



January 16, 2024

**VIA E-FILE**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105

**Re: Rulemaking to Review and Revise the Existing Low Income Usage Reduction Program (LIURP) Regulations at 52 Pa. Code §§ 58.1-58.18 (relating to residential low income usage reduction programs). Docket No. L-2016-2557886**

Dear Secretary Chiavetta:

Attached for filing, please find the **Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** respectfully submitted in response to the Commission's above mentioned proposed rulemaking, published in the Pennsylvania Bulletin on December 2, 2023 (53 Pa.B. 7506).

LIURP is a vital universal service program that helps lessen deep and longstanding disparities in home energy burdens; improve health, safety, and home comfort; conserve energy; and reduce universal service program costs. CAUSE-PA has long supported LIURP and advocated for substantial and necessary program reforms to address critical gaps in service, improve cross-program coordination and integration, expand access to underserved communities, improve program reporting and evaluation, and ensure meaningful opportunity for community and stakeholder input and engagement.

Our Comments include comprehensive recommendations designed to maximize LIURP performance and prevent unintended consequences that could undermine LIURP program objectives and purpose, highlighted as follows:

- ***LIURP Budgets***: We urge the Commission to eliminate proposed reforms that would limit its review of LIURP budgets to quinquennial USECP proceedings, depriving stakeholders of due process and curtailing Commission oversight and meaningful evaluation of program performance and the justness and reasonableness of rates. (Sections B and C of our Comments).
- ***Health and Safety***: We support the Commission's efforts to memorialize the inclusion of health, safety, and home comfort measures and recommend establishing a minimum threshold for allowances, together with other key reforms, to ensure measures are adequately funded and appropriately integrated. (Sections A, B, D, F of our Comments).

- **Fuel Switching:** We support the Commission’s proposal to remove the prohibition on fuel switching across utilities, and we recommend further reforms to ensure fuel switching determinations are driven by an assessment of overall household energy burden – not utility preference. (Section J of our Comments).
- **Tenant Protections:** We recommend the Commission retain language proposed for deletion that prevents landlords from raising rents or evicting low income tenants for one year after LIURP measures are provided to the tenant household. (Section K of our Comments).
- **Cooling:** We recommend the Commission add space-cooling wherever there are references to space-heating to account for the urgent need for comprehensive usage reduction services, inclusive of building shell measures, designed to reduce rising cooling costs. (Section B of our Comments).
- **Reporting Requirements:** We recommend enhanced reporting requirements including additional data and disaggregation of data to meaningfully inform the Commission and stakeholders as to what program measures need adjustment to maximize their benefits. (Section L of our Comments).
- **Community-Based Organizations (CBO):** We recommend that the Commission require utilities to prioritize the use of CBOs as the energy service provider (ESP) of choice. (Sections B, G, and H of our Comments).
- **Energy Audits:** We recommend the Commission allow energy audits and measure installation to be delivered through a single ESP to promote continuity, eliminate duplication, and streamline program delivery. (Section H of our Comments).

While this brief summary highlights our key recommendations, our Comments include many other critical amendments necessary to modernize LIURP and ensure the program is appropriately calibrated to serve the overwhelming need for comprehensive usage reduction services across our state. Our inclusion of the above highlights should not be construed to assign greater importance to any specific recommendation contained in our Comments.

CAUSE-PA reserves the right to respond to the recommendations of other parties and/or to revise or amend the recommendations contained in our Comments through subsequent Reply Comments.

Thank you for your consideration of our attached Comments in their entirety. We urge the Commission to take definitive action, as outlined in these Comments, to improve the delivery of LIURP to low income households throughout Pennsylvania.

