Pa. Code § 54.75 (D) (regarding electric distribution companies). Each utility, as it does today, should be required to report annually the

dollars contributed through each mechanism, along with the amount of any matching dollars provided by utility investors. The OCA offers no further comments on Hardship Fund program reporting and evaluation at this time, but the OCA reserves the right to reply to comments proffered by other stakeholders.

#### **IV. CUSTOMER ASSISTANCE AND REFERRAL EVALUATION SERVICES (CARES)**

##### **A. Introduction**

In addition to the Hardship Funds, the Customer Assistance and Referral Evaluation System (CARES) programs also play a critical function for universal service programs. The CARES program is the fourth required component of a Company's three year universal service and energy conservation plan. 52 Pa. Code § 62.4(b) (natural gas distribution companies); 52 Pa. Code § 54.74(b). The CARES programs help customers to maximize their income and resources available to pay their bills. CARES is defined in the Commission's regulations as:

A program that provides a cost-effective service that helps selected, payment-troubled customers maximize their ability to pay utility bills. A CARES program provides a casework approach to help customers secure energy assistance funds and other needed services.

52 Pa. Code § 62.2 (for natural gas distribution companies); see also, 52 Pa. Code § 54.72 (for electric distribution companies).

In considering the CARES program in its generic universal service proceeding, the Commission said that each electric distribution utility "may define eligibility for a CARES program. Generally, CARES eligibility may be targeted to special needs customers. Special needs customers include those who have experienced a family crisis such as a loss of income, divorce, disability, or major illness." Re Guidelines for Universal Service and Energy Conservation Programs, Docket No. M-00960890, 178 PUR 4<sup>th</sup> 508 (July 11, 1997). The

Companies' implementation of CARES differs widely across utilities, but pursuant to the definition of CARES, CARES should still include the three basic components of: (1) case management; (2) a network of service providers; and (3) referrals to services that provide assistance.

In order to improve the CARES programs, the OCA recommends the following modifications to the CARES program design: (1) have a dedicated staff unit specifically assigned the responsibility of addressing the customer service and bill payment needs of low-income customers and (2) implement and create an "early identification program" (EIP) of special "skills-based routing" for low-income customers. The OCA recommends that utilities should enhance their case management efforts to require each Company: (1) to identify and track the referral outcomes (in terms of payment enrollments) for case management recipients; and (2) to track the utility bill, payment and arrearage outcomes associated with the CARES case management component.

#### **B. CARES Program Design**

The OCA supports the operation of CARES programs by Pennsylvania utilities. CARES programs can play a critical function for universal service programs. The CARES programs can help to ensure that customers maximize their income and resources available to pay their bills.

BCS states that the primary purpose of CARES:

Is to provide a cost-effective service that helps payment troubled customers maximize their ability to pay utility bills. A CARES program helps address health and safety concerns relating to utility service by providing important benefits. CARES staff provides three primary services: case management; maintaining a network of service providers; and making referrals to services that provide assistance.

BCS 2004 Universal Services Report at 51. The BCS 2004 Universal Services Report further detailed the functionality of the utility CARES representative. The Report stated:

A utility CARES representative also performs the task of strengthening and maintaining a network of community organizations and government agencies that can provide services to the program clients...Finally, CARES staff conduct outreach and make referrals to programs that provide energy assistance grants. CARES staff also makes referrals to LIHEAP...hardship funds, and other agencies that provide cash as assistance.

BCS 2004 Universal Services Report at 51.

The OCA is concerned that the CARES programs have diverged from the purposes for which they were first organized (and funded). It is unclear to the OCA whether the three-part set of services of case management, maintaining a network of service providers, and making referrals to services is being provided. Follow-up information is not routinely provided or required under the Commission regulations, and in some cases, outcomes are not tracked. See, PGW 2017-2020 USECP, Docket No. M-2016-2542415, Order at 84-85 (August 3, 2017). The OCA submits that it is not clear what benefits either low-income customers are receiving or what benefits non-participant customers are receiving from these activities undertaken under the auspices of being called “CARES” services.

The OCA supports the development of CARES programs as contemplated in the BCS Report. CARES staff should be familiar with a wide variety of community assistance, federal and state programs. Further, the OCA recommends familiarity with less energy-related programs such as the Earned Income Tax Credit (EITC) that provides assistance to working poor households; the Pennsylvania Property Tax and Rent Rebate Program that is funded through the state lottery and provides a rebate of up to \$500 based on property taxes or rent paid in the prior year; and federal Food Stamp “excess shelter deduction.” The more access to resources that needy customers have, the more likely customers will have the means and resources to pay their utility bills. Such programs should also be adequately funded (and staffed) such that they have the ability to support these functions.

In this respect, the OCA recommends that the CARES program be improved. Pennsylvania utilities should have a dedicated staff unit specifically assigned the responsibility of addressing the customer service and bill payment needs of low-income customers. The dedicated staff unit should be trained as specialists in understanding and addressing the unique needs of low-income customers. These specialized staff can generate additional resources to be applied to low-income bills to the advantage of both the low-income customer base and the utility.

Utilities should also consider: (1) implementation of an “early identification program” (EIP) and (2) creation of a process of special “skills-based routing” for low-income customers. Early identification involves training all staff that comes in contact with consumers, particularly customer service representatives, to identify customers in need. It involves “hearing” indicators of financial distress on the part of the customer during normal day-to-day customer contacts. References, for example, to the need to make choices between competing needs (e.g., “I just had to get the car fixed this month,” “Maria could not go another month without seeing the dentist.”) should alert the customer service representative (CSR) to the potential that the customer has limited income and could benefit from a referral to public assistance. Customers may make references to illness, job loss, or disability, any one of which merits an appropriate referral. The customer may directly mention participation in another program (“I asked LIHEAP for assistance, but they said that they don’t pay for water bills”) or may be more oblique (“when I stopped at the Department last week...”, with “the Department” being popular parlance for the local public assistance office).

Having identified a low-income customer, the second step would be transferring that customer to the CARES staff that has received specialized training in responding to low-income

payment troubles. The specialized skill-based training would not only allow these dedicated staff to identify particular problems, but would involve knowing what assistance might be available to respond to the problem. This knowledge involves knowing the “how” and the “who” of how to access financial assistance.

In order to improve the operation of the CARES programs, the OCA recommends that each utility’s CARES program have a dedicated staff unit specifically assigned the responsibility of addressing the customer service and bill payment needs of low-income customers. The dedicated staff should have familiarity with a broad range of assistance programs and resources available in the community, including non-energy related programs. The OCA also recommends that the utilities should also consider: (1) implementation of an “early identification program” and (2) creation of a process of special “skills-based routing” for low-income customers.

### **C. CARES Program Reporting and Evaluation**

For CARES, the Commission’s regulations require that the Companies track energy assistance benefits,<sup>25</sup> direct dollars applied to CARES accounts,<sup>26</sup> and CARES benefits.<sup>27</sup> 52 Pa. Code § 62.5(C)(regarding natural gas distribution companies); 52 Pa. Code §54.75(C)(regarding electric distribution companies). These three factors are the primary components tracked for CARES reporting and evaluation, and the CARES benefits identified in the Commission’s Universal Service and Energy Conservation Services report are limited to LIHEAP dollars and

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<sup>25</sup> Energy assistance benefits are defined as “the total number and dollar amount of LIHEAP grants.” 52 Pa. Code § 62.2; 52 Pa. Code § 54.72.

<sup>26</sup> Direct dollars applied to CARES accounts are defined as “Dollars which are applied to a CARES customer’s natural gas utility account, including all sources of energy assistance applied to utility bills such as LIHEAP, hardship fund grants, and local agencies’ grants.” 52 Pa. Code § 62.2; 52 Pa. Code § 54.72.

<sup>27</sup> CARES benefits are defined as “the number of referrals and number of customers accepted into CARES.” 52 Pa. Code § 62.2; 52 Pa. Code § 54.72.

“direct dollars” received.<sup>28</sup> The OCA submits that CARES program reporting and evaluation should also include a component that addresses the outcomes provided to customers. Reporting the “outcomes” in CARES programs is necessary to understand the benefits being provided to customers. Customers are referred to external assistance programs, but utilities have no idea whether those customers actually apply for such assistance, let alone enroll in the programs to which they are referred. Moreover, utilities only track the referrals that are made. The utilities generally do not track whether those referrals actually result in any improvement in payment patterns and practices, or whether the agency was even able to assist the consumer.

The fact is that the on-going tracking of referrals, in the manner required under the Commission’s regulations, provides no particular information that can be used to assist utilities in identifying how useful the program is for their customers other than the number of LIHEAP grants received and a small number of direct dollars received. While the receipt of LIHEAP dollars is an important component to CARES, it is not the only component. What is needed is for utilities to track how often, if at all, CARES referrals result in customers enrolling in, and obtaining assistance from, all other programs to which they are referred and whether such enrollment results in improved payments.

In addition to an enhancement to the CARES program, the OCA recommends that utilities should enhance their case management efforts to require each Company: (1) to identify and track the referral outcomes (in terms of payment enrollments) for case management recipients; and (2) to track the utility bill, payment and arrearage outcomes associated with the CARES case management component.

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<sup>28</sup> Per the 2015 BCS Report, the annual CARES direct dollars received per electric utility ranged from a low of \$0 for Penn Power and Met-Ed to a high of \$202,742 for Duquesne. 2015 BCS Report at 48. For natural gas utilities, the annual CARES direct dollars received ranged from a low of \$150 for National Fuel Gas Distribution Company to a high of \$87,642 for Columbia Gas Company. 2015 BCS Report at 48.

## **V. LOW INCOME USAGE REDUCTION PROGRAM**

The OCA filed extensive Comments regarding proposed revisions to the Low Income Usage Reduction Program (LIURP) design in the Initiative to Review and Revise the Existing Low-Income Usage Reduction Program (LIURP) Regulations at 52 Pa. Code §§ 58.1-58.18 at Docket No. L-2016-2557886. The OCA does not repeat those comments here, but by this reference thereto, incorporates its initial and reply comments in that proceeding into these comments as if they were fully set forth.

## **VI. OTHER UNIVERSAL SERVICES ISSUES**

The definition of “Confirmed Low-Income” customer should also be addressed in a review of the Commission’s regulations and CAP Policy Statement. The Commission’s regulations define “confirmed low-income” as:

accounts where the NGDC has obtained information that would reasonably place the customer in a low-income designation. This information may include receipt of LIHEAP funds (Low-Income Home Energy Assistance Program), self-certification by the customer, income source or information obtained in § 56.97(b) (relating to procedures upon rate-payer or occupant contact prior to termination).

52 Pa. Code § 62.2. A similar definition applies to electric distribution companies. 52 Pa. Code § 54.74.

In recent cases, the OCA has found that utilities have defined “confirmed low-income” customer in many different ways. One utility required a low-income customer to have their income verified by a community-based organization (or LIHEAP agency) in order to be considered a confirmed low-income customer. Another only would confirm the low-income status for one year periods. Another would not accept self-declarations (*e.g.*, in payment plan negotiations) to confirm low-income status. Given that much of the LIHEAP/CAP/LIURP outreach is based on a customer’s confirmed low-income status, and that there are non-CAP



consumer protections that are based on confirmed low-income status, the OCA submits that the Commission should reaffirm and strengthen its commitment in regulations to identifying “confirmed low-income” status. In the OCA’s views, the current regulatory language (that the designation be placed on accounts “where [the Company] obtained information that would reasonably place the customer in a low-income designation”) does not allow a utility to impose restrictive procedures limiting “confirmed low-income” status. See, 52 Pa. Code § 62.2 (regarding natural gas companies); 52 Pa. Code § 54.72 (regarding electric distribution companies). What one utility deems to be “information that would reasonably place the customer in a low-income designation” can be deemed inadequate by another utility. Information regarding a customer’s low-income status may reasonably also come from a determination of eligibility for winter shutoff protections, for deposit protections, from communications with community-based organizations, or from application of other Commission consumer protections not involving a payment plan.

The purpose of the “confirmed low-income” definition is to determine the needs in the service territory and should be interpreted broadly. The OCA submits that Commission should modify its regulatory definition of “confirmed low-income” customer status to further define the types of information that utilities must accept as adequate to “reasonably place the customer in a low-income designation,” including self-declarations. Moreover, the OCA urges the Commission to modify its regulatory definition to make clear that once determined to be a “confirmed low-income customer,” the time period for which that designation applies to the customer is longer than a single year.

