PULP
PENNSYLVANIA
UTILITY LAW PROJECT

December 8, 2017

VIA E-FILING
Secretary Rosemary Chiavetta
PA Public Utility Commission
400 North Street
PO Box 3265
Harrisburg, Pennsylvania 17120

Re: Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period of June 1, 2017 through May 31, 2021, Docket No. P-2016-2526627

Dear Secretary Chiavetta,

Please find the enclosed *Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA),* which are being submitted for filing today in the above noted docket, P-2016-2526627. Copies are being served pursuant to the attached Certificate of Service.

Respectfully,

Elizabeth R. Marx
Counsel for CAUSE-PA

Enclosures

CC: Certificate of Service
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period of June 1, 2017 through May 31, 2021	: : : :	Docket No. P-2016-2526627

CERTIFICATE OF SERVICE

I hereby certify that on this day, December 8, 2017, I have served copies of **Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** via email and/or first-class mail upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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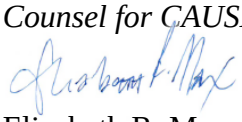

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Dated: December 8, 2017

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 through May 31, 2021	: : : :	Docket No. P-2016-2526627

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December 8, 2017

I. INTRODUCTION

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) files these Comments in response to the Commission's November 8, 2017 Tentative Order (TO) at the above captioned docket. The Commission's TO proposed additional "post-transition" programmatic terms for PPL's Customer Assistance Program Standard Offer Program (CAP-SOP). Particularly, the TO proposed to clarify "*when* a shopping customer who subsequently becomes CAP-eligible must be transferred to either PPL's default service or to the CAP-SOP." (TO at 8 (emphasis in original)).

While ostensibly only dealing with post-June 1, 2017 CAP enrollment issues – that is, shopping customers who enroll in CAP[1] *after* June 1, 2017, the effective date of CAP-SOP – the Commission's TO is somewhat ambiguous because it states that it "seek[s] public comment regarding proposals for actions for proposals for actions PPL and EGSs are to take regarding customers who are either *currently participating* in PPL's CAP or enroll in CAP in the future." (TO at 2 (emphasis added)). The Commission also provides carte blanche for parties to file comments about "any other implementation issues that may have been overlooked." (TO at 10). Despite this invitation, CAUSE-PA is limiting its comments here to the stated rationale for the order: To address implementation issues for shopping customers who, post June 1, 2017, seek to enroll in CAP. On this narrow issue which the Commission's proposal seeks to address, CAUSE-PA asserts that no further guidance is necessary beyond the four corners of the Commission's October 27, 2016 and January 26, 2017 Orders, which – importantly – are still on appeal before the Commonwealth Court. Given the pendency of the appeal, the Commission lacks jurisdiction to make any changes to those orders at this time.

[1] PPL calls its CAP program OnTrack.

CAUSE-PA is a party to this proceeding, and was a signatory to the Joint Litigation Position which established the CAP-SOP in its current form to stem the significant harm to CAP customers and residential ratepayers resulting from unrestricted shopping by CAP customers.

As explained more thoroughly below, CAUSE-PA does not believe the approach proposed by the Commission is necessary or prudent because the Commission's previous orders, and existing regulations, provide sufficient guidance for the issues identified. As such, CAUSE-PA is opposed to the Commission's proposal to impose additional and contradictory terms to the CAP-SOP. Doing so would undermine the ability of CAP-SOP to remedy the substantial harm identified by the Commission in the record of this proceeding.

As stated in the very first provision of the CAP-SOP Order, "**Effective June 1, 2017, the CAP-SOP is the only vehicle that a CAP customer may use to shop and receive supply from an EGS**." (See ID at 63). This clear restriction applies to both new and existing CAP customers, and must be upheld – without erosion – to prevent certain and substantial harm from occurring.

II. BACKGROUND

The history of this proceeding is summarized by the Commission in its TO. CAUSE-PA will not reiterate that history here, but notes that this case – and the terms of the CAP-SOP in particular – remain on appeal before the Commonwealth Court of Pennsylvania. Oral arguments were held earlier this week, on December 5, 2017. As such, jurisdiction over the CAP-SOP terms remains with the Commonwealth Court until a decision is reached.