Respectfully submitted,



Elizabeth R. Marx  
*Counsel for CAUSE-PA*

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking to Review and Revise the Existing Low- : Docket No. L-2016-2557886  
Income Usage Reduction Program (LIURP) :  
Regulations at 52 Pa. Code §§ 58.1 – 58.18 (relating to :  
residential low income usage reduction programs). :

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COMMENTS OF  
THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY  
IN PENNSYLVANIA (CAUSE-PA)

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**TABLE OF CONTENTS**

**I. INTRODUCTION..... 1**

**II. BACKGROUND ..... 2**

**III. COMMENTS..... 12**

**A. Section 58.1 - Statement of Purpose..... 12**

**B. Section 58.2 - Definitions..... 15**

    i. Administrative Costs ..... 16

    ii. Community Based Organization - CBO ..... 17

    iii. De Facto Heating ..... 18

    iv. Dwelling..... 20

    v. ESP – Energy Service Provider..... 21

    vi. Eligible Customer..... 22

    vii. Energy Audit..... 23

    viii. LIURP Budget..... 25

    ix. Program Measure..... 26

    x. Public Utility ..... 26

    xi. Residential Electric Baseload Customer ..... 29

    xii. Residential Space-Heating Customer ..... 30

    xiii. Special Needs Customer ..... 32

    xiv. USECP – Universal Service and Energy Conservation Plan..... 34

**C. Sections 58.2, 58.4, and 58.17 - LIURP Budgets ..... 35**

**D. Section 58.13a – LIURP Pilot Programs ..... 46**

**E. Sections 58.5, 58.14c(d), & 58.15(3)(ii) – Administrative Costs..... 49**

**F. Section 58.12 – Incidental Repairs / Health and Safety Measures ..... 51**

**G. Sections 58.7, 58.14b & 58.14c – Integration and Coordination of Program Services ..... 55**

**H. Section 58.11, 58.14, & 58.14a – Energy Audits / Program Measure Installation / Quality Control..... 59**

**I. Section 58.10 – Prioritization of Program Services..... 65**

**J. Section 58.11a – Fuel Switching..... 68**

**K. Section 58.8 – Tenant Household Eligibility ..... 71**

**L. Section 58.15 – LIURP Reporting and Evaluation ..... 73**

**M. Sections 58.6 & 58.16 – Stakeholder Engagement..... 77**

**N. Section 58.9 – LIURP Outreach..... 81**

<b>IV.</b>	<b>RESPONSE TO ADDITIONAL QUESTIONS .....</b>	<b>84</b>
	<i>Question A</i> .....	<i>84</i>
	<i>Question B</i> .....	<i>85</i>
	<i>Question C</i> .....	<i>85</i>
	<i>Question D</i> .....	<i>89</i>
<b>V.</b>	<b>CONCLUSION .....</b>	<b>93</b>

## **I. INTRODUCTION**

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)<sup>1</sup> respectfully submits the following Comments in response to the Commission’s Notice of Proposed Rulemaking (NOPR), published in the Pennsylvania Bulletin on December 2, 2023 (53 Pa.B. 7506), opening the public comment period for the Commission’s Proposed Rulemaking to Review and Revise the Existing Low-Income Usage Reduction Program (LIURP) Regulations at 52 Pa. Code §§ 58.1 – 58.18 (relating to residential low income usage reduction programs) (hereafter referred to as NOPR Preamble or NOPR Annex, as appropriate), Docket No. L-2016-2557886.<sup>2</sup>

LIURP is a critical universal service program that helps alleviate deep inequities and disparities in home energy burdens; improve health, safety, and home comfort; conserve energy; and reduce universal service program costs. CAUSE-PA has long supported the program and advocated for substantial and necessary reforms to address the overwhelming and largely unmet need for comprehensive usage reduction services. The existing LIURP regulations require substantial amendment to resolve critical gaps in service, improve cross-program coordination and integration, expand access to underserved communities, improve program reporting and evaluation, and ensure meaningful opportunity for community and stakeholder input and engagement.

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<sup>1</sup> CAUSE-PA is an unincorporated association of low income Pennsylvanians from all corners of the state that advocates on behalf of its members to families of limited economic means across the state are able to connect and maintain safe and affordable water, electric, heating and telecommunication services to their home.

<sup>2</sup> For ease of reference and readability, throughout these comments, when we cite to NOPR Preamble or NOPR Annex, we are referencing the page numbers of the documents as posted to the Public Utility Commission’s Docket L-2016-2557886 on October 31, 2023. Our recommendations for regulatory amendment stem from the documentation published in the Pa. Bulletin on December 2, 2023, incorporating any editorial changes made upon publication.