## VII. CONCLUSION

The Office of Consumer Advocate again commends the Commission for this initiative and thanks the Commission for this opportunity to comment. Universal service programs play a critical role in protecting the health and safety of all citizens and in ensuring affordable utility service for all customers. The OCA looks forward to working with the Commission and all stakeholders on these important issues.

Respectfully Submitted,

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# **APPENDIX A**

**THE CUSTOMER ASSISTANCE PROGRAM (“CAP”)  
AS A UNIVERSAL SERVICE PROGRAM  
IN PENNSYLVANIA**

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This paper is intended to supplement the comments of the Office of Consumer Advocate (OCA) in responding to the current Pennsylvania Public Utility Commission (PUC) inquiry into the structure and funding of Pennsylvania’s Customer Assistance Programs (CAPs) and related universal service programs.<sup>29</sup> Since 2006, when the Commission last comprehensively examined the structure of CAPs, the Pennsylvania CAP programs have matured with fundamental design issues basically resolved. Accordingly, the discussion below does not address many of the detailed design issues presented in that 2006 proceeding. In the discussion below, this White Paper will address several more fundamental questions.

### **Part 1. The Current Scope and Cost of Pennsylvania’s Customer Assistance Programs (“CAPs”).**

Pennsylvania utilities offer extensive bill affordability assistance to their low-income customer base. Since its inception, the Pennsylvania Customer Assistance Programs (“CAPs”)<sup>30</sup> have become an initiative through which utilities spend between \$350 and \$400 million each year.<sup>31</sup> According to data published in by the PUC’s Bureau of Consumer Services (“BCS”) in the annual BCS report on universal service and collections performance, between 60% and 70% of the total statewide CAP spending is by the state’s electric utilities. Data for the most recent five years for which information is available (2011 – 2015) is set forth in Table 1 below.

By far, the greatest costs incurred by Pennsylvania’s CAP programs are in the grant of “CAP Credits” toward current bills. Table 2 below shows that, both over the years and for both natural gas and electric utilities, CAP credits represent between 65% and 80% of total CAP program costs. In contrast, administrative costs for the Pennsylvania CAP programs appear to be in a very reasonable range. Only Penelec and PennPower have administrative costs exceeding 10% for electric utilities, while only NFG and PECO (Gas) have administrative costs exceeding 10% among the natural gas utilities.

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<sup>29</sup> This White Paper will briefly examine the Pennsylvania CARES programs along with utility hardship funds. It will not examine either the structure or funding of the Low-Income Usage Reduction Program (LIURP). OCA submitted comments on LIURP in response to the Commission’s inquiries about LIURP earlier in 2017.

<sup>30</sup> CAPs are known by different names for different utilities. Generically, however, whether talking about PGW’s Customer Responsibility Program (“CRP”) or PPL Utilities’ “OnTrack” program, these programs are “CAPs” pursuant to Commission regulation.

<sup>31</sup> These figures are for CAP only, not the full suite of Universal Service Programs. In 2015, Pennsylvania’s energy utilities spent \$418 million on universal service programs.

| Table 1. Total CAP Costs by Year (2011 – 2015) |      |               |               |               |               |               |
|--|------|---------------|---------------|---------------|---------------|---------------|
| Company  | Fuel | 2011          | 2012          | 2013          | 2014          | 2015          |
| Duquesne                                       | E    | \$18,565,822  | \$16,680,684  | \$16,549,705  | \$15,888,626  | \$18,984,666  |
| GPU (Met Ed 2003)                              | E    | \$28,075,091  | \$28,356,979  | \$22,984,906  | \$17,525,198  | \$15,113,962  |
| PECO-Electric                                  | E    | \$100,472,307 | \$94,760,602  | \$91,708,724  | \$94,812,522  | \$96,675,303  |
| Penelec (2003+)                                | E    | \$29,080,721  | \$30,152,302  | \$25,303,288  | \$20,236,493  | \$18,127,221  |
| Penn Power                                     | E    | \$9,863,285   | \$8,861,651   | \$6,116,965   | \$4,287,789   | \$3,970,526   |
| PPL  | E    | \$53,148,044  | \$47,106,215  | \$55,223,019  | \$72,016,857  | \$83,614,471  |
| West Penn Power (2011+)                        | E    | \$10,916,940  | \$8,495,135   | \$10,768,235  | \$13,385,035  | \$16,540,073  |
| Columbia                                       | NG   | \$18,141,003  | \$8,167,972   | \$13,272,158  | \$18,237,407  | \$18,204,869  |
| Dominion (Peoples 2009+)                       | NG   | \$7,664,959   | \$6,022,673   | \$8,227,588   | \$11,270,401  | \$12,607,004  |
| Equitable                                      | NG   | \$12,162,295  | \$6,055,041   | \$7,090,722   | \$9,988,104   | \$8,614,710   |
| NFG  | ng   | \$2,778,028   | \$1,958,376   | \$1,838,472   | \$1,934,109   | \$1,489,477   |
| PECO-Gas                                       | NG   | \$7,475,179   | \$4,555,567   | \$5,219,029   | \$5,294,959   | \$4,905,156   |
| PGW (2004+)                                    | NG   | \$96,254,993  | \$73,059,396  | \$77,281,237  | \$71,187,450  | \$56,502,542  |
| UGI-Gas  | NG   | \$3,996,287   | \$2,662,779   | \$3,176,112   | \$2,482,458   | \$4,145,889   |
| UGI--Penn Natural (2007+)                      | NG   | \$3,243,172   | \$2,782,805   | \$2,852,339   | \$2,299,074   | \$3,747,453   |
| Total Electric                                 |      | \$250,122,210 | \$234,413,568 | \$228,654,842 | \$238,152,520 | \$253,026,222 |
| Total Natural Gas                              |      | \$151,715,916 | \$105,264,609 | \$118,957,657 | \$122,693,962 | \$110,217,100 |
| Total (combined)                               |      | \$401,838,126 | \$339,678,177 | \$347,612,499 | \$360,846,482 | \$363,243,322 |

| Company                   | Fuel | CAP Credits as Percent of Total CAP Costs |       |       |      |      | Arrearage Forgiveness Credits as Percent of Total CAP Costs |      |      |      |      | Administrative Costs as Percent of Total CAP Costs |      |      |      |      |
|---------------------------|------|---|-------|-------|------|------|---|------|------|------|------|--|------|------|------|------|
|                           |      | 2011                                      | 2012  | 2013  | 2014 | 2015 | 2011  | 2012 | 2013 | 2014 | 2015 | 2011   | 2012 | 2013 | 2014 | 2015 |
| Duquesne                  | E    | 80%                                       | 77.0% | 76.0% | 77%  | 72%  | 14%   | 15%  | 17%  | 14%  | 19%  | 6%   | 7%   | 8%   | 8%   | 9%   |
| GPU (Met Ed 2003)         | E    | 80%                                       | 81.0% | 78.0% | 78%  | 78%  | 16%   | 13%  | 13%  | 13%  | 13%  | 4%   | 5%   | 10%  | 9%   | 9%   |
| PECO-Electric             | E    | 85%                                       | 85.0% | 85.0% | 84%  | 86%  | 12%   | 13%  | 12%  | 13%  | 11%  | 3%   | 3%   | 3%   | 3%   | 3%   |
| Penelec (2003+)           | E    | 80%                                       | 83.0% | 79.0% | 80%  | 80%  | 15%   | 11%  | 10%  | 10%  | 10%  | 5%   | 6%   | 11%  | 10%  | 10%  |
| Penn Power                | E    | 80%                                       | 82.0% | 78.0% | 79%  | 81%  | 17%   | 13%  | 11%  | 10%  | 9%   | 3%   | 5%   | 11%  | 11%  | 11%  |
| PPL                       | E    | 68%                                       | 59.0% | 66.0% | 69%  | 65%  | 28%   | 36%  | 30%  | 27%  | 32%  | 4%   | 5%   | 4%   | 3%   | 3%   |
| West Penn Power (2011+)   | E    | 76%                                       | 59.0% | 64.0% | 63%  | 67%  | 18%   | 34%  | 31%  | 32%  | 29%  | 6%   | 8%   | 5%   | 5%   | 4%   |
| Columbia                  | NG   | 77%                                       | 84.0% | 89.0% | 89%  | 89%  | 17%   | 1%   | 4%   | 5%   | 6%   | 6%   | 15%  | 7%   | 6%   | 6%   |
| Dominion (Peoples 2009+)  | NG   | 79%                                       | 64.0% | 68.0% | 73%  | 75%  | 10%   | 21%  | 22%  | 19%  | 16%  | 11%  | 15%  | 10%  | 9%   | 9%   |
| Equitable                 | NG   | 90%                                       | 85.0% | 87.0% | 90%  | 89%  | 4%  | 6%   | 5%   | 5%   | 7%   | 6%   | 9%   | 8%   | 5%   | 4%   |
| NFG                       | NG   | 74%                                       | 72.0% | 72.0% | 75%  | 62%  | 20%   | 19%  | 15%  | 15%  | 25%  | 6%   | 9%   | 13%  | 10%  | 13%  |
| PECO-Gas                  | NG   | 63%                                       | 73.0% | 79.0% | 77%  | 76%  | 30%   | 18%  | 13%  | 1%   | 14%  | 7%   | 9%   | 8%   | 9%   | 10%  |
| PGW (2004+)               | NG   | 88%                                       | 88.0% | 89.0% | 90%  | 86%  | 10%   | 11%  | 9%   | 8%   | 12%  | 2%   | 1%   | 2%   | 2%   | 2%   |
| UGI-Gas                   | NG   | 78%                                       | 75.0% | 70.0% | 62%  | 69%  | 16%   | 18%  | 24%  | 27%  | 23%  | 6%   | 7%   | 6%   | 11%  | 8%   |
| UGI--Penn Natural (2007+) | NG   | 72%                                       | 78%   | 68%   | 63%  | 72%  | 22%   | 16%  | 26%  | 26%  | 22%  | 6%   | 6%   | 6%   | 11%  | 7%   |



It is not merely the total program cost which is of interest, however. The program cost per non-participant should be examined as well. The annual CAP program cost per non-participant is not reported by BCS,<sup>32</sup> but can be calculated from data that is reported by BCS.<sup>33</sup> The data is presented in Table 3. With the exception of three utilities (PECO-Electric, PPL, PGW), the total program costs per non-participant are less than \$50 per year. There is no pattern in the program costs for the three high-cost utilities. With decreasing gas prices (and decreasing participation), PGW costs per non-participant have seen significant declines in recent years. In contrast, PECO program costs per non-participant have remained relatively constant, while PPL's costs per non-participant have increased.

These costs, of course, must be examined in light of the proportion of low-income customers that are enrolled in each utility's CAP. A utility may have lower non-participant costs not because of its program design, or because of its underlying standard residential rates, but rather because it simply serves a smaller percentage of eligible customers. BCS reports three figures that help us understand the extent of low-income enrollment: (1) the number of estimated low-income customers; (2) the number of confirmed low-income customers; and (3) the number of CAP participants. Table 4 below presents these figures for the most recent year for which data is available (2015). PECO (both Electric and Gas) comes the closest to serving 100% of its confirmed low-income customers.<sup>34</sup> Duquesne Light also serves 70% of its confirmed low-income customers. Neither PECO nor Duquesne, however, come close to "confirming" the low-income status of their respective numbers of "estimated" low-income customers.

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<sup>32</sup> Total Universal Service Program costs per non-participant are reported by BCS in Appendix 5 of its annual report on universal service programs and collections performance.

<sup>33</sup> The program cost per non-participant presented in Table 3 was calculated as follows. Total CAP program costs are reported by BCS. The total number of residential customers is reported by BCS. The total number of CAP participants is reported by BCS. Accordingly, the total program costs per non-participant is as follows: Total program costs / (Total Residential Customers – Total CAP participants) = Total CAP Cost per Non-participant.