It is important to note that the Orders on appeal before the Commonwealth Court explicitly found that substantial harm to residential ratepayers and vulnerable CAP customers was occurring in PPL's service territory as a result of unrestricted CAP shopping. Based on the substantial evidence of harm, the Commission determined that restrictions on CAP shopping in

the form of the CAP-SOP were necessary and specifically that, as of June 1, 2017, CAP-SOP was "the only vehicle that a CAP customer may use to shop and receive supply from an EGS." (See ID at 48-56, 63; Oct. 2016 Order at 53-54, 69; Jan. 2017 Order at 17-18).

The harms which the CAP-SOP were designed to prevent were listed in the Initial Decision of Administrative Law Judge Susan D. Colwell, which was adopted by the Commission in its October 27, 2016 Opinion and Order and affirmed in its January 26, 2017 Opinion and Order:

- From January 1, 2012 through October 30, 2015, an average of 9,626 OnTrack shopping customers paid an average monthly charge of $132, and the charge would have been $101 using the PTC. FOF 89.
- The total average monthly difference for all OnTrack shopping customers above the PTC was $298,406, or $3,580,872 annually. FOF 90.
- **The net monthly energy charges for all OnTrack shopping customers was $228,656 more than the PTC, for an annual cost of $2,743,872.** FOF 92.
- From January 2012 through October 2015, an average of 2.0% of customers (both shopping and non-shopping) were removed from the OnTrack program for exceeding their CAP credits. FOF 93.
- Between January 2012 and February 2015, 34,780 customers were removed from CAP because they had reached their CAP credit maximum and of this number, 27,600 or 79% were shopping with an EGS during some portion of the prior 18 months.
- **Paying more than the PTC for any period of time means that a CAP household is receiving no additional CAP benefit and non-CAP ratepayers who finance CAP are paying additional costs.**
- The EGS is paid through the purchase of receivables program without facing any consequences associated with the loss of CAP subsidy such as increased uncollectible expenses and termination.
- Costs associated with the payment of higher EGS rates are not related to the cost of providing an affordable CAP.
- PPL Electric has confirmed 171,171 low-income customer count, and less than 50,000 are enrolled in CP, meaning that low income customers are being charged for increased CAP costs.
- CAP customers who pay more than the PTC may be asked to pay a higher amount when the customer recertifies for CAP.

(ID at 50-52 (emphasis added)).

The Commission found this evidence to be "overwhelming[ly] substantial" and definitively concluded that it demonstrated "significant harm to both CAP shopping customers and non-CAP residential customers who pay the costs of the program." (Jan. 2017 Order at 18). The Commission further found that the CAP-SOP was "the best of several alternatives provided on the record of this proceeding to address the *unreasonable ramifications of unrestricted CAP shopping* by PPL's CAP customers." (Id. (emphasis added) (citing October 2016 Order at 54-55)). CAUSE-PA submits that nothing has changed. CAP-SOP program has been successfully implemented by PPL. Suppliers are participating and CAP customers are enrolling. It is currently the most effective means to ensure that CAP customers and the other ratepayers who pay for CAP are protected from the unreasonable ramifications of unrestricted CAP shopping. The Commission's proposals contained in the TO are unnecessary and would undermine the intent of CAP-SOP. They should not be implemented.

As noted briefly above, the Commission's TO attempts to further define "*when* a shopping customer who subsequently becomes CAP-eligible must be transferred to either PPL's default service or to the CAP-SOP." (TO at 8 (emphasis in original)). The Commission breaks down this group into two subcategories: Those in a "fixed-duration contract" who seek to enroll in CAP and those in a "month-to-month contract" who seek to enroll in CAP.[2] With respect to those in a "fixed-duration contract," the Commission proposes to allow the customer to enroll in CAP and provide them with the option of enrolling in CAP-SOP or returning to default service upon the expiration or termination of the contract. (TO at 8). The Commission rationalized its

[2] It is unclear what the Commission means by "month to month contract". This term is defined only once in the Commission's regulations dealing with cancellation of supplier contracts. See 52 Pa. Code §§ 54.10(2)(ii)(A), (3)(i)(A).

proposal, explaining that it would "ensure[] that we are not directing the abrogation of contracts and possibly exposing these customers to early termination fees." (TO at 9).