CAUSE-PA supports the Commission's initiative to modernize the LIURP regulations. Nevertheless, we urge substantial further amendment to better align practical program implementation with the overarching program goals and the underlying statutory charge. As we discuss at length below, we offer a comprehensive suite of recommendations designed to prevent unintended consequences that could serve to undermine the critically important objectives of the program. We urge the Commission to take definitive action, as outlined in these Comments, to improve the delivery of LIURP to low income households throughout Pennsylvania.

## **II. BACKGROUND**

The Electricity Generation and Customer Choice and Competition Act and the Natural Gas Choice and Competition Act<sup>3</sup> (collectively "the Choice Acts") direct the Commission to ensure that universal service and energy conservation practices, policies, and services are accessible and appropriately funded to ensure residential low income consumers are able to maintain energy services to their home. While LIURP predates the Choice Acts by over a decade, the Acts served to cement LIURP as a required component within each universal service and energy conservation program portfolio for large gas and electric utilities across the state.<sup>4</sup> LIURP is statutorily overseen by the Commission and administered by regulated electric and gas utilities in compliance with the requirements contained in the Commission's regulations.<sup>5</sup>

LIURP is an essential component in electric and gas companies' universal service and energy conservation programming. Effective universal service and energy conservation

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<sup>3</sup> 66 Pa. C.S. § 2802(10); see also 66 Pa. C.S. § 2203(7)-(8).

<sup>4</sup> "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. § 2802(10); see also 66 Pa. C.S. § 2203(7)-(8).

<sup>5</sup> 66 Pa. C.S. § 2802(10), 2803, 2804(9), 2203(7)-(9); 52 Pa. Code, Ch. 58.

program portfolios include four primary components: 1) energy bill assistance programming that is designed to create a consistently affordable bill; 2) debt forgiveness to help remediate prior unaffordability and promote long-term stability; 3) crisis assistance to resolve an acute financial hardship, and 4) energy usage reduction and efficiency services to address unnecessarily high burdens and drive long-term bill savings. LIURPs are designed to fulfill this fourth component, with the added benefit of reducing overall universal service program costs.<sup>6</sup> All four prongs work in tandem to ensure economically vulnerable consumers can reasonably afford to maintain safe, stable energy service to their home.

To contextualize the importance of an effective LIURP, it is critical to understand the significant need for comprehensive energy reduction and weatherization services to assist Pennsylvanians with limited economic resources. Economically vulnerable families have the highest energy burdens with the fewest economic resources to reduce this burden without assistance. A household's energy burden is the proportion of household income spent on energy costs. Low income households pay a much higher proportion of income on their gas and electric bills than more affluent families. Disparities in energy burden are particularly pronounced for low income households of color.<sup>7</sup> Data from the National Energy Assistance Directors Association's (NEADA) 2022 Energy Hardship Report, shows that families with the lowest income spend approximately 22.8% of their income on utilities, while the highest

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<sup>6</sup> Shingler, J., Penn State University, Consumer Information System Project, "Long Term Study of Pennsylvania's Low Income Usage Reduction Program: Results of Analyses and Discussion," January 2009, [https://www.puc.pa.gov/general/publications\\_reports/pdf/PSU-LIURP\\_Report2008.pdf](https://www.puc.pa.gov/general/publications_reports/pdf/PSU-LIURP_Report2008.pdf)

<sup>7</sup> U.S. Dep't of Energy, Energy Info. Admin., *2020 Residential Energy Consumption Survey*, <https://www.eia.gov/consumption/residential/data/2020>; see also Diana Hernández & Jennifer Laird, *Surviving a Shut-Off: U.S. Households at Greatest Risk of Utility Disconnections and How They Cope*, 66 *Am. Behavioral Sci.* 856 (2020), <https://journals.sagepub.com/doi/epub/10.1177/00027642211013401>; Jamal Lewis, Diana Hernández, & Arlene Geronimus, *Energy Efficiency as Energy Justice: Addressing Racial Inequities through Investments in People and Places*, 13(3) *Energy Effic.* 419 (Mar. 2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7966972/>.