<sup>34</sup> The population of "confirmed low-income" is only a subset of the total low-income population of a utility. §

Table 3. Annual CAP Cost per Nonparticipant

|                           |             | 2011  | 2012  | 2013  | 2014  | 2015  |
|---------------------------|-------------|-------|-------|-------|-------|-------|
| Duquesne                  | Electric    | \$38  | \$34  | \$34  | \$32  | \$39  |
| GPU (Met Ed 2003)         | Electric    | \$61  | \$62  | \$49  | \$37  | \$32  |
| PECO-Electric             | Electric    | \$79  | \$74  | \$72  | \$74  | \$74  |
| Penelec (2003+)           | Electric    | \$62  | \$64  | \$53  | \$42  | \$38  |
| Penn Power                | Electric    | \$76  | \$67  | \$45  | \$31  | \$29  |
| PPL                       | Electric    | \$45  | \$40  | \$47  | \$61  | \$71  |
| West Penn Power (2011+)   | Electric    | \$18  | \$14  | \$18  | \$22  | \$28  |
| Columbia                  | Natural Gas | \$52  | \$23  | \$36  | \$50  | \$50  |
| Dominion (Peoples 2009+)  | Natural Gas | \$25  | \$19  | \$27  | \$36  | \$40  |
| Equitable                 | Natural Gas | \$54  | \$26  | \$31  | \$44  | \$37  |
| NFG                       | Natural Gas | \$15  | \$10  | \$10  | \$10  | \$8   |
| PECO-Gas                  | Natural Gas | \$18  | \$11  | \$12  | \$12  | \$11  |
| PGW (2004+) <sup>35</sup> | Natural Gas | \$241 | \$181 | \$193 | \$174 | \$137 |
| UGI-Gas                   | Natural Gas | \$13  | \$9   | \$10  | \$8   | \$13  |
| UGI--Penn Natural (2007+) | Natural Gas | \$23  | \$19  | \$20  | \$16  | \$26  |

<sup>35</sup> This calculation somewhat over-stated the cost per nonparticipant for PGW. According to the most recent (2015) BCS annual report on universal service and collections performance, PGW allocates its universal service costs between customer classes as follows: residential (73.8%); commercial (21.3%); industrial (1.7%); municipal service (2.1%); and Philadelphia Housing Authority (1.1%). (2015 BCS, at page 58).

Table 4. Pennsylvania Data Presented in  
2015 BCS Annual Report on Universal Service and Collections Performance

| Company                   | Fuel | Estimated LI | Confirmed LI | CAP Participants | CAP As % of Confirmed LI |
|---------------------------|------|--------------|--------------|------------------|--------------------------|
| Duquesne                  | E    | 136,152      | 51,374       | 35,865           | 70%                      |
| GPU (Met Ed 2003)         | E    | 122,592      | 64,425       | 14,974           | 23%                      |
| PECO-Electric             | E    | 381,417      | 174,618      | 138,650          | 79%                      |
| Penelec (2003+)           | E    | 188,209      | 81,896       | 21,195           | 26%                      |
| Penn Power                | E    | 37,844       | 18,848       | 4,558            | 24%                      |
| PPL                       | E    | 325,879      | 173,806      | 46,936           | 27%                      |
| West Penn Power (2011+)   | E    | 168,625      | 58,606       | 23,159           | 40%                      |
| Columbia                  | NG   | 104,869      | 68,877       | 21,274           | 31%                      |
| Dominion (Peoples 2009+)  | NG   | 91,092       | 59,708       | 19,591           | 33%                      |
| Equitable                 | NG   | 62,658       | 44,173       | 13,799           | 31%                      |
| NFG                       | NG   | 59,002       | 27,932       | 9,167            | 33%                      |
| PECO-Gas                  | NG   | 71,995       | 31,961       | 24,454           | 77%                      |
| PGW (2004+)               | NG   | 178,899      | 161,961      | 58,282           | 36%                      |
| UGI-Gas                   | NG   | 84,809       | 38,489       | 7,962            | 21%                      |
| UGI--Penn Natural (2007+) | NG   | 48,409       | 24,956       | 6,362            | 25%                      |

CAP costs, of course, are not the only Universal Service Program costs that are paid by ratepayers. In addition to CAP, other program cost that are generally categorized as, and collected as, “universal service” costs include the costs associated with each utility’s Low-Income Usage Reduction Program (“LIURP”) and each utility’s Customer Assistance and Referral Evaluation Services (“CARES”) programs. These additional expenditures are not insubstantial. For example, in addition to its \$94.8 million in CAP costs, PECO (electric) spent \$5.6 million on LIURP in 2015; similarly, in addition to its \$72.0 million on CAP costs, PPL spent \$9.4 million on LIURP. Pennsylvania’s natural gas utilities also devote considerable resources to their LIURP programs (e.g., Columbia Gas: \$4.8 million; PGW: \$7.9 million).

The question here is not whether Pennsylvania utilities are spending an appropriate amount (or “less than” or “more than” that which is appropriate) on LIURP (or on total universal service costs). There must be an acknowledgement, however, that Pennsylvania utilities devote substantial resources not merely to CAP, but to their total suite of universal service programs.

Table 5. Total Universal Service Program Costs as Reported in  
2015 BCS Annual Report on Universal Service and Collections Performance

| Company                   | Fuel | CAP Costs    | LIURP Costs | CARES Costs | Total Universal Service Costs |
|---------------------------|------|--------------|-------------|-------------|-------------------------------|
| Duquesne                  | E    | \$15,888,626 | \$2,244,667 | \$135,000   | \$18,268,293                  |
| GPU (Met Ed 2003)         | E    | \$17,525,198 | \$4,147,534 | \$5,200     | \$21,677,932                  |
| PECO-Electric             | E    | \$94,812,522 | \$5,600,000 | \$1,456,890 | \$101,869,412                 |
| Penelec (2003+)           | E    | \$20,236,493 | \$4,565,730 | \$2,924     | \$24,805,147                  |
| Penn Power                | E    | \$4,287,789  | \$1,794,913 | \$541       | \$6,083,243                   |
| PPL                       | E    | \$72,016,857 | \$9,371,754 | \$0         | \$81,388,611                  |
| West Penn Power (2011+)   | E    | \$13,385,035 | \$4,448,225 | \$1,422     | \$17,834,682                  |
| Columbia                  | NG   | \$18,237,407 | \$4,847,387 | \$232,625   | \$23,317,419                  |
| Dominion (Peoples 2009+)  | NG   | \$11,270,401 | \$1,251,395 | \$101,173   | \$12,622,969                  |
| Equitable                 | NG   | \$9,988,104  | \$890,300   | \$104,307   | \$10,982,711                  |
| NFG                       | NG   | \$1,934,109  | \$1,002,398 | \$4,107     | \$2,940,614                   |
| PECO-Gas                  | NG   | \$5,294,959  | \$2,250,000 | \$237,168   | \$7,782,127                   |
| PGW (2004+)               | NG   | \$71,187,450 | \$7,913,908 | \$665,128   | \$79,766,486                  |
| UGI-Gas                   | NG   | \$2,482,458  | \$665,759   | \$64,281    | \$3,212,498                   |
| UGI--Penn Natural (2007+) | NG   | \$2,299,074  | \$831,817   | \$24,575    | \$3,155,466                   |

It is within the context of these costs, that the following discussion is presented. The conclusion for our purposes here does not relate to whether Pennsylvania utilities are doing an adequate job of “confirming” low-income customer status, or of enrolling those confirmed low-income customers in CAP. Our conclusion at this point is that it appears that Pennsylvania non-participating residential ratepayers do not have the capacity to provide sufficient funds to serve every low-income customer (whether that low-income customer base is based on “estimated” numbers of low-income customers or “confirmed” numbers of low-income customers without compromising affordability for the many low-income, near-poor and moderate-income customers that support (but do not participate in) these programs. It is within this context that the following discussion is presented.

## **Part 2. CAPs Should Focus on Enrolling Payment-Troubled Low-Income Customers.**

The focus of Pennsylvania’s utilities should be on enrolling their low-income payment-troubled customers in CAP. When CAP was first initiated, the Commission stated that it was “*designed to be a more cost-effective approach for dealing with issues of customer inability to pay than are traditional collection methods.*”<sup>36</sup> In noting this focus, the purpose is neither to propose a change in the eligibility for CAP nor to propose that payment-troubled be made an eligibility criterion. There is a distinct difference between setting eligibility criteria and setting targeting criteria.<sup>37</sup> The notion of “targeting” certain populations, for example, is embedded in the federal LIHEAP statute. While LIHEAP eligibility is established (nationwide) based on income (i.e., not to fall below 110% of Federal Poverty Level or above 60% of State Median Income), the LIHEAP statute provides that federal energy assistance benefits are to be *targeted* toward three populations: (1) households with young children; (2) households with disabled members; and (3) households with aging persons.

The primary concern to be addressed by CAP involves customers who cannot or do not pay their bills. This concern presents itself as both a “social problem” (in that it threatens the ability of low-income customers to retain utility service) and a “business problem” (in that it imposes additional costs on the utilities, and their ratepayers, in the form of credit and collection expenses, working capital expenses associated with carrying arrearages, and bad debt expenses).

The continuing need for CAP programs is evident from an examination of existing data on the extent to which low-income customers are not paying their bills to Pennsylvania utilities. Perhaps most disturbing is the continuing high rate at which confirmed low-income customers lose their service to disconnections for nonpayment. Table 6 below shows for 2015 (the most recent year for which data is available from BCS) the “termination rate” for confirmed low-income (“LI”) customers and for residential customers as a whole. For only one utility (Duquesne) is the low-income termination rate lower than the residential rate as a whole; the rates for Equitable are roughly equal.

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<sup>36</sup> CAP Policy Statement Order, Docket NO. M-00991232, at 1 (March 31, 1999).

<sup>37</sup> The Pennsylvania Commission has recognized this difference in the state’s LIURP programs, where program targeting and program eligibility have been found to be different.

Table 6. Pennsylvania Shutoff Rates Presented in  
2015 BCS Annual Report on Universal Service and Collections Performance

| Company                   | Residential Termination Rate | LI Termination Rate |
|---------------------------|------------------------------|---------------------|
| Duquesne                  | 3.20%                        | 2.70%               |
| GPU (Met Ed 2003)         | 5.10%                        | 20.00%              |
| PECO-Electric             | 6.00%                        | 16.20%              |
| Penelec (2003+)           | 4.30%                        | 15.80%              |
| Penn Power                | 3.50%                        | 14.60%              |
| PPL                       | 4.30%                        | 19.10%              |
| West Penn Power (2011+)   | 2.00%                        | 11.60%              |
| Columbia                  | 3.30%                        | 10.90%              |
| Dominion (Peoples 2009+)  | 2.40%                        | 3.40%               |
| Equitable                 | 1.40%                        | 1.50%               |
| NFG                       | 4.50%                        | 18.70%              |
| PECO-Gas                  | 4.80%                        | 21.30%              |
| PGW (2004+)               | 6.30%                        | 12.80%              |
| UGI-Gas                   | 2.80%                        | 18.00%              |
| UGI--Penn Natural (2007+) | 4.50%                        | 19.60%              |

Pennsylvania utilities, however, should not wait for the collection process to proceed to the termination stage before beginning to enroll low-income customers in CAP. It is the identification of payment difficulties that should trigger the CAP targeting process. The BCS data for 2015, presented in Table 7 below, shows the extent to which this nonpayment occurs in the confirmed low-income population. With some exceptions (e.g., Duquesne, PECO-Electric), the percentage of low-income customers in arrears ranges from two to three times higher than the number of residential accounts, generally, that are in arrears. Similarly, with the exception of PGW the percentage of low-income dollars in arrears are from two to three times higher than the percentage of residential dollars as a whole that are in arrears.

| Company                   | Percentage of Accounts in Arrears |                      | Percentage of Dollars in Arrears |                      |
|---------------------------|-----------------------------------|----------------------|----------------------------------|----------------------|
|                           | Residential                       | Confirmed Low-Income | Residential                      | Confirmed Low-Income |
| Duquesne                  | 10%                               | 10%                  | 4%                               | 7%                   |
| GPU (Met Ed 2003)         | 10%                               | 35%                  | 4%                               | 14%                  |
| PECO-Electric             | 7%                                | 7%                   | 2%                               | 6%                   |
| Penelec (2003+)           | 10%                               | 32%                  | 4%                               | 12%                  |
| Penn Power                | 9%                                | 34%                  | 3%                               | 16%                  |
| PPL                       | 11%                               | 40%                  | 4%                               | 17%                  |
| West Penn Power (2011+)   | 8%                                | 33%                  | 3%                               | 10%                  |
| Columbia                  | 8%                                | 20%                  | 4%                               | 13%                  |
| Dominion (Peoples 2009+)  | 8%                                | 16%                  | 3%                               | 6%                   |
| Equitable                 | 8%                                | 17%                  | 4%                               | 9%                   |
| NFG                       | 5%                                | 18%                  | 3%                               | 15%                  |
| PECO-Gas                  | 5%                                | 8%                   | 3%                               | 15%                  |
| PGW (2004+)               | 17%                               | 13%                  | 10%                              | 11%                  |
| UGI-Gas                   | 10%                               | 39%                  | 5%                               | 18%                  |
| UGI--Penn Natural (2007+) | 10%                               | 34%                  | 4%                               | 14%                  |

Based on the above data, it does not appear that Pennsylvania would be well-served to make a decision, as a matter of policy, to expand or to reduce the CAP programs offered by the state’s utilities. It would appear, however, that room for expansion exists. That expansion, however, should not simply seek to enroll “more income-eligible customers” in CAP. The expansion should focus (i.e., target) any expansion efforts toward identifying (i.e., confirming the low-income status) of all income-eligible customers and enrolling those low-income who can be identified with payment difficulties. This targeting process should broadly define payment troubles. It should *not* be limited to customers who default on a payment arrangement. It should *not* be limited to customers who face the imminent disconnection of service. It should *not* be limited to customers who miss a minimum number of payments (e.g., three out of twelve). When a confirmed low-income customer misses a monthly utility bill payment to one of Pennsylvania’s utilities, that utility should initiate a process to enroll that customer in CAP. (In addition, when a confirmed low-income customer makes a late payment, this payment difficulty can be used as the first step in an “early identification” for purposes of offering CARES services.

Retaining the income eligibility for CAP, while super-imposing a targeting provision operates the program in a manner in which they are most likely to serve both those social goals and

contribute to the business goals of the utility while maintaining affordable service for all ratepayers.<sup>38</sup>

### **Part 3. CAP Costs Should be Allocated Among All Customer Classes.**

CAP costs should be allocated among all customer classes, particularly if CAPs are operated as broader social safety net programs. Arguments that non-residential customers do not contribute to the need for CAP, nor do they benefit from CAP, are demonstrably in error.

#### **A. Universal Service is a “Public Good” the Cost of Which should be Paid by All Customer Classes.**

One well-accepted tenet of utility ratemaking is that certain expenses incurred by a public utility are for “public goods.” Due to the nature of public goods, all customers receive benefits from public goods and, accordingly, the costs of such goods are spread over all customer classes. Each end user makes a financial contribution to the utility’s delivery of public goods. The “public goods” doctrine is applied in a variety of settings as a justification to spread designated utility costs over all customer classes.

In economic theory, public goods are those products and services that are valuable to society but which are undersupplied when society relies on private markets to provide them. Because they are needed and will not be made sufficiently available through private markets, the government must supply public goods. Classic examples of public goods include streetlights, city roads, and police protection.

In addition, the “public goods” doctrine is applied in a variety of settings as a justification to spread designated utility costs over all customer classes. Fire hydrants, for example, have been found to be public goods. Subway service has been found to be a public good. The basic telecommunications network has been found to be a “public good” as a justification for spreading network costs over all customer classes.

For these purposes, the Pennsylvania PUC should adopt the definition of “public good” articulated by the National Regulatory Research Institute (NRRI) at Ohio State University. NRRI states:

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<sup>38</sup> This targeting approach also allows the program to offer bill affordability benefits to populations such as the aging, who are known to make utility bill payments while sacrificing other essential life needs such as food and medicine. This phenomenon is not hypothetical or ambiguous. It is a documented, empirically confirmed, occurrence. See, e.g., APPRISE, Inc. (November 2011). 2011 National Energy Assistance Survey: Final Report. Similar reports with similar findings were performed by APPRISE in 2003, 2005, 2008 and 2009. The surveys were undertaken for the National Energy Assistance Directors Association (“NEADA”) with Congressional funding. NEADA is the national association of state agencies that administer the federal LIHEAP program at the state level.



A public good can be defined as “any publicly induced or provided collective good” that “arise[s] whenever some segment of the public collectively wants and is prepared to pay for a different bundle of goods and services than the unhampered market will produce.” (note omitted). In sharp contrast to the private-good model. . ., the emphasis of the public-good model is on the *total* societal benefits—both direct and indirect—associated with network modernization. As applied to the telecommunications network, the public-good model is based upon the premise that the costs of achieving and supporting a modern, state-of-the-art network infrastructure are ultimately borne by the general body of ratepayers as opposed to limited subsets of customers who exhibit a high demand for specific new services. The public-good model is conducive to establishing social policies which provide for a “supply driven definition” of infrastructure.

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Under the public-good model, infrastructure investment[s] that are in the “public interest” are mandated by regulatory commissions, which act as surrogates for marketplace forces for the very reason that those forces break down either because of the enormous risks involved because of uncertainty with respect to costs and demand or both, or because of the intangible or unmeasurable society benefits which are not valued by the marketplace. (emphasis in original).<sup>39</sup>

This NRRI discussion helps guide the PUC’s consideration of universal service cost allocations in several ways.

- First, universal service is a “publicly induced or provided collective good” as described by the NRRI.
- Second, it is clear from prior Pennsylvania proceedings, that NRRI was correct in referring to such a “collective good” as one that not all ratepayers would choose to pay for. Indeed, the fact that the Pennsylvania General Assembly mandated that a universal service charge be “nonbypassable” indicates that the General Assembly understood this aspect of a “public good” and that it affirmatively decided that ratepayers could not avoid this cost by switching suppliers.
- Third, the Pennsylvania universal service programs are consistent with NRRI’s statement that the emphasis is on “the *total* societal benefits.” Indeed, these benefits include not simply the benefits to participating customers, but also, in the words of NRRI, the benefits

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<sup>39</sup> National Regulatory Research Institute (October 1991). The Public Good/Private Good Framework for Identifying POTS Objectives for the Public Switched Network, NRRI: Columbus (OH).

“both direct and indirect.” Pennsylvania’s CAP programs, as a public good, clearly fit this notion of generating not only direct social benefits, but also a wide range of indirect social benefits to all customer classes.

- Fourth, the finding that universal service is a “public good” has cost allocation implications to it. As NRRI points out, “the costs of achieving and supporting a modern, state-of-the-art network infrastructure are ultimately borne by the general body of ratepayers.” While some ratepayer groups would limit the allocation of costs only to those customers who “use” the service of a universal service program, accepting this decision is at fundamental odds with universal service being determined to be a “public good.”

Finally, the very fact that the public benefits of Pennsylvania’s universal service programs such as CAP are hard to quantify is one of the reasons that universal service should be found to be a public good with costs allocated to all ratepayers. As NRRI points out, the public good approach applies “for the very reason that those [market] forces break down. . .because of . . .the intangible or unmeasurable society benefits which are not valued by the marketplace.”

It is not merely state utility regulatory commissions, however, that recognize universal service as a “public good.” In addition to the National Regulatory Research Institute (NRRI) discussion cited above, the National Association of Attorneys General (NAAG) has reached this same conclusion:

At its spring 1998 meeting, the National Association of Attorneys General (NAAG) adopted a resolution addressing competition issues in electric utility transactions. . .NAAG endorsed the following principles: . . .(11) Any system benefit charges which are imposed to support public goods such as . . .universal service, and low-income assistance, should be applied in a competitively-neutral and non-avoidable manner.<sup>40</sup>

The Pennsylvania General Assembly declared universal service programs to be a “public good” when it stated in Section 2802(17) that the public purpose is to be promoted by continuing universal service and energy conservation policies, protections and services; and full recovery of such costs is to be permitted through a non-bypassable rate mechanism.

A product can represent a “public good” even though the direct service is provided to an individual. For example, businesses do not go to school, individuals do. Businesses do not go to doctors, individuals do. Businesses do not place their children in day care, individuals do. Despite this, in each of these instances, the direct benefits to business from the affordable provision of these “public goods” have been documented. Affordable health care and child care are all akin to affordable home energy in their nature as public goods which provide direct and

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<sup>40</sup> Ilene Gotts and Gregory Racz, “Post-Script Regarding Electric Utilities Mergers,” Practising Law Institute, Corporate Law and Practice Course Handbook Series, at 433, 434 (July 1998).

substantial benefits to business as well as individuals. Accordingly, business, as well as individuals, should be responsible for helping to pay for these public goods.

Affordable home energy can be analogized to other public goods. For example, child care is an important analogy to affordable energy because of the direct benefits it has been found to provide to business. The Committee on Economic Development<sup>41</sup> has quantified the beneficial impacts to business from reducing the causes of employee absenteeism and employee turnover associated with unaffordable child care. According to the Committee:

Many businesses also find that helping parents meet their child care needs can potentially reduce absenteeism and employee turnover. The 1990 *National Child Care Survey* (NCCS) found that 15 percent of the mothers in its sample who worked outside the home reported losing some time from work (including arriving late, leaving early, or having to take a full day off) during the previous month because of a failure in their regular child care arrangement. Studies have found that employee turnover produces disruption and inefficiency in the work environment and that the cost of replacing employees is high. For example, Merck & Co., Inc. found that it costs. . . about 75 percent of salary to replace a clerical or technical employee. It also found that it may take considerable time to fill a vacant position and an average of 12.5 months for a new employee to become adjusted to the job.<sup>42</sup>

Moreover, the increase in natural gas or electric costs from payment of universal service costs would be offset in large part by increases in employee productivity. One professor at Johns Hopkins University considered the extent to which increased minimum wages resulted in increased overall costs to business. She found a variety of offsets, reporting:

Poverty. . .produces ill-prepared workers whose lives are easily disrupted by small catastrophes. If the car breaks down, if the kid gets sick, it suddenly becomes impossible to be a reliable worker. Poverty also generates poor health among workers, making them less reliable still and raising the cost of employing them.<sup>43</sup>

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<sup>41</sup> CED is a national business-academic partnership. One objective of CED is “to unite business judgment and experience with scholarship in analyzing the issues and develop recommendations to resolve the economic problems that constantly arise in a dynamic and democratic society.” *Objectives of the Committee for Economic Development*. The Research and Policy Committee of the CED is directed under the organization’s bylaws to “initiate studies into the principles of business policy and of public policy which will foster the full contribution by industry and commerce to the attainment and maintenance” of the objectives of the organization.

<sup>42</sup> Research and Policy Committee (1993). *Why Child Care Matters: Preparing Young Children for a More Productive America, A Statement by the Research and Policy Committee of the Committee for Economic Development*, at 1, Committee for Economic Development: New York.

<sup>43</sup> Erica Schoenberger (1999). *The Living Wage in Baltimore: Impacts and Reflections*, John Hopkins University Department of Geography and Environmental Engineering: Baltimore (MD).

Paying a small increase in costs to help generate these offsetting benefits is a reasonable investment for a business to make.

This discussion has a direct relationship to the question of whether universal service costs should be allocated to all customer classes. There is a direct relationship between the offer of a universal service program such as CAP and economic benefits to local commercial and industrial customers. For example:

- Turnover costs business money. We know that unaffordable home energy bills lead to the frequent mobility of households.<sup>44</sup>
- Time missed due to family care provision costs business money. We know that unaffordable home energy leads to more frequent childhood illnesses.<sup>45</sup>
- Time missed due to lack of employee productivity and employee illness costs business money. We know that the inability to stay warm due to unaffordable home energy bills leads to increased illnesses, including pneumonia, influenza, and other infectious diseases.<sup>46</sup>

In sum, increasing employee productivity directly contributes to the increased profitability of firms. With low-wage employees, in particular, unaffordable home energy directly contributes to lowered productivity. Increased personal illness, increased employee turnover, and increased family care responsibilities are but three of the factors contributing to lower employee productivity. The provision of affordable energy through universal service programs such as CAP positively affects each of these productivity factors.

### **B. Allocating CAP Costs Among All Customer Classes Reflects the Mutual Benefits Received by Non-Residential Customer Classes.**

Allocating universal service costs among all customer classes reflects the mutual advantages that the various customer classes gain from universal service programs such as CAP. In particular, small business in Pennsylvania benefits from programs such as CAP.

Small business fills a unique role in the Pennsylvania economy. Small business disproportionately offers employment opportunities to Pennsylvania residents who have limited

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<sup>44</sup> Roger Colton. "A Road Oft Taken: Unaffordable Home Energy Bills, Forced Mobility, and Childhood Education in Missouri," 2 *Journal of Children and Poverty* 23 (1996).

<sup>45</sup> Jayanta Bhattacharya et al. (June 2002). *Heat or Eat? Cold Weather Shocks and Nutrition in Poor American Families*, National Bureau of Economic Research: Cambridge (MA).

<sup>46</sup> Apprise, Inc. (September 2005). *2005 National Energy Assistance Survey: Final Report*, National Energy Assistance Directors' Association (NEADA): Washington D.C.

employment skills. Indeed, workers in small firms earn, on average, 81.4% of the wages made by workers in comparable jobs in large firms.

There is a reciprocal relationship between small businesses in Pennsylvania and low-wage employees. On the one hand, without small business offering low-wage employment, many of the persons who are employed in such establishments would not find job opportunities. On the other hand, without the low wage employee, many of the small businesses that produce goods and services in Pennsylvania would not be able to economically survive. The small business establishments providing low wage employment would not be able to survive if they were required to pay higher wages.

Overall, small establishments account for 80.5% of employment in construction and 71.2% of employment in retail trade. This is significant because three times as many working poor families (as compared to non-poor families) are in service occupations (20.1% vs. 7.4%), while nearly one-and-a-half as many working poor (compared to non-poor) families have workers who are in the wholesale/retail trade occupations (19.2% vs. 12.3%).<sup>47</sup> Overall, the median hourly wage of primary earners in working poor families (\$7.55) is less than half the median wage of primary earners in families with incomes above 200% of poverty (\$16.67).

Low wage employment is supported by the external programs that are available to help fill the wage gap. One analysis reports, for example, that employers who pay low wages “are effectively being subsidized by taxpayers through government assistance programs (e.g., food stamps, Earned Income Tax Credit) which help many low-wage employees survive.”<sup>48</sup> According to this researcher, these businesses “indirectly rely on government assistance programs to make up the difference between these wages and what it costs their employees to live.”

Requiring all customer classes to help pay for the universal service programs which respond to the inability-to-pay resulting from the payment of low wages is simply one mechanism to have the customer classes which benefit from the universal service program pay some part of the cost of that program.

### **C. Allocating CAP Costs Among All Customers Reflects Community Benefits that Redound to the Benefit of All Customer Classes.**

As a significant contributor to economic development, low-income rate affordability programs provide substantive benefits to all customer classes. Because programs such as CAP contribute

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<sup>47</sup> Gregory Acs, Katherin Ross Phillips, and Daniel McKenzie (May 2000). *Playing by the Rules but Losing the Game: America's Working Poor*, The Urban Institute: Washington D.C. This publication can be found at the following web site: <http://www.urban.org/workingpoor/playingtherules.html>.

<sup>48</sup> Karen Kraut, Scott Klinger and Chuck Collins (2000). *Choosing the High Road: Businesses that Pay a Living Wage and Prosper*, at 14, 16, Responsible Wealth: Boston (MA).

to income within the low-income population that can be spent in the general retail economy (on items such as food and clothing), it helps drive additional job creation, income generation, and economic activity.

A study prepared for Entergy Service Corporation, a major electric utility serving the Middle South, found that a low-income rate affordability program would be a significant generator of jobs, economic activity, and income throughout the region. The report found:<sup>49</sup>

The distribution of energy assistance first creates economic activity for the Entergy states through the direct delivery of benefit dollars. In addition to the dollars of cash benefits, however, the delivery of energy assistance will also free up household dollars that would have been devoted to the costs arising from the payment and behavior consequences of energy bill unaffordability. These dollars, too, can then instead be spent (and circulated) in the local economy.

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While the discussion of the economic impacts of energy assistance looks at economic benefits on a statewide basis, in fact, the economic impacts provide particular advantage to low-income communities. Existing research indicates that low-income households tend to shop at local retail establishments. For food in particular, low-income households tend to shop at small, local food stores. Moreover, not only are low-income *households* more likely to shop locally, but the *businesses* serving low-income households are more likely to shop locally as well. It is clear, therefore, that not only will the provision of energy assistance provide income and employment to low-income households, but the earnings and employment that are delivered to such households will likely be spent, retained and recirculated within the low-income community as well.

The delivery of energy assistance in the four Entergy states accomplishes far more for those states than simply helping low-income residents avoid arrears on home energy bills and preventing the potential loss of home energy service due to nonpayment. The delivery of home energy assistance also serves as a substantial economic stimulant for the economies of the Entergy states.

Helping to address the problems of poverty is a critical element to restoring the competitiveness of Pennsylvania businesses. In its report *Back to Prosperity: A Competitive Agenda for Renewing Pennsylvania*, the Brookings Institution Center on Urban and Metropolitan Policy

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<sup>49</sup> Roger Colton (August 2003). *The Economic Impacts of Home Energy Assistance: The Entergy States*. Entergy Services Corp: Little Rock (AR).

consistently noted the need to address the factors contributing to the decline of communities, large and small, in the state. According to the report, funded by the Heinz Endowment and the William Penn Foundation, neighborhood decline “has become a contagious self-sustaining process in parts of older urban Pennsylvania.” Such decline, the report found, triggers a slide in property values, brings negative perceptions, and erodes public health and safety, all of which impede the competitiveness of the state’s business and industry. According to this analysis of the competitiveness of Pennsylvania business, and how to “restore prosperity,” “the widening social and economic gap between Pennsylvania’s older communities and their suburbs has negative implications for the overall health of its regions.”

Programs such as CAP, while obviously not a solution standing by themselves, are one *part* of the solution. In addition to addressing utility payment problems, home energy affordability programs can help address trends toward housing abandonment, reductions in educational attainment,<sup>50</sup> and adverse health outcomes for payment-troubled utility customers.<sup>51</sup>

Universal service programs help to control the need to provide local government services, the cost of which is largely borne by non-residential taxpayers. The connection between the loss of home energy services and housing abandonment has been documented in Pennsylvania. In addition, there is a documented connection between utility shutoffs and an increase in homelessness,<sup>52</sup> with one of the primary studies being performed in Philadelphia.<sup>53</sup> There is a direct connection between unaffordable home energy bills and the costs of providing public health services.<sup>54</sup> There is a documented connection between unaffordable home energy bills and public safety costs.<sup>55</sup> The benefits of mitigating the need to provide these government services redound to the benefit of all taxpayers, including commercial and industrial entities.

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<sup>50</sup> Roger Colton (1996). "The Road Oft Taken: Unaffordable Home Energy Bills, Forced Mobility And Childhood Education in Missouri," 2 *Journal on Children and Poverty* 23.

<sup>51</sup> See generally, Apprise, Inc. (September 2005). *2005 National Energy Assistance Survey: Final Report*, National Energy Assistance Directors’ Association: Washington D.C.

<sup>52</sup> National Fuel Funds Network, et al. (2003). *The Cold Facts*, at 3 (“inability to pay utilities is second only to inability to pay rent as a reason for homelessness.”)

<sup>53</sup> Institute for Public Policy Studies (Temple University). (June 1991). *An examination of the relationship between utility terminations, housing abandonment, and homelessness*, Energy Coordinating Committee: Philadelphia (PA).

<sup>54</sup> See generally, Wilkins et al (2001). *Cold Comfort: The Social and Environmental Determinants of Excess Winter Death in England 1986 – 1996*. The Policy Press: Bristol; Maheswaran et al. (2004). Socio-economic deprivation and excess winter mortality and emergency hospital admissions in South Yorkshire Coalfields Health Action Zone, UK. *Public Health* 118. 167 – 176; see also, Frank, D., Neault, N., Skalicky, A., Cook, J., Wilson, J., Levenson, S., Meyers, A., Heeren, T., Cutts, D., Casey, P., Black, M., and Berkowitz, C. (2006). Heat or Eat: Low Income Home Energy Assistance Program and Nutritional Risk Among Children Under 3 Years Old. *Pediatrics*; Frank DA, Roos N, Meyers AF, et al., Seasonal variation in weight-for-age in a pediatric emergency room. *Public Health Reports*, 1996; 111:366-371; Bhattacharya J, DeLeire T, and Currie J. Heat or eat? Cold-weather shocks and nutrition in poor American families. *Am. J. Public Health*. 2003; 93:1149-1154; Frank et al. (2006). *Unhealthy Consequences: Energy Costs and Child Health: A Child Health Impact Assessment of Energy Costs and the Low-Income Home Energy Assistance Program*, Child Health Impact Working Group: Boston Medical Center: Boston (MA).

<sup>55</sup> Canadian Housing and Rental Association (February 2005). *Affordable & Efficient: Towards a National Energy Efficiency Strategy for Low-Income Canadians*. See also, Marty Ahrens (June 2001). *The U.S. Fire Problem*

In addition to generating economic development impacts on their own accord, programs such as Pennsylvania’s CAP help contribute to the overall competitiveness of the Pennsylvania economy.

This conclusion is neither profound nor much disputed by researchers that consider the impacts of programs such as home energy affordability subsidies on private employers. One comprehensive study published in 2004 concluded:

Why the under-use of public benefits is a problem. When most people hear about the idea of marketing public benefits through employers, their initial reaction is “why would a company want to get involved with a social service program?”

In fact, employers have good reason to be concerned that large numbers of working people with low family incomes do not take advantage of the public benefits intended to help them and their families achieve economic sufficiency-- benefits that also help employers by contributing to the economic stability of their workforces. These public benefits bolster ability of low-income workers to meet their basic needs, in effect providing a wage supplement to employers.<sup>56</sup>

The conclusion that marches forward from this multitude of research is that all Pennsylvania customer classes will benefit from the proposed universal service program. Commercial and industrial customers, as well as small businesses, will gain direct benefits from the proposed program.

#### **Part 4. CAPs should be Structured as, or at Least Benchmarked Against, a Percentage of Income Program.**

Even when offered as an alternative collection device, the structure of CAPs should generally reflect a percentage of income-based approach. Even when structuring an affordability program based on percentage of income principles, benefits under such programs should be delivered on a “fixed credit” basis.

##### **A. Percentage of Income vs. Percentage of Bill Programs.**

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*Overview Report: Leading Causes and Other Patterns and Trends*, at 55, National Fire Protection Association: Quincy (MA).

<sup>56</sup> Geri Scott (2004). “Private Employers and Public Benefits,” Workforce Innovation Networks (WINS): Boston (MA) and Washington D.C. WINS is a collaboration of Jobs for the Future, the Center for Workforce Preparation of the U.S. Chamber of Commerce, and the Center for Workforce Success, The Manufacturing Institute of the National Association of Manufacturers.



An income-based percentage of bill program (also known as a “tiered rate discount”) is a program such as has been adopted by various Pennsylvania utilities as an alternative to a percentage of income program. Under this program structure, rather than directly setting bills at an affordable percentage of income such as that which is done for Pennsylvania’s “percentage of income” CAP programs,<sup>57</sup> rate discounts are set such that, at expected consumption and income levels, the effect is to achieve an affordable percentage of income burden for participating customers.

Historically, OCA’s concerns about a percentage of bill approach to affordability programs have been two-fold: (1) under such an approach, by design, some customers are under-paid (because either their consumption is higher than average or their income is lower than average), while other customers are over-paid (for the converse reasons). When under-payments occur, ratepayer money is being spent with the realization that those expenditures are insufficient to achieve the affordability results of a PIP; when over-payments occur, ratepayer money is being spent with the realization that those expenditures exceed that level needed to achieve the affordability results of a PIP. Harms would fall most heavily on those customers with the lowest incomes and the highest utility bills relative to income.<sup>58</sup> Nonetheless, both the over-payment and the under-payment of benefits are inefficient uses of ratepayer-supplied funds.

Recognizing that PECO has agreed to convert its CAP to a percentage of income program, understanding the pre-PIP PECO effort demonstrates some of the problems with the percentage of bill approach. Under PECO’s CAP rate structure, both the Company and OCA attempted to address these two concerns. On the one hand, PECO agreed to expand the number of its CAP Rate tiers to six. The more tiers that exist, the more precisely tuned each tier is to minimizing both under-payments and over-payments. On the other hand, under the CAP Rate structure, discounts were to be determined such that 90% of all customers in each rate tier would achieve an “affordable” burden (as defined by the Pennsylvania Public Utility Commission) (“PUC”). To achieve that end, increasing discounts are provided as incomes decrease.<sup>59</sup> Discounts also vary by whether a customer is a heating or non-heating account.

These two efforts did not appear to have achieved their sought-after results. The PECO Universal Service Evaluation (October 2012) (hereafter, “Apprise”) reported that, despite the

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<sup>57</sup> OCA acknowledges that there are deviations from a strict adherence to percentage of income principles in some CAP programs. Minimum payments deviate from a strict adherence to an affordable percentage of income. CAP credit ceilings deviate from a strict adherence. Setting payments equal to a percentage of income burden or the average payment actually made in the preceding year may deviate from strict adherence. Nonetheless, even in these programs, the foundation of the program is grounded in individualized affordability assessments.

<sup>58</sup> This differs from simply the highest bills. The highest bills relative to income refers to customers with the highest bills as a percentage of income (i.e., bill burdens). Moderate level bills, combined with very low incomes can result in high bill burdens.

<sup>59</sup> Tier A is a special discount offering for customers evidence “extenuating circumstances” and is set aside for purposes of these comments.

90% “rule” that was presumably adopted to govern the establishment of CAP Rate discount levels, 30% of CAP Rate participants did not achieve a home energy burden within the affordability guidelines prescribed by the PUC. (Apprise, at 99). While the proportion of CAP Rate customers achieving a burden within the PUC guidelines improved under the new PECO CAP Rate structure, the improvement was slight (from 44% falling outside PUC guidelines to 30% falling outside PUC guidelines). (Apprise, at 99).

The PECO universal service evaluation also reinforced OCA’s concerns about the mis-targeting of CAP Rate benefits. It was not merely the fact that 30% of CAP Rate participants did not achieve an affordable home energy burden that concerned OCA, it was the fact that only 17% of CAP Rate participants fell within the PUC guidelines. (Apprise, at 100). The remaining 53% of CAP Rate participants received a discount giving them a home energy burden *less* than the PUC guidelines (i.e., over-paid benefits relative to what was needed to achieve affordability). (Apprise, at 100).

The mis-match of CAP Rate benefits<sup>60</sup> was not income neutral. The PECO universal service evaluation reported that as incomes declined, CAP Rate participants were more likely to be billed a home energy burden that exceeds the affordability guidelines set by the PUC. More than eight-of-ten of the lowest income CAP Rate participants (Tier B: <25% of Federal Poverty Level) did not receive enough discount to achieve rate affordability; more than seven-of-ten of the higher income CAP Rate participants (Tiers E and E1: 101% - 150%)<sup>61</sup> received discounts more than sufficient to achieve rate affordability. The precision of the targeting of CAP Rate discounts was lowest at both the highest and lowest income levels, when precision is measured by the extent to which the benefits brought the bills of CAP Rate participants within the PUC’s target range of affordability. The mis-targeting occurred by paying customers in the highest income ranges “too much” and paying customers in the lowest income ranges “too little.”

| 2011 Full-Year CAP Participants by CAP Tier (excluding Tier A) |              |              |                     |              |
|--|--------------|--------------|---------------------|--------------|
| Energy Burden Relative to PUC Target                           |              |              |                     |              |
| CAP Rate Tier  | Observations | Below Target | Within Target Range | Above Target |
| B (<25%)   | 1,504        | 5%           | 11%                 | 84%          |
| C (25 – 50%)   | 3,171        | 16%          | 34%                 | 50%          |
| D (51 – 75%)   | 11,211       | 41%          | 22%                 | 36%          |
| D1 (76 – 100%)   | 15,415       | 50%          | 23%                 | 27%          |
| E (101 – 125%)   | 10,648       | 71%          | 7%                  | 22%          |
| E1 (126 – 150%)  | 7,891        | 76%          | 6%                  | 17%          |

<sup>60</sup> The term “mismatch” is used to incorporate the presence of both under-payments and over-payments.

<sup>61</sup> “Higher income” denotes that customers fell within the two highest ranges of CAP participants. All CAP Rate participants are “low-income” in an objective sense (with incomes at or below 150% of Federal Poverty Level).

In sum, for the CAP Rate population as a whole, the PECO CAP Rate evaluation reports that for 83% of the CAP Rate participants, the CAP Rate did not achieve what the program was designed to achieve, to reduce bills to an affordable (and thus payable) level. The 83% includes both those customers who were paid “too much” (53%) and those customers who were paid “too little” (30%).

The advantage of the percentage of bill approach appears to be two-fold. First, it is easily tariffed.<sup>62</sup> A customer falling into Tier 1 is placed on Rate ERS-1,<sup>63</sup> which happens to be priced at 12% of the standard residential rate (88% discount). A customer falling into Tier 4 is placed on Rate ERS-4, which happens to be priced at 87% of the standard residential rate (13% discount). Other than taking service under a different tariff, the program participants are otherwise treated the same as a customer on the standard residential tariff. This administrative simplicity, however, comes with somewhat of a cost. The cost is that most customers do not receive bill affordability benefits tailored to their individual needs. Most customers are paid either “too little” or “too much.”

When customers are not paid the amount needed to make their bills affordable, the objective of the bill affordability program, to represent a cost-effective alternative to existing collection processes, is more difficult to achieve. When customers are paid too little, money is being spent without an expectation that such expenditure will generate improved collection outcomes. When customers are paid too much, money is being spent beyond that needed to generate improved collection outcomes.

As a general rule, Pennsylvania utility bill affordability programs should be operated as percentage of income programs.

### **B. The Need for Flexibility in Program Design.**

While a percentage of income approach appears to be the better alternative, particularly when viewed in light of a percentage of bill program, a percentage of income program design cannot be seen as the exclusive mechanism by which to effectively deliver bill affordability benefits to low-income Pennsylvania customers.

The percentage of income design recommendation above is not made in derogation of utilities such as Columbia Gas, that offer program options based on the average payment made in the

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<sup>62</sup> In this respect, it is no different from having separate rates for residential heating and residential non-heating service.

<sup>63</sup> There is no significance to the name I have given this tariff.

twelve months prior to entering the program. Those programs, which may or may not correspond to the Commission’s affordability guidelines<sup>64</sup>, nonetheless appear to generate positive payment outcomes. Without having undertaken an empirical inquiry to confirm, it is possible that these “average of prior payment” options work best when programs are not limited to customers who are in arrears prior to entering the program. They are, in fact, designed to ensure that customers who are income-eligible for CAP, but still making their payments, might gain the advantages of CAP (e.g., arrearage forgiveness) while not reducing their payments beyond those which they have historically been making.

To the extent that utilities offer CAP program designs that diverge from a percentage of income approach, the utilities should be required to demonstrate one of two things to the Commission: (1) that a percentage of income option is available as an alternative to the option not specifically based on affordable bill burdens as prescribed by the Commission; or (2) that the option that is offered by the utility nonetheless delivers affordable bills consistent with the affordable burdens prescribed by the Commission. To the extent that such options do not deliver affordable bills consistent with the Commission’s percentage of income ranges (or offer a percentage of income alternative), the program should be modified.

### C. The Advantages of a “Fixed Credit” Percentage of Income Program.

Although a variety of percentage-of-income based approaches exist, delivery of rate affordability assistance using a fixed credit approach is most appropriate for Pennsylvania with retail choice. The fixed credit approach begins as an income-based approach. In order to be eligible for the rate, a household must meet *both* eligibility criteria: (1) that the household income is at or below the maximum income eligibility set for the program; and (2) that the household energy burden exceeds the burden deemed to be affordable.<sup>65</sup>

The fixed credit approach next calculates what bill credit would need to be provided to the household in order to reduce the household’s energy bill to a designated percent of income. To calculate the fixed credit involves three steps: (1) calculating a burden-based payment; (2) calculating an annual bill; and (3) calculating the fixed credit necessary to reduce the annual bill to the burden-based payment. Each step is explained below.

1. **Burden-based payment:** The first step in the fixed credit model is to calculate a burden-based payment. Assume -- simply for the sake of illustration here -- that the household has an annual income of \$6,500 and is required to pay five percent (5%)

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<sup>64</sup> It is noted, also, that Columbia Gas *does* offer a percentage of income alternative to the average bill payment option.

<sup>65</sup> A customer may still participate in the arrearage management program component even if he or she does not participate in the rate affordability component.

for its home energy bill.<sup>66</sup> The required household payment is thus \$325. This is determined as follows:  $\$6,500 \times 5\% = \$325$ .

2. **Projected annual bill:** The second step is to calculate a projected annual household energy bill. This calculation is to be made using whatever method the local utility *currently* uses to estimate annual bills for other purposes. A utility, for example, will likely have an established procedure for estimating an annual bill for purposes of placing residential customers (low-income or not) on a levelized Budget Billing Plan (where bills are paid in equal installments over 12 months). That same process can be used to estimate an annual bill for purposes of calculating the needed fixed credit.
3. **Fixed credit determination:** The final step is to calculate the necessary fixed credit to bring the annual bill down to the burden-based payment. Given an annual bill projection of \$1,200 and a burden-based payment of \$325, the annual fixed credit would need to be \$875 ( $\$1,200 - \$325 = \$875$ ). The household's *monthly* fixed credit would be \$73 ( $\$875 / 12 = \$73$ ). To the extent that the customer's combination of income and usage would result in a fixed credit exceeding the maximum CAP credit, that maximum would be recognized up-front and applied at this step in the process.

In addition to various administrative benefits from the use of a fixed credit, the fixed credit also offers the advantage of providing a strong conservation incentive to the low-income customer. Under the fixed credit model, the local utility provides a \$60 fixed credit to the low-income household irrespective of the household's actual bill. If the household increases its consumption, and thus has a higher bill, the household pays the amount of the increase. If, in contrast, the household conserves energy and thus lowers its bill, the household pockets the savings. The fixed credit is also portable for retail choice purposes.

The administrative advantages of the fixed credit program are two-fold. First, use of fixed credits as a benefit distribution mechanism allows the program to work within a fixed operating budget. Once a low-income customer is enrolled in the universal service program, the maximum possible financial exposure for the time of the enrollment is established. At no time, can the maximum financial exposure exceed the budgeted program revenues. Systems can be easily designed to track funds that are obligated and expended to ensure that the budget is not exceeded. In contrast, benefit expenditures through either a straight percentage of income program or a percentage of bill program may vary based upon changes in consumption.

In addition to this budgeting advantage, the fixed credit approach makes the billing less complicated as well. Using the same process that currently exists to establish a levelized budget-

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<sup>66</sup> Five percent is the maximum allowed burden for 0 – 50% of Poverty (for a non-heating customer), in which Poverty Level range a person with an income of \$6,500 would fall.

billing plan, fixed credits can be subtracted from a customer's levelized annual bill. The monthly bill is then rendered based upon this one-time annual adjustment. The utility does not need to make monthly billing adjustments as is the case with either the straight percentage of income, or with the percentage of bill, approach.

In sum, the Fixed Credit Option (“FCO”) is a more recent iteration of the “straight PIPP” that has been adopted in states such as Colorado (and, most recently [February 2015], by PECO Energy Company). Through the FCO, it is the bill credit rather than the customer payment that remains fixed on a monthly basis. Pursuant to an FCO program, if a customer’s consumption increases, the customer bears the responsibility for paying the increased usage. In contrast, if the program participant’s consumption decreases, the customer keeps the benefit from the reduced bill.

### **Part 5. The Integration of LIHEAP and CAP.**

Pennsylvania has never fully resolved a number of issues that flow from the integration of CAP with the federal fuel assistance (LIHEAP) program. Decisions regarding the integration of LIHEAP with CAP have been made on a case-by-case, utility-by-utility basis. General principles have not been articulated for application to all utilities. The process of addressing LIHEAP is made more difficult in Pennsylvania because CAP enrollment is not tied directly to enrollment in LIHEAP. Unlike states such as New Hampshire, Maryland, Illinois and Colorado, where the ratepayer-funded bill assistance is limited to those households who have first enrolled in LIHEAP, Pennsylvania’s CAPs reach beyond LIHEAP.<sup>67</sup>

As a general rule, this extension of CAP beyond LIHEAP enrollment has served to benefit Pennsylvania’s low-income customer population. Table 8 below presents a comparison of the number of CAP participants to the number of LIHEAP recipients for each utility. For virtually all Pennsylvania utilities (excepting Dominion/Peoples, NFG, UGI-Gas, and UGI-PNG), the number of CAP recipients exceeds, sometimes substantially, the number of low-income customers who are LIHEAP recipients.

Any comparison of these two sets of numbers, of course, should be undertaken with care. From various USECP proceedings, it is clear that there is not a 100% overlap between CAP participation and LIHEAP participation. Simply to use Duquesne Light as an illustration, just because there are 35,865 CAP participants and 8,126 LIHEAP recipients does not mean that all 8,126 LIHEAP recipients are *also* enrolled in CAP. We know that there are households receiving LIHEAP who do not also enroll in CAP (and vice versa).

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<sup>67</sup> In those states where the ratepayer funded bill affordability is limited exclusively to LIHEAP recipients, the federal LIHEAP program allows the LIHEAP benefit to be an offset to the costs of the bill affordability program rather than being applied only to the asked-to-pay amount after the bill affordability assistance is provided.

**Table 8. LIHEAP Recipients and CAP Participants**  
(as reported in 2015 BCS Annual Report on Universal Service and Collections Performance)

|                           | CAP Participants | LIHEAP Recipients |
|---------------------------|------------------|-------------------|
| Duquesne                  | 35,865           | 8,126             |
| GPU (Met Ed 2003)         | 14,974           | 8,525             |
| PECO-Electric             | 138,650          | 40,288            |
| Penelec (2003+)           | 21,195           | 9,859             |
| Penn Power                | 4,558            | 2,525             |
| PPL                       | 46,936           | 36,262            |
| West Penn Power (2011+)   | 23,159           | 11,859            |
|                           |                  |                   |
| Columbia                  | 21,274           | 22,000            |
| Dominion (Peoples 2009+)  | 19,591           | 21,488            |
| Equitable                 | 13,799           | 13,481            |
| NFG                       | 9,167            | 19,204            |
| PECO-Gas                  | 24,454           | 6,558             |
| PGW (2004+)               | 58,282           | 59,810            |
| UGI-Gas                   | 7,962            | 14,141            |
| UGI--Penn Natural (2007+) | 6,362            | 11,667            |

By not limiting CAP participation to the LIHEAP recipient population, however, and I do not suggest that this occur, several issues present themselves:

- **Auto-enrollment:** Seeking to auto-enroll LIHEAP recipients into CAP would be beyond OCA’s recommendation that CAP enrollment focus on (i.e., be targeted to) payment-troubled customers. However, the discussion should not end with that observation. The next question would be whether, once a customer is identified as being one that a utility seeks to enroll in CAP, whether enrollment in LIHEAP should be sufficient, unto itself, to qualify the customer for certain CAP benefits. Using LIHEAP enrollment as a sufficient verification for minimum CAP benefits would be reasonable. Allowing a customer to use LIHEAP enrollment, for example, to be placed on a budget billing plan the payment of which would qualify the customer for arrearage forgiveness would not only be consistent with, but would affirmatively advance CAP as a response to nonpayment.
  
- **Expedited recertification:** A related question to the interrelationship between CAP and LIHEAP in the enrollment process involves whether enrollment in LIHEAP in the same year as a CAP participant is required by CAP procedures to recertify should allow a continued CAP participation on the existing terms and conditions (i.e., at the same

percentage of income burdens). The procedures established by some Pennsylvania utilities to allow LIHEAP enrollment to stand in lieu of a recertification for one year appear to be a good balancing of ensuring appropriate CAP benefits with minimizing administrative burdens (from both the customer's and the utility's perspective). Moreover, allowing such integration of LIHEAP enrollment with the recertification process would address one of the primary causes of declining CAP participation (i.e., "voluntary" exits due to a failure to recertify). Permitting LIHEAP enrollment to stand in lieu of a separate CAP recertification for one year would be a beneficial program design component to the CAP Policy Statement.

- **Balancing non-participant burdens with LIHEAP participation:** The decision by the Pennsylvania Department of Human Services ("DHS") that LIHEAP grants must be directed toward a CAP participant's asked-to-pay amount, rather than being used to offset the ratepayer-funded CAP Credit, raised the question several years ago of how Pennsylvania utilities might best balance the receipt of government funding against the obligation to provide ratepayer funding. Some utilities adopted CAP-Plus programs. Other utilities pursued this balancing in other ways. Given the pending comprehensive review of Universal Service Programs, the Commission may wish to consider whether to address the means of incorporating this DHS policy into the CAP Policy Statement, or whether the case-by-case determinations that have been made to date have adequately and appropriately addressed the issue.
- **Applying LIHEAP to asked-to-pay amounts:** A case-by-case determination has been made by Pennsylvania utilities that such utilities, consistent with the requirements of LIHEAP, will apply LIHEAP benefits against asked-to-pay amounts. The payment posting hierarchy for LIHEAP benefits should be incorporated into the CAP Policy Statement. That payment posting process would include: (1) past-due CAP payments (including arrearage forgiveness copayments, if any) are paid first; (2) current CAP payments (including arrearage forgiveness copayments if any) are paid next; (3) remaining LIHEAP balances are to be reflected as a bill credit to be applied against future CAP bills.
- **Mandatory LIHEAP participation as CAP pre-requisite:** Table 8 above indicates the extent to which requiring a CAP participant to apply for LIHEAP, and then to designate the utility as the recipient of that LIHEAP benefit, as a prerequisite to CAP participation would limit CAP participation. As noted above, almost every utility has CAP participation that exceeds LIHEAP participation. Moreover, LIHEAP is a federal block grant program. As a block grant program, the Commonwealth of Pennsylvania receives a sum-certain allocation of federal dollars each year. When those federal dollars are exhausted, Pennsylvania must cease distributing LIHEAP benefits (and enrolling



LIHEAP participants). Increasing LIHEAP participation does not increase the amount of LIHEAP funding available to the Commonwealth. Moreover, LIHEAP is fundamentally a heating season program. Households receiving LIHEAP enroll during cold weather months. No reason exists, however, to limit CAP enrollment to those same cold weather months. The CAP Policy Statement should reflect that while LIHEAP enrollment is encouraged, and utilities should even seek to facilitate such enrollment, it is not reasonable to establish LIHEAP enrollment as a prerequisite to CAP enrollment.

- **LIHEAP Crisis grants:** There is, at times, a tendency to think of “LIHEAP” as only the “basic cash grant” component of the federal fuel assistance program. The LIHEAP *crisis* component, however, also provides significant dollars of benefits to low-income Pennsylvania utility customers. Consistent with the recommendation above that CAP enrollment be targeted to payment-troubled customers, customers who receive LIHEAP crisis grants should, in particular, be targeted for CAP enrollment. Such enrollment should be pursued in collaboration with public and private organizations who take LIHEAP crisis grant applications. Allowing those crisis service providers to simultaneously income certify and enroll crisis recipients into CAP would be a beneficial expansion of the CAP program.

In sum, Pennsylvania differs sharply from many other states that provide bill affordability assistance. In those other states, the bill affordability recipient population and the LIHEAP recipient population are coterminous. In Pennsylvania, the two populations are not the same. Because Pennsylvania extends its bill affordability (i.e., CAP) beyond LIHEAP recipients, certain issues involving LIHEAP should be affirmatively addressed and resolved.

# **APPENDIX B**

## CAP<sup>i</sup> PROGRAMS ACROSS THE STATES

| State | Funding Mechanism   | All Customer Classes Contribute | Only Residential Class Contributes | Other Source of Funds | Total Assistance Provided (In Millions) <sup>ii</sup> | Limited to LIHEAP recipients?       | Source          |
|-------|---|---------------------------------|------------------------------------|-----------------------|---|-------------------------------------|-----------------|
| CA    | Surcharge, which shall not be borne by any single class of customer.  |                                 |                                    | <b>X</b>              | \$1,176   | No                                  | <sup>iii</sup>  |
| PA    | Surcharge to all Residential customers (with the exception of PGW)  |                                 | <b>X</b>                           |                       | \$360   | No                                  | <sup>iv</sup>   |
| OH    | Rider on retail electric distribution customers and all natural gas customers                                 | <b>X</b>                        |                                    |                       | \$332   | No                                  | <sup>v</sup>    |
| NJ    | Surcharge to all Electric and Gas customers   | <b>X</b>                        |                                    |                       | \$234   | Some Fund programs are some are not | <sup>vi</sup>   |
| IL    | Each utility pays a flat amount into the fund (\$10 million), which is not recoverable in rates               | <b>X</b>                        |                                    |                       | \$72.7  | Yes                                 | <sup>vii</sup>  |
| MA    | Surcharge to all distribution customers   | <b>X</b>                        |                                    |                       | \$123.9   | No                                  | <sup>viii</sup> |
| MI    | Savings from securitization financing, <sup>ix</sup> and from distribution surcharges to all customer classes | <b>X</b>                        |                                    |                       | \$50  | No                                  | <sup>x</sup>    |
| MD    | Surcharge to all customer classes   | <b>X</b>                        |                                    |                       | \$62.3  | No                                  | <sup>xi</sup>   |

| State | Funding Mechanism  | All Customer Classes Contribute | Only Residential Class Contributes | Other Source of Funds | Total Assistance Provided (In Millions) <sup>xii</sup> | Limited to LIHEAP recipients?   | Source           |
|-------|--|---------------------------------|------------------------------------|-----------------------|--|---|------------------|
| WI    | Surcharge on all electric bills, split 70% residential/30% commercial and industrial   | <b>X</b>                        |                                    |                       | \$43.2   | Many utilities require their low-income participants to verify their income eligibility through LIHEAP. | <sup>xiii</sup>  |
| GA    | Several specific sources for the Universal Service Fund mentioned in 46-4-161(c), such as a surcharge on interruptible service customers.                      |                                 |                                    | <b>X</b>              | \$23.4   | No, but customer placed in a group based on LIHEAP  | <sup>xiv</sup>   |
| NY    | Individual utilities' rate discount plans are recovered through base rates and administered by utilities   | <b>X</b>                        |                                    |                       | \$136  | No, but receive automatic enrollment  | <sup>xv</sup>    |
| WA    | Surcharge on "other" customer classes. (does not have to be all classes contributing just cannot recover from low income, participating customers)             |                                 |                                    | <b>X</b>              | \$44.5   | No, if you receive LIHEAP you may not receive LIRAP. "Either/ Or" basis                                 | <sup>xvi</sup>   |
| CT    | The normal rate-making procedures of the department  | <b>X</b>                        |                                    |                       | \$26.3   |   | <sup>xvii</sup>  |
| OR    | Surcharge to all retail customers.   | <b>X</b>                        |                                    |                       | \$20   | No  | <sup>xviii</sup> |
| AZ    | System Benefits Charge collected as a surcharge to all customers; other costs collected through base rates. Utilities create and administer their own programs | <b>X</b>                        |                                    |                       | \$51.5   |   | <sup>xix</sup>   |

| State | Funding Mechanism   | All Customer Classes Contribute | Only Residential Class Contributes | Other Source of Funds | Total Assistance Provided (In Millions) <sup>xx</sup> | Limited to LIHEAP recipients?   | Source |
|-------|---|---------------------------------|------------------------------------|-----------------------|---|---|--------|
| NH    | All Electric Distribution customers pay a surcharge   | <b>X</b>                        |                                    |                       | \$15.2  |   | xxi    |
| ME    | All transmission and distribution utilities in rates to all customers                             | <b>X</b>                        |                                    |                       | \$8.1   |   | xxii   |
| RI    | Surcharge on all electric distribution customers  | <b>X</b>                        |                                    |                       | \$9.8   | YES For LIHEAP Enhancement Plan   | xxiii  |
| MN    | Included in utility's base rate   | <b>X</b>                        |                                    |                       | \$29.5  | YES   | xxiv   |
| MT    | Electric and Gas Utility sales revenues to begin fund, then the commission shall establish rates. |                                 |                                    | <b>X</b>              | \$4.7   | YES, most utilities require LIHEAP eligibility                            | xxv    |
| NV    | Surcharge to residential and commercial customers   | <b>X</b>                        |                                    |                       | \$14.8  |   | xxvi   |
| DC    | RAD surcharge to all non-participating customers.   | <b>X</b>                        |                                    |                       | \$7.1   |   | xxvii  |
| AL    | Surcharge to all Residential customers  |                                 | <b>X</b>                           |                       | \$1.7   | Limited to SSI and Medicaid recipients                                    | xxviii |
| UT    | Rider applied to all electric customers   | <b>X</b>                        |                                    |                       | \$5.3   |   | xxix   |
| KY    | Surcharge to all Residential customers  |                                 | <b>X</b>                           |                       | \$2.9   |   | xxx    |
| IN    | Rider charged to all natural gas customers  | <b>X</b>                        |                                    |                       | \$7.2   | Yes however, some utilities offer crisis program for non-LIHEAP customers | xxxi   |

| State | Funding Mechanism              | All Customer Classes Contribute | Only Residential Class Contributes | Other Source of Funds | Total Assistance Provided (In Millions) <sup>xxxii</sup> | Limited to LIHEAP recipients? | Source |
|-------|--------------------------------|---------------------------------|------------------------------------|-----------------------|--|-------------------------------|--------|
| OK    |                                |                                 |                                    |                       | \$12   |                               | xxxiii |
| CO    | Rider charged to all customers | <b>X</b>                        |                                    |                       | \$10.6   | Yes                           | xxxiv  |
| DE    | Rider charged to all customers | <b>X</b>                        |                                    |                       | \$0.4  | Yes                           | xxxv   |
| VT    | Rider charged to all customers | <b>X</b>                        |                                    |                       | \$2.1  | No                            | xxxvi  |

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<sup>i</sup> Where the term “CAP” is used it means Customer Assistance Programs that provide rate assistance to needy households by recovering less than the stated rates for utility service from those in the program, and then recovering the shortfall directly through increased rates charged to other ratepayers. There are a few additional states that provide limited funding for low-income rate assistance, but are not included in this Table, such as Oklahoma, Louisiana and Mississippi. The OCA was unable to definitively identify the source of funding for these limited programs (about \$3 million combined) so these states were not included.

<sup>ii</sup> This information is drawn from the most recent LIHEAP Clearinghouse, State Supplement chart, available at <https://liheapch.acf.hhs.gov/Supplements/2014/supplement14.htm> The totals were arrived at by using the column labeled “Rate Assistance,” and then rounding off.

<sup>iii</sup> All customers pay a surcharge called the “Public Purpose Program Charge” that funds Demand Side Management programs and low-income customer assistance programs. See Ca. Pub. Util. Code §739.1-739.2, CA PUC Lexis 420, at \*72-77 (2005); California Electric and Gas Utility Cost Report, available on the California Public Utilities Commission website at (page 32) [http://www.cpuc.ca.gov/uploadedfiles/cpucwebsite/content/about\\_us/organization/divisions/office\\_of\\_governmental\\_affairs/legislation/2017/ab67\\_leg\\_report\\_pdf\\_final\\_5-5-17.pdf](http://www.cpuc.ca.gov/uploadedfiles/cpucwebsite/content/about_us/organization/divisions/office_of_governmental_affairs/legislation/2017/ab67_leg_report_pdf_final_5-5-17.pdf)

<sup>iv</sup> As the Commission stated in its Request for Comments, the vast majority of CAP costs are recovered from the residential class. See PENNSYLVANIA RATEPAYER FUNDED PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/pasnapshot.htm>

<sup>v</sup> See OHIO REV. CODE ANN. §4928.52 (2000); STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Ohio available at <https://liheapch.acf.hhs.gov/dereg/states/ohio.htm>

<sup>vi</sup> See N.J. Stat. Ann. § 48:3-60 (2005); STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, New Jersey available at <https://liheapch.acf.hhs.gov/dereg/states/njersey.htm> ; NEW JERSEY RATEPAYER FUNDED PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/njsnapshot.htm>

<sup>vii</sup> See 220 ILL. COMP. STAT. 5/16-108.10 (2017) Updated 2015.

<sup>viii</sup> See Restructuring Legislation, Mass. Gen. Laws ch. 164, § 1F, *et sec* (1997); MASSACHUSETTS RATEPAYER FUNDED PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/masnapshot.htm> ; STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Massachusetts available at <https://liheapch.acf.hhs.gov/dereg/states/massachusetts.htm>

<sup>ix</sup> Utilities were authorized to issues bonds that were backed by the utilities’ accounts receivables for stranded cost recovery. The savings that were created, because the utilities received the revenue from the bonds right away, were first used to lower rates by 5% across the board, and then any surplus savings were used for rate assistance and conservation programs.

<sup>x</sup> See MICH. COMP. LAWS SERV. § 460.1089 (2008); *In re The Detroit Edison Co.*, MI PSC Case No. U-13808 (2004), available at [http://www.cis.state.mi.us/mpsc/orders/electric/2004/u-13808\\_11-23-2004.pdf](http://www.cis.state.mi.us/mpsc/orders/electric/2004/u-13808_11-23-2004.pdf); STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Michigan available at <https://liheapch.acf.hhs.gov/dereg/states/michigan.htm>

<sup>xi</sup> See MD. Pub. Util. Code Ann. § 7-512.1 (1999); *In re Regulation of Electric Service*, STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Maryland available at <https://liheapch.acf.hhs.gov/dereg/states/maryland.htm> ; MARYLAND RATEPAYER FUNDED PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/mdsnapshot.htm>

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<sup>xii</sup> This information is drawn from the most recent LIHEAP Clearinghouse, State Supplement chart, available at <https://liheapch.acf.hhs.gov/Supplements/2014/supplement14.htm>  
The totals were arrived at by using the column labeled “Rate Assistance,” and then rounding off.

<sup>xiii</sup> See Wis. Stat. § 16.957 (1999); STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Wisconsin available at <https://liheapch.acf.hhs.gov/dereg/states/wisconsin.htm> ; WISCONSIN RATEPAYER FUNDED LOW INCOME ENERGY PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/wisnapshot.htm>

<sup>xiv</sup> See Ga. Code Ann. § 46-4-161 (1981) and Ga. Code Ann. § 46-4-151 (1981); STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Georgia available at <https://liheapch.acf.hhs.gov/dereg/states/georgia.htm> ; GEORGIA RATEPAYER FUNDED PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/gasnapshot.htm>

<sup>xv</sup> See N.Y. Social Services Law § 97 (1983); STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, New York available at <https://liheapch.acf.hhs.gov/dereg/states/nyork.htm> Updated for FY 2015.

<sup>xvi</sup> See Rev. Code Wash. § 80.28.068 (2010) (Companies may request a surcharge for low-income cost recovery, which is then recovered from other customers); STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Washington available at <https://liheapch.acf.hhs.gov/dereg/states/washington.htm>

<sup>xvii</sup> See Conn. Gen. Stat. § 16-24a (2011); See also STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Connecticut available at <https://liheapch.acf.hhs.gov/dereg/states/connecticut.htm> ; CONNECTICUT RATEPAYER FUNDED PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/ctsnapshot.htm>

<sup>xviii</sup> See OR. REV. STAT. § 757.612 (2017); STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Oregon available at <https://liheapch.acf.hhs.gov/dereg/states/oregon.htm>

<sup>xix</sup> See STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Arizona available at <https://liheapch.acf.hhs.gov/dereg/states/azsummary.htm>

<sup>xx</sup> This information is drawn from the most recent LIHEAP Clearinghouse, State Supplement chart, available at <https://liheapch.acf.hhs.gov/Supplements/2014/supplement14.htm>  
The totals were arrived at by using the column labeled “Rate Assistance,” and then rounding off.

<sup>xxi</sup> See N.H. REV. STAT. ANN. §374-F:4 (1996); STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, New Hampshire available at <https://liheapch.acf.hhs.gov/dereg/states/nhampshire.htm> ; NEW HAMPSHIRE RATEPAYER FUNDED PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/nhsnapshot.htm>

<sup>xxii</sup> See ME. STATE. Titl. 35, § 3214 (2005); ; STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Maine available at <https://liheapch.acf.hhs.gov/dereg/states/maine.htm>

<sup>xxiii</sup> STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Rhode Island available at <https://liheapch.acf.hhs.gov/dereg/states/risland.htm> ; RHODE ISLAND RATEPAYER PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/risnapshot.htm>

<sup>xxiv</sup> See MIN. STAT. § 216B.16 (2016); STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Minnesota available at <https://liheapch.acf.hhs.gov/dereg/states/mnsummary.htm>



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<sup>xxv</sup> See Mont. Code Ann. § 69-8-402 (1997, last amended in 2015) ;STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Montana available at <https://liheapch.acf.hhs.gov/dereg/states/montana.htm>

<sup>xxvi</sup> See STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Nevada available at <https://liheapch.acf.hhs.gov/dereg/states/nevada.htm>

<sup>xxvii</sup> See STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, District of Columbia available at <https://liheapch.acf.hhs.gov/dereg/states/dc.htm> ; The Potomac Electric Company’s Residential and Discount Compliance Reports and Filings AND In the Matter of The Investigation into the Structure and Application of Low Income Assistance for Electricity Customers in the District of Columbia available at [http://edocket.dcpsc.org/pdf\\_files/commorders/orderpdf/orderno\\_18061\\_FC1120.pdf](http://edocket.dcpsc.org/pdf_files/commorders/orderpdf/orderno_18061_FC1120.pdf) ; DISTRICT OF COLUMBIA RATEPAYER FUNDED PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/dcsnapshot.htm>

<sup>xxviii</sup> See 2014 STATE-BY-STATE RATEPAYER FUNDED LOW-INCOME ENERGY ASSISTANCE AND ENERGY EFFICIENCY available at <https://liheapch.acf.hhs.gov/Supplements/2014/supplement14.htm> ; ALABAMA RATEPAYER FUNDED RATE ASSISTANCE available at <https://liheapch.acf.hhs.gov/Supplements/2010/alud.htm>

<sup>xxix</sup> See UTAH RATEPAYER FUNDED PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/utsnapshot.htm> ; STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Utah available at <https://liheapch.acf.hhs.gov/dereg/states/utah.htm>

<sup>xxx</sup> See KWN. REV. STAT. § 278.287 (2006); KENTUCKY RATEPAYER PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/kentucky.htm> ;

<sup>xxxi</sup> See Burns Ind. Code Ann. § 8-1-2-46 (2017) ; INDIANA RATEPAYER FUNDED PROGRAMS available at <https://liheapch.acf.hhs.gov/dereg/states/insnapshot.htm> ; STATE PBF/USF HISTORY, LEGISLATION, IMPLEMENTATION, Indiana available at <https://liheapch.acf.hhs.gov/dereg/states/insummary.htm>

<sup>xxxii</sup> This information is drawn from the most recent LIHEAP Clearinghouse, State Supplement chart, available at <https://liheapch.acf.hhs.gov/Supplements/2014/supplement14.htm>  
The totals were arrived at by using the column labeled “Rate Assistance,” and then rounding off.

<sup>xxxiii</sup> This information is drawn from the most recent LIHEAP Clearinghouse, State Supplement chart, available at <https://liheapch.acf.hhs.gov/Supplements/2014/supplement14.htm>  
The totals were arrived at by using the column labeled “Rate Assistance,” and then rounding off.

<sup>xxxiv</sup> This information is drawn from the most recent LIHEAP Clearinghouse, State Supplement chart, available at <https://liheapch.acf.hhs.gov/Supplements/2014/supplement14.htm>  
The totals were arrived at by using the column labeled “Rate Assistance,” and then rounding off.

<sup>xxxv</sup> This information is drawn from the most recent LIHEAP Clearinghouse, State Supplement chart, available at <https://liheapch.acf.hhs.gov/Supplements/2014/supplement14.htm>  
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<sup>xxxvi</sup> This information is drawn from the most recent LIHEAP Clearinghouse, State Supplement chart, available at <https://liheapch.acf.hhs.gov/Supplements/2014/supplement14.htm>  
The totals were arrived at by using the column labeled “Rate Assistance,” and then rounding off.