For those in a month-to-month contract, the Commission proposes a 4-month window for the supplier to "drop" the customer, at which time they will be given the option to enroll in CAP-SOP or return to default service. (TO at 9). The Commission noted its belief that a 4-month transition period is necessary to ensure compliance with notice regulations, and argues that a shorter transition would be "too abrupt" for the customer. (TO at 9). The TO invited parties to comment on these proposals specifically, and further solicited comment on whether additional information should be exchanged between PPL and suppliers to facilitate these changes.

III. COMMENTS

CAUSE-PA opposes the imposition of new requirements over those that already exist in the CAP-SOP program approved by the Commission in its October 2016 Order. While EGSs may need to be directed to *comply* with the terms of the order, no additional clarification is needed. In fact, CAUSE-PA submits that the Commission's proposed solution directly contradicts the approved CAP-SOP, which is currently on appeal before the Commonwealth Court, and would undermine the ability of CAP-SOP to remedy the well-documented harm to residential ratepayers and vulnerable CAP customers alike.

Instead, CAUSE-PA urges the Commission to direct that PPL follow the October 2016 Order. That order provides low-income customers who are being served by an EGS and who are seeking to enroll in CAP with three choices: (1) return to PPL provided default service; (2) enroll in CAP-SOP; or, (3) decline CAP enrollment and remain with their supplier. There are no other reasonable alternatives. For the first two options, PPL should be directed to obtain the informed consent of CAP applicants at the time of application to switch them to default service

and/or enroll them in the CAP-SOP immediately upon their enrollment into CAP. This solution is legally sound, consistent with the Commission's previous Orders, compliant the Public Utility Code, and protects CAP customers and ratepayers alike from substantial harm evidenced in the proceeding below.

A. The Commission's proposal contradicts the provisions of the CAP-SOP with respect to new CAP applicants and enrollees.

The very first provision of the October 2016 CAP-SOP Order clearly and unambiguously states: "Effective June 1, 2017, the **CAP-SOP is the only vehicle that a CAP customer may use to shop and receive supply from an EGS**." (See ID at 63, CAP-SOP para. a (emphasis added); Oct. 2016 Order at 69). This provision is, at its core, a CAP program rule – by which all CAP customers must comply in order to enroll in the program. In fact, this provision has been included in PPL's recently approved Universal Service and Energy Conservation Plan (USECP), which was approved by the Commission on December 7, 2017. In its approved USECP, PPL unequivocally states that in order for a PPL CAP customer to remain in CAP and receive service from an EGS, it must shop through CAP-SOP. The USECP states: "As of June 1, 2017, the only way for OnTrack customers to shop for their electricity is to enroll in CAP SOP. This special OnTrack shopping program allows OnTrack customers to shop from an electric generation supplier at a discount of 7% off of PPL's price to compare."[3]

As addressed more fully below in section B, this CAP program rule was approved with the express intent of stemming real and substantial harm to low income customers and residential ratepayers. But under the Commission's proposal, shopping customers could enroll in CAP *without* returning to default service or enrolling in CAP-SOP. In other words, CAP customers

[3] See PPL Electric Utilities Corporation Universal Service and Energy Conservation Plan for 2017-2019, submitted in Compliance with 52 Pa. Code § 54.74, Docket No. M-2016-2554787 at 29-30, approved by Order entered December 7, 2017.

would be able to both enroll in CAP and shop for supply service outside of the CAP-SOP, in clear contravention of CAP-SOP provision approved in the October 2016 Order and in violation of PPL's USECP.

In its TO, the Commission explained that – at the August 28, 2017 stakeholder meeting – parties disagreed over whether subsections (g) (h) and (i) of the approved CAP-SOP supported allowing customers to enroll in CAP and continue to receive service from a supplier until the contract period expired. (TO at 5). This disagreement led the Commission to conclude that additional guidance was necessary. But there is no real debate here: A careful examination of the language of the approved CAP-SOP shows that these provisions were only *prospective* in nature, and were designed to ease the implementation of CAP-SOP for *existing* CAP customers who – as of June 1, 2017 - were currently shopping. Indeed, subsections (a) through (f) set forth the general parameters of the CAP-SOP, while subsections (g) (h) and (i) deal exclusively with CAP customers shopping *at the time of CAP-SOP transition*.

Subsection (g) plainly and unambiguously applies only to "*CAP customer shopping fixed-term contracts in effect as of the effective date of the CAP-SOP*." (Oct. 2016 Order at 70). In other words, the provision applies exclusively to CAP customers enrolled in CAP at the time of CAP-SOP implementation, and is not a modification to the overarching CAP-SOP program rule set forth in subsection (a). In full, subsection (g) provides:

> (g) All CAP customer shopping fixed-term contracts *in effect as of the effective date of the CAP-SOP* will remain in place until the contract term expires and/or is terminated.

Subsections (h) further explains subsection (g), and sequentially builds on the instructions for *existing* CAP customer contracts which, at the time of implementation, expire or are terminated:

> (h) *Once the existing CAP customer shopping contract expires or is terminated*, the CAP customer will have the option to enroll in the CAP-SOP or return to

> default service, but in any event will only be permitted to shop through the CAP-SOP.

Like subsections (g) and (h), subsection (i) sequentially describes what will happen to existing CAP shopping customers who were in month-to-month contracts when the CAP-SOP was first implemented on June 1, 2017:

> (i) PPL Electric will revise its CAP recertification scripts/process so that ***all existing CAP shopping customers*** receiving generation supply on a month-to-month basis after June 1, 2017 will be required at the time of CAP recertification to enroll in the CAP-SOP or return to default service, but in any event will only be permitted to shop through the CAP-SOP.

It is worth noting that ALJ Colwell's Initial Decision clearly recognized that subsections (g) (h) and (i) of the ultimately-approved CAP-SOP were only intended to apply to those CAP customers who were enrolled in the program and shopping for competitive supply at the time of implementation – not prospective or future CAP enrollees after implementation was complete. Indeed, the Initial Decision expressly noted that these three provisions of the CAP-SOP only apply to "[t]ransitioning CAP customers who are shopping as of the effective date of June 1, 2017." (ID at 64).

Ultimately, the controlling language for when a new CAP enrollee must elect to return to default service or enter the CAP-SOP is contained in subsection (a), which clearly and unambiguously prohibits any CAP enrollees who were not shopping at the time of transition and/or who seek to enroll in CAP after June 1, 2017 from shopping outside of the CAP-SOP for any length of time after June 1, 2017. As described above, the language in subsections (g) (h) and (i) does not change this. Rather, as evidenced in the plain language, these transitional provisions were only intended to apply for existing CAP customers at the time of implementation. They were not intended to apply in perpetuity to all new CAP enrollees who

are shopping at the time of their enrollment in CAP. Each of these three provisions explicitly applies to CAP customers at the time of CAP-SOP implementation. The Commission should not impute this language onto a situation that does not exist.

B. The Commission's proposal undermines the ability of CAP-SOP to stem the well-established harm that the program was designed to prevent.

As explained above, the Commission's proposal would allow customers to enroll in CAP while shopping for service outside of the CAP-SOP. Regardless of the type of contract a customer has with a competitive supplier, if customers are paying more than the default service price, additional harm will be incurred if the Commission's proposal is approved. Given the evidence presented in the case – evidence of more than $2.7 million in net annualized harm to CAP customers and other ratepayers, (Jan. 2016 Order at 44), which the Commission itself found to be "overwhelmingly substantial" (Jan. 2016 Order at 18) – it is a sure bet that harm as a result of the Commission's latest proposal will also be substantial. For those in a fixed duration contract, the harm could persist for months - or even years - until the fixed duration expires or is otherwise terminated. For those in a month-to-month contract, the harm could persist for up to 4 months (120 days). Under either scenario, hundreds of thousands of dollars in program cost overruns are likely, and potentially thousands of CAP customer will continue to prematurely expire their maximum CAP credits and be required to pay full budget billing amounts.

As noted above, ALJ Colwell explicitly found that "[p]aying more than the PTC <u>for any period of time</u> means that a CAP household is receiving no additional CAP benefit and non-CAP ratepayers who finance CAP are paying additional costs." (<u>See</u> ID at 51 (emphasis added)). To be exact, for *each and every month* that CAP customers are allowed to shop outside of the CAP-SOP, other ratepayers shoulder a net added program cost of $228,656. (<u>Id.</u> (emphasis added)).

The Commission noted in its TO that its proposal would avoid the possibility of "exposing {CAP] customers to early termination fees," would allow the supplier to meet its notice requirements, and would ensure that the change in supplier is not "too abrupt" for the customer. (TO at 9). But the Commission's rationale fails to look at all of the likely harm caused by its proposed transitional terms. Indeed, allowing new CAP applicants to remain with their supplier is likely to result in serious and substantial harm to a household's financial and physical safety – as well as to other residential ratepayers.

First, while some CAP customers may face a cancellation or termination fee, those fees are not collectible through utility bills and cannot result in the customer's termination.[4] Likewise, cancellation or termination fees are not recoverable through the purchase of receivables program, nor are they recoverable from ratepayers through uncollectible expenses. On the other hand, as the record clearly showed throughout this proceeding, shopping outside the CAP-SOP for any length of time effects the costs paid by other ratepayers who pay for CAP and can and does routinely result in the early expiration of a customer's maximum CAP credits, making it more likely that the consumer will lose their CAP benefits and face the loss of critical, life-sustaining electric service. (Oct. 2016 Order at 54). The early expiration of CAP credits can cause devastating harm to vulnerable low income consumers – especially in light of the fact that CAP customers cannot access PUC-issued payment arrangements if they fall behind on full tariff rate bills after the early expiration of their CAP credits.[5] There is no evidence on the record to

[4] See 52 Pa. Code § 56.83(3) (unauthorized termination of service).

[5] 66 Pa. C.S. § 1405(c) ("Customer assistance program rates shall be timely paid and shall not be the subject of payment arrangements negotiated or approved by the Commission."). While a CAP customer should not be categorically denied access to a payment arrangement on non-CAP / full-tariff arrears pursuant to Chapter 14, there have been a number of recent decisions which suggest that the Commission will deny requests for a payment arrangement on mixed (CAP and non-CAP) arrearages. See, e.g., Dorsey v. PECO Energy Co., Initial Decision, Docket No. F-2016-2523527 (July 29, 2016, approved by Commission Order October 27, 2016). It is our understanding that BCS has an internal policy to deny payment arrangements at the Informal Complaint stage to anyone who has mixed CAP and non-CAP arrears, regardless of their individual circumstances.

suggest that cancellation or termination fees pose a risk which outweighs the harms caused by unrestricted CAP shopping, and the Commission should not assume as much here.

Second, the Commission's assertion that a transition period is necessary to allow suppliers to comply with notice requirements in section 54.10 of the Pennsylvania Code is misplaced. The notice requirements in section 54.10 are designed to ensure that a shopping customer is informed about a change in the terms and conditions of an *ongoing* relationship with a supplier that are initiated by a supplier. Nothing in section 54.10 requires suppliers to provide notice to a customer when the **customer** is taking proactive action to switch away from the supplier. This is precisely what would be occurring here when a customer elects to enroll on CAP. That customer would be provided with a choice: Remain with your supplier and forgo CAP benefits or enroll in CAP and select either default service or CAP-SOP. If the customer chooses either of the latter options, it would be the customer who would be choosing to leave the supplier – not the supplier choosing to "drop" the customer. In the former scenario, no such notice is needed because the notice requirements in section 54.10 only require suppliers to notify a consumer when a contract period is set to expire - leading to the imposition of new terms or pricing - or when the *supplier* seeks to change the terms of the contract to ensure that the consumer is aware of their options.

For example, if a residential customer is shopping in the competitive market with Supplier A, and chooses to terminate that contract and enroll in the traditional Standard Offer Program, Supplier A is not obligated under section 54.10 to send any notices to the switching customer. As discussed in more detail below in section C, the same is true when a customer elects to enroll in CAP and, in compliance with the CAP program rule, provides their informed consent to either return to default service or enroll in CAP-SOP.

Finally, the concern that an immediate supplier switch is "too abrupt" from the customer's perspective is also misplaced. To enroll in CAP, a customer must be payment troubled – having evidenced an inability to pay for full-tariff service. These customers are actively seeking immediate relief from unaffordable rates, often have arrears, and are frequently facing termination of service. They require immediate financial assistance to help stabilize their finances. As the evidence overwhelmingly demonstrated in the record of this proceeding, low income shopping customers are most often paying significantly more than the default service price: "From January 1, 2012 through October 30, 2015, an average of 9,626 OnTrack shopping customers paid an average monthly charge of $132, and the charge would have been $101 using the PTC. FOF 89." (ID at 51). In short, for each and every month that a CAP customer remains with a supplier, an average of $21 is stripped from their available credits. Requiring these customers to choose between returning to default service or enrolling in the CAP-SOP as a condition of receiving immediate rate relief is not "too abrupt" – rather, it cannot come fast enough.

Ultimately, the Commission's proposal to add a transition period for customers who are shopping after June 1, 2017 and seek to enroll in CAP undermines the ability for the CAP-SOP to stem the substantial harm evidenced in this proceeding. CAUSE-PA urges the Commission to simplify its direction regarding transitional CAP-SOP issues, and allow CAP customers to provide their informed consent to return to default service or enroll in CAP-SOP upon their enrollment in CAP.

C. The Commission should require PPL to obtain informed consent from all new CAP applicants to return them to default service or enroll in the CAP-SOP upon acceptance and enrollment into the program.

CAP-SOP is – at its core – a CAP program rule. Newly enrolling CAP customers must complete a detailed application, which obtains their informed consent to and acceptance of a number of important rights and duties under the program. CAP applicants agree to submit to periodic income verification requirements, credit checks, usage restrictions, and – as of June 1, 2017 – restrictions on shopping outside the CAP-SOP. It is unreasonable to institute a confusing transition period for new CAP enrollees to provide informed consent to switch back to default service or enroll in CAP-SOP.

CAUSE-PA submits that, to facilitate compliance with the CAP shopping rule, new CAP applicants should be required to: (1) affirmatively acknowledge that they may only shop for electric through the CAP-SOP; (2) elect whether to return to default service or enroll in the CAP-SOP; (3) provide express authorization for PPL to make the elected switch on their behalf, and (4) acknowledge that they may face a termination or cancellation fee if they opt to cancel their EGS-contract. This is all that is required to ensure that CAP customers are providing sufficiently informed consent to switch their service to default service or the CAP-SOP. Indeed, it is no different than a consumer provides in a Letter of Authorization, which enables suppliers to make a switch on behalf of a customer.

Obtaining the necessary authorizations for the switch through the written CAP application process is fully compliant with the Public Utility Code. Section 57.172 provides:

> (a) When a customer or a person authorized to act on the customer's behalf contacts the EDC to request a change from the current EGS or default service provider to a selected EGS, the EDC shall notify the customer that the selected EGS shall be contacted directly by the customer to initiate the change. **This notification requirement does not apply when a**

Commission-approved program requires the EDC to initiate a change in EGS service.

(b) When a customer contacts the default service provider to request a change from the current EGS to default service, the default service provider shall notify the customer that there may be a cancellation penalty to cancel service with the current EGS. **Subsequent to this notice and upon express or written consent from the customer, the default service provider shall enroll the customer in default service.**[6]

With respect to subsection (a), where a customer contacts their EDC to initiate a supplier switch, the typical notice requirement (that the customer must contact the EGS directly) does not apply. The regulation is explicit: "This notification does not apply when a Commission-approved program requires the EDC to initiate a change in EGS service." This provision was put into the regulations after the polar vortex, where EGS prices caused significantly unaffordable bills and households needed immediate relief – a situation that is not unlike low-income, payment troubled customers seeking to enroll in CAP. In its Final-Omitted Rulemaking Order, approving the addition of this sentence to section 57.172, the Commission stated:

> We agree with the comments that suggest that this regulation needs to be revised by adding language providing for exceptions in the case of Commission-approved programs, ***such as the standard-offer programs*** that all of the major EDCs are currently operating. Accordingly, we will add the following sentence: "This notification requirement may not apply when a Commission-approved program requires the EDC to initiate a change in EGS service."[7]

PPL's CAP-SOP is "a Commission-approved program" that was designed to mitigate the substantial and overwhelming harm to CAP customers and other ratepayers "to address the unreasonable ramifications of unrestricted shopping by PPL's CAP customers." (Jan. 2017 Order at 18). It is, thus, perfectly appropriate pursuant to the express language in section

[6] 52 Pa. Code § 57.172 (emphasis added).
[7] Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 57 Regulations Regarding Standards for Changing a Customer's Electricity Generation Supplier, Docket No. L-2014-2409383 (Final-Omitted Rulemaking Order entered April 3, 2014), 44 Pa.B. 3593 (emphasis added).

57.172(a), for a customer enrolling in CAP to provide their express or written authorization – as part of the CAP application process, recommended above – for PPL to switch their service to a new EGS through the CAP-SOP. PPL is not required to refer them to contact their EGS to perform the switch, and doing so would only cause unnecessary confusion and delay the ability for vulnerable low income households to access critical relief through CAP.

As for subsection (b) of section 57.172, where a customer contacts their EDC to return to default service, the notice requirement is met through the authorizations recommended above. Subsection (b) requires only that the EDC notify the customer of the possibility that there "may be a cancellation fee" and obtain their "express or written consent" to return to default service. Including these basic authorizations on the CAP enrollment form would fully comply with the Commission's regulatory requirements for switching through an EDC.

Rather than adopt the proposal contemplated by the TO to institute a transitional period for new CAP enrollees, CAUSE-PA urges the Commission to – consistent with the plain language of the approved CAP-SOP – require PPL to fully implement its new CAP shopping rules. In doing so, PPL should be required, simply, to explain the CAP shopping rules to the CAP customer – including the customer's right to return to default service and/or shop through CAP-SOP, as well as the possibility of early termination and/or cancellation fees. After explaining the rules, the customer should be given a choice: Enroll in CAP subject to this and other CAP rules or, if the customer so chooses, remain with their supplier without enrolling in CAP. Since the CAP application has a series of other questions on it, this could be done rather easily through affirmative authorization and disclosure at the time of application.

Nothing about this recommended paradigm would abrogate contracts, as customers always have the right to return to default service subject to receiving notice of the possibility of

early termination fees. These fees cannot lead to utility termination and cannot be placed on a utility bill. The Commission's proposals would prolong – indefinitely – the harm to CAP customers and other ratepayers because it would allow CAP customers to pay rates higher than the default service price for potentially significant periods of time and would exacerbate what the Commission correctly deemed the "unreasonable ramifications of unrestricted shopping." (Jan. 2017 Order at 18).

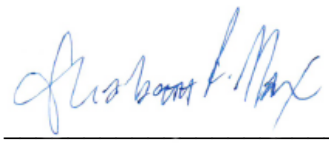
The process recommended above would simplify the transition period and will prevent unnecessary harm to the CAP enrollee and other ratepayers. It will also ensure that CAP-SOP will be fully implemented and, at some point, there will no longer be any CAP customers who are shopping outside of CAP-SOP. This is the goal of the program as approved by the Commission and can and should be effectuated now without the risk of further harm to CAP customers or the ratepayers who pay for CAP.

IV. CONCLUSION

CAUSE-PA urges the Commission to abandon the proposals set forth in its TO, and direct that PPL obtain the necessary authorizations and appropriate disclosures through the CAP application process. This approach will protect the effectiveness of the CAP-SOP at alleviating certain and substantial harm to low income customers and residential ratepayers alike, and is fully compliant with existing regulations.

Respectfully Submitted,

Pennsylvania Utility Law Project
On Behalf of CAUSE-PA



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