

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17120**

**2019 Amendments to Policy Statement on  
Customer Assistance Program, 52 Pa. Code  
§ 69.261-69.267**

**Public Meeting September 19, 2019  
3012599-LAW  
Docket No. M-2019-3012599**

**STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR.**

Before us today are revisions to the Commission's existing customer assistance program (CAP) policy statement.<sup>1</sup> I would like to thank the stakeholders for their comments, responses to requests for information, and participation in stakeholder meetings. I would also like to thank staff in the Bureau of Consumer Services (BCS) and the Law Bureau for their work on this assignment.

Two years ago, I voted for a joint motion to undertake a comprehensive review of Pennsylvania's universal service programs.<sup>2</sup> I did so because the Commission has an important obligation to monitor, evaluate and, when necessary, make changes to universal service programs. In general, I am pleased with the information we collected and the conclusions I was able to draw from it. To summarize, I think the data shows that the Commission and public utilities are meeting their respective obligations regarding universal service and that the programs are adequately funded. While there is no underlying crisis with respect to universal service, I do recognize that there is room for improvement, and our staff and stakeholders have provided many good suggestions for us to consider.

**Overview**

Pennsylvania has a very robust universal service program, and according to comments we received, was second among states in the total assistance provided as recently as a few years ago.<sup>3</sup> Unlike other states, Pennsylvania does not limit the amount spent on energy assistance programs or the number of participants, nor do we require participants to enroll in other state or federal programs, such as the Low Income Home Energy Assistance Program (LIHEAP).<sup>4</sup> In 2017, Pennsylvania's low-income, payment-troubled customers received almost half a billion dollars in financial and other assistance to help with their energy bills. This amount includes almost \$94 million in LIHEAP grants and approximately \$385 million in universal service program assistance. Of the \$385 million spent on universal service programs, over \$330 million was spent on CAPs.<sup>5</sup>

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<sup>1</sup> 52 Pa. Code § 69.261-69.267.

<sup>2</sup> *Review of Energy Universal Service and Energy Conservation Programs*, Docket No. M-2017-2596907 (Order entered May 10, 2017).

<sup>3</sup> Office of Consumer Advocate Comments to Opinion and Order, *Review of Universal Service and Energy Conservation Programs*, Docket No. M-2017-2596907, Appendix B.

<sup>4</sup> Energy Association of Pennsylvania Comments to Opinion and Order, *Energy Affordability for Low-Income Customers*, Docket No. M-2017-2587711, p. 4

<sup>5</sup> *Bureau of Consumer Services 2017 Universal Service and Collections Report*, p. 73, App. 5.

Pennsylvania's CAPs, as currently designed, are working to help customers maintain their service. CAP customers pay most of their discounted energy utility bills. In 2017, CAP customers paid 82.8% of their electric bills and 72.5% of their natural gas bills. For many customers, CAPs have ended the cycle of non-payment and disconnection by moving these customers to more regular bill payment.<sup>6</sup>

It is also important to note that low-income customers do not necessarily need or want to participate in CAPs. There are other components to universal service which may meet a customer's needs, and most low-income customers do not require any financial assistance to pay their energy utility bills. In 2017, approximately 89% of confirmed low-income electric customers in Pennsylvania were not payment-troubled, while approximately 84% of confirmed low-income natural gas customers in Pennsylvania were not payment-troubled.<sup>7</sup>

For this reason, enrollment or budget levels cannot be the metric of success or failure for CAPs. CAP enrollments and budgets will rise and fall in response to changes in utility rates and underlying economic conditions. For example, over the last ten years, CAP enrollments for natural gas distribution companies (NGDCs) have declined significantly, most likely in response to persistently low natural gas prices, steady economic growth and good employment opportunities. In 2009, approximately 192,000 customers were enrolled in NGDC CAPs. By 2017, enrollment had decreased to 146,000 customers. NGDC CAP spending shows a corresponding decrease from \$198 million in 2009 to \$91 million in 2017. I think it is good news that more natural gas customers, than ten years ago, are able to pay their own bills without requiring other customers, many of whom are also low-income, to subsidize their service.

### **Opportunities for Improvement**

I am open to improving the design and operation of CAPs. I agree with many of the recommendations proposed by staff which clarify and simplify CAPs. I generally support: (1) allowing CAP households to retain CAP enrollment when they transfer service within the utility's service territory, (2) directing utilities to accept income documentation of at least the last 30 days or 12 months, (3) eliminating the provision that a customer should designate a LIHEAP grant to the utility sponsoring the CAP or be penalized, (4) exempting CAP customers from late payment charges, (5) providing CAP customers with retroactive pre-program arrearage forgiveness, (6) allowing utilities to request but not require social security numbers, (7) setting minimum CAP payment requirements and maximum CAP credit limits in universal service plan proceedings, (8) establishing online CAP applications with electronic submission of documents, (9) directing utilities to use a standardized zero-income form and to develop industry-wide standardized forms, (10) initiating collection activity for CAP accounts after no more than two missed payments, and (11) evaluating household CAP bills quarterly. I also agree with the Joint Motion's directive related to consumer education and outreach plans.

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<sup>6</sup> OCA Comments to Opinion and Order, *Energy Affordability for Low-Income Customers*, Docket No. M-2017-2587711, pp. 4-5.

<sup>7</sup> *Bureau of Consumer Services 2017 Universal Service and Collections Report*, pp. 7-9.

## Procedural and Substantive Concerns

But, as I stated two years ago, the design, budgeting, and administration of universal service programs are a complex undertaking for our public utilities. By moving forward today with a final Revised CAP Policy Statement, the Commission disregards this complexity. The final Revised CAP Policy Statement includes a combination of energy burdens (6%-10%-10%) and other changes which have not been put forth for comment.<sup>8</sup> I am disappointed that we are skipping the important step of presenting all of our recommendations to the stakeholders for their review. We normally have a public comment period when we revise our regulations and policy statements. No pressing legal or practical reason has been identified for deviating from our standard practice.

I agree with the comments of the Office of Consumer Advocate (OCA) in that,

[a]ny changes to the energy burdens would need to be thoroughly analyzed to determine the costs that would have [to] be borne by any non-participant ratepayers as well as the impact on any payments by CAP customers.

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...an analysis of energy affordability burdens must also consider the impact on residential ratepayers that pay the costs of the program. Changes to the energy affordability burdens can have a significant impact on the total costs of the CAP program.”<sup>9</sup>

Without further information from the stakeholders, I cannot conclude that the final Revised CAP Policy Statement balances the interests of the residential customers who benefit from CAPs and the residential customers who pay for CAPs. I am particularly concerned with the cost impact on customers between 151-250% of the Federal Poverty Income Guidelines, those households with low or moderate incomes who are just beyond the eligibility requirements for CAP. Again, I highlight the comments of the OCA, that “[t]he Commission must consider the impact that paying for the programs will have on non-participants. The impact of the program costs disproportionately affects low-income customers who do not participate in the program and the near-poor whose incomes are too high to qualify for CAP, but who may also have trouble making their bill payments.”<sup>10</sup>

The Commission must ensure that universal service programs are operated in a cost-effective manner.<sup>11</sup> The final Revised CAP Policy Statement maintains certain cost control measures but also expands the benefits associated with CAP. This expansion will impact both the size and cost of the programs in ways which have not been sufficiently quantified. I would

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<sup>8</sup> Now pending before the Commission is a Petition for Reconsideration on an issue that the Commission is adopting a final policy position on without the benefit of public comment. See *Columbia Gas of Pennsylvania, Inc. Universal Service and Energy Conservation Plan for 2019-2021*, Docket No. M-2018-2645401.

<sup>9</sup> Office of Consumer Advocate Reply Comments to Opinion and Order, *Review of Universal Service and Energy Conservation Programs*, Docket No. M-2017-2596907, p. 25-26

<sup>10</sup> OCA Comments to Opinion and Order, *Energy Affordability for Low-Income Customers*, Docket No. M-2017-2587711, pp. 15-16.

<sup>11</sup> 66 Pa. C.S. §§ 2203(8) and 2804(9).


have preferred to receive feedback from the stakeholders on the combined effect of these program changes. Without this feedback, I cannot support: (1) reducing the CAP energy burdens, (2) eliminating the payment-troubled qualification for CAPs, (3) establishing new recertification timeframes, (4) allowing customers to remain in CAP despite non-payment, (5) directing utilities to be prepared to address recovery of CAP costs from any ratepayer classes, and (6) the Joint Motion's adoption of the definition of income contained in Chapter 14 of the Public Utility Code.<sup>12</sup> CAP was designed as an alternative to traditional collection methods for low income, payment-troubled customers. We must not lose sight of this objective.

Additionally, I am troubled by the declaration in the Joint Motion that public utility service must be "universally affordable." While that is an admirable sentiment, it is not an accurate statement of the law. The Public Utility Code provides that rates must be "just and reasonable," and importantly, that no person be given an "unreasonable preference or advantage in rates."<sup>13</sup> The Electric and Gas Competition Acts required that the universal service programs in existence at the time of their respective enactments be continued, and that they be "appropriately funded and available" in each territory.<sup>14</sup> The General Assembly further provided that such programs are intended to "assist low-income" retail customers in maintaining their electric and gas service. Universal service programs were further defined as programs intended to "help" electric and gas customers maintain service.<sup>15</sup> There is a significant difference between making reasonable efforts to assist customers, as opposed to guaranteeing that customers with zero or little income be maintained in their service at the expense of other customers. CAPs can assist but cannot guarantee that every customer will be able to afford service at every location in all circumstances. It is beyond the scope of the Commission's jurisdiction and authority to implement or otherwise convert public utility service into an entitlement program.

For the reasons stated above, I cannot support the Joint Motion. While I agree with many of the recommendations put forth today, I am troubled by the absence of public comment. Without these comments, it is not clear that the final Revised Policy Statement does enough to balance the interests of participating versus non-participating customers.

Accordingly, I will be voting no on the Joint Motion.

**Date: September 19, 2019**

  
**JOHN F. COLEMAN, JR.**  
**COMMISSIONER**

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<sup>12</sup> The Chapter 14 definition of household income is still being refined through practice and case precedent. If there is a need for a standard definition of household income, it may be more prudent to adopt LIHEAP's carefully crafted definition of income, which would also further align these energy assistance programs.

<sup>13</sup> 66 Pa.C.S. §§ 1301, 1304.

<sup>14</sup> 66 Pa.C.S. §§ 2203(8) and 2804(9).

<sup>15</sup> 66 Pa.C.S. §§ 2202, 2803.