income families spend just 2.9%.<sup>8</sup> This stark disparity in energy burdens is not a new phenomenon. Utility unaffordability has posed a growing threat to the financial stability of low income families for many years – with low income households regularly paying between 10-30% of their income on home energy costs, while middle and high income households pay between 2-4% of household income toward home energy costs.<sup>9</sup> According to the United States Census Bureau’s Household Pulse Survey, 26.6% of Pennsylvanians reported that they were unable to afford their energy bill in October 2023.<sup>10</sup> When faced with energy insecurity, low income families are often forced to make impossible decisions as to which life-sustaining needs they will cover, regularly forgoing food, medicine, and medical care to keep the lights on and the temperature stable in their home. In 2022, 52.9% of lower income families reported forgoing food or medicine at least once to pay their home energy bills.<sup>11</sup>

The harm is not limited to economically vulnerable families – it also contributes to the overall cost of energy for all Pennsylvanians through increased uncollectible accounts and unnecessarily high programmatic costs. The importance of the LIURP regulations is paramount, as the effective design and implementation of LIURP can help meaningfully reduce the energy burden of low income individuals and families, ultimately contributing to the decrease in costs for ratepayers of all income levels. The Commission’s 2022 Universal Service Programs and Collections Performance Report shows that customers who received LIURP services in 2019 saw significant energy usage reductions which resulted in significant cost savings. For example,

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<sup>8</sup> Nat’l Energy Assistance Directors’ Ass’n (NEADA), Energy Hardship Report (Nov. 2022), [https://neada.org/wp-content/uploads/2022/11/NEADA-Energy-Hardship-Report\\_Final.pdf](https://neada.org/wp-content/uploads/2022/11/NEADA-Energy-Hardship-Report_Final.pdf) (herein, NEADA Energy Hardship Report).

<sup>9</sup> Id.; see also PUC, Bureau of Consumer Services, Home Energy Affordability for Low-Income Customers in Pennsylvania, Docket No. M-2017-2587711 (Jan. 2019).

<sup>10</sup> US Census Bureau, Household Pulse Survey, Pennsylvania – Week 63 (Oct. 18-30, 2023), [https://www.census.gov/data-tools/demo/hhp/#/?s\\_state=00042&measures=ENERGYBILL](https://www.census.gov/data-tools/demo/hhp/#/?s_state=00042&measures=ENERGYBILL).

<sup>11</sup> NEADA Energy Hardship Report at 20.

electric water heating customers reduced annual electric costs between \$122 and \$200.<sup>12</sup>

LIURP Energy & Bill Savings	Estimated Energy Savings			Estimated Annual Bill Reduction		
	2018	2019	2020	2018	2019	2020
<i>Electric Heat</i>	8.1%	7.6%	6.7%	\$198	\$194	\$167
<i>Electric Water Heating</i>	6.6%	10.7%	8.2%	\$122	\$200	\$146
<i>Electric Baseload</i>	5.6%	7.3%	4.3%	\$84	\$114	\$71
<i>Gas Heating</i>	16.6%	15.2%	14.5%	\$304	\$249	\$220

To help further contextualize the broad impact and critical importance of LIURP, over one quarter of Pennsylvania’s electric and gas customers are estimated to have low household income, including over 1.3 million electric customers and over 700,000 gas customers.<sup>13</sup> Low income consumers are far more likely to live in poor, inefficient, and potentially unsafe housing.<sup>14</sup> Energy insecurity is rooted in the interconnection of poverty and housing deficiencies.<sup>15</sup> Many low income households are unable to afford the costs of repairs and improvements necessary to stem high consumption as a result of inefficiencies or other factors in their homes. As the Commission acknowledged in its NOPR Preamble, “[d]ue to the advanced age of Pennsylvania’s residential building stock, which is the second oldest in the nation, and the increasing need for affordable housing, LIURP is an essential program in reducing energy consumption for low-income households.”<sup>16</sup> In fact, as noted above, there is a pronounced disparity in energy burdens across low income communities of color, driven primarily by historic

<sup>12</sup> PUC, BCS, 2022 Universal Service Programs and Collections Performance Report, at 57 (Sept. 2023), <https://www.puc.pa.gov/media/2573/2022-universal-service-report-final.pdf>.

<sup>13</sup> Pennsylvania Public Utility Commission, Universal Service Programs & Collections Performance 2022 at p. 9 (Published September 2023).

<sup>14</sup> See ACEEE, Lifting the High Energy Burden in America’s Largest Cities: How Energy Efficiency Can Improve Low income and Underserved Communities (April 2016), available at <https://www.aceee.org/sites/default/files/publications/researchreports/u1602.pdf>.

<sup>15</sup> Hernandez, Diana, Energy Insecurity and Health: America’s Hidden Hardship, Health Affairs Health Policy Brief, June 29, 2023.

<sup>16</sup> NOPR Preamble at 5.

inequities in housing and community investment.<sup>17</sup>

The identified need for LIURP services dramatically outpaces allocated funding. In 2022, PPL identified approximately 85,825 eligible customers who may benefit from LIURP services, yet its proposed LIURP budget was just \$10,000,000 annually. At this funding level, it would take 27 years to serve the identified need based on 2022 projections.<sup>18</sup> Over that nearly 30-year timeframe, the unmet need will only grow more pronounced. The FirstEnergy Companies have an even longer estimated timeframe to serve identified need. In 2022, the Companies identified approximately 406,908 potential LIURP recipients across its service territories, but its proposed budget was estimated to serve just 4,305 participants each year.<sup>19</sup> At its proposed rate of service, it would take almost 95 years to serve all of FirstEnergy's eligible customers. While PPL and FirstEnergy are noted here as examples, the problem of chronic underfunding to serve identified need is ubiquitous across all gas and electric service territories.

Given the value of LIURP and the clear need for LIURP services, and the benefits that can be realized and maximized through improved programming development and implementation, regulatory reform for LIURP is necessary.

The Commission first promulgated Chapter 58 in 1987, establishing a framework for electric and gas utilities to provide comprehensive energy reduction services for low income consumers. Chapter 58 was updated in 1998 after several years of reporting and evaluation provided evidence of the benefits and cost-effectiveness of LIURP. Amendments to the

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<sup>17</sup>Stephens, H., Donoghoe, M., and Perry, A.M., How extreme heat threatens Black renters, and what policymakers can do to fix it, September 6, 2023; see also Carolyn B. Swope, Diana Hernández, Housing as a determinant of health equity: A conceptual model, *Social Science & Medicine*, Volume 243, December 2019, <https://www.sciencedirect.com/science/article/pii/S0277953619305659>

<sup>18</sup> PPL Electric Utilities Corporation Universal Service and Energy Conservation Plan for 2023-2027, Docket No. M-2022-3031727, filed April 2, 2022, pp 29-30.

<sup>19</sup> FirstEnergy Companies Joint Proposed Universal Service and Energy Conservation Plan for 2024-2028, Supplemental Information, Docket Nos. M-2022-3036532, M-2022-3036533, M-2022-3036534, M-2022-3036535, filed April 25, 2023, p 23.

regulation at that time included removing a sunset date for LIURP, adjusting program measures, adding tenant protections, and increasing the LIURP budget allocation for special needs customers.<sup>20</sup> The Commission’s LIURP regulations have not been amended since 1998 – nearly three decades since the program was last updated. A long-term study of Pennsylvania’s LIURP was completed by Penn State University in 2009 that found LIURP to be a beneficial program generating energy and cost-reductions, while recommending important updates to improve programming.<sup>21</sup> Yet, regulatory revisions were not developed at that time.

The Commission initiated its current review of the LIURP regulations through its December 16, 2016, Secretarial Letter (2016 Secretarial Letter) seeking stakeholder input on topics that are instrumental in determining the scope of a proposed rulemaking that would update the Commission’s existing LIURP Regulations. The Commission articulated its justification for reviewing the LIURP regulations, noting that it “is important for the PUC to update the LIURP regulations in order to keep pace with the changing energy landscape and technology improvements, to ensure proper coordination among Commonwealth energy reduction programs, and to ensure that these programs continue to meet the goals established.”<sup>22</sup>

Subsequently, in 2017, the Commission initiated a comprehensive review of the Universal Service and Energy Conservation model and deferred review of LIURP regulations pending completion of the CAP Policy Statement proceeding and a universal service rulemaking.<sup>23</sup> From this broader proceeding, the Commission issued a final revised CAP Policy Statement on November 5, 2019. Shortly before issuing a final revised CAP Policy Statement,

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<sup>20</sup> Sections 58.2, 58.3, 58.8, and 58.10 were amended effective January 3, 1998. *See* 28 Pa.B. 25 (Jan. 3, 1998). <https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol28/28-1/12.html>.

<sup>21</sup> Shingler, J., Penn State University, Consumer Information System Project, “Long Term Study of Pennsylvania’s Low Income Usage Reduction Program: Results of Analyses and Discussion,” January 2009, [https://www.puc.pa.gov/general/publications\\_reports/pdf/PSU-LIURP\\_Report2008.pdf](https://www.puc.pa.gov/general/publications_reports/pdf/PSU-LIURP_Report2008.pdf)

<sup>22</sup> NOPR Preamble at 8.

<sup>23</sup> Energy Affordability for Low-Income Customers, Docket No. M-2017-2587711.

on September 19, 2019, the Commission passed a Joint Motion ordering the Bureau of Consumer Services and the Law Bureau to prepare a comprehensive Universal Service Rulemaking (inclusive of both LIURP and CAP regulations) no later than the first quarter of 2020.<sup>24</sup> However, a formal universal service rulemaking to address both CAP and LIURP has not been prepared to date.

On June 7, 2023, the Commission issued a Secretarial Letter initiating a fresh review of universal service programs, particularly focused on questions around program administration. CAUSE-PA submitted joint comments, along with other utility justice advocates, focusing on how to address the pervasive unmet need for all universal service programs, including LIURP. We explained that utilities are not sufficiently funding their LIURPs to comprehensively address identified weatherization needs in their respective service territories, how community-based organizations (CBOs) are integral to the delivery of coordinated energy efficiency and conservation services, and the benefits and need for a rulemaking that sets forth the requirements for public utilities to implement all universal service programs, including LIURP, CAP, and Hardship Funds, in a consistent and standardized manner.<sup>25</sup>

On May 18, 2023, the Commission issued a notice of proposed rulemaking at the instant docket, thus resuming its 2016 review of the LIURP regulations.<sup>26</sup> As the Commission acknowledges in the NOPR Preamble, the residential energy and home efficiency fields have undergone transformational changes since the LIURP regulations were last revised in 1998 – and

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<sup>24</sup> 2019 Rulemaking Regarding Universal Service Regulations, Joint Motion of Chairman Gladys Brown Dutrieuille and Commissioner Andrew G. Place, Docket No. L-2019-3012600 (Sept. 19, 2019).

<sup>25</sup> 2023 Review of All Jurisdictional Fixed Utilities Universal Service Programs, M-2023-3038944, Joint Comments of CAUSE-PA, Pittsburgh United, and the Tenant Union Representative Network, pgs. 10, 29, and 48. (Submitted June 7, 2023).

<sup>26</sup> NOPR Preamble at 7.

since the Commission initially collected comments for the current LIURP review in 2016.<sup>27</sup> Household energy costs have increased substantially since 2016 and remain high, driving disproportionately high rates of low income payment trouble and involuntary service terminations.<sup>28</sup> The U.S. Energy Information Administration (EIA), reported that in just one year, from 2021 to 2022, the average monthly electric bill for residential customers rose approximately 13%.<sup>29</sup> In Pennsylvania, electric utilities reported for 2022 an average termination rate for confirmed low income residential electric customers of 16%, an increase of 2.3% over the termination rate in 2021.<sup>30</sup> In 2023, termination rates were again on the rise – increasing an astounding 40% year over year for gas utilities.<sup>31</sup> Increased utility terminations effectively undermine the very definition of universal service and energy conservation, which are designed to “help low income customers to maintain electric service.”<sup>32</sup>

At the same time, there is growing concern over the environmental effects of uncontrolled energy usage, and we have seen rapid advances in clean energy and energy efficiency technology. Harmful health effects of increasing extreme temperatures in both summer and winter are felt most acutely by low income families, who lack the capital to invest in home upgrades, driving an increased need for comprehensive weatherization and energy efficiency for struggling households.

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<sup>27</sup> NOPR Preamble at 5.

<sup>28</sup> See Nat'l Energy Ass't Dir. Ass'n (NEADA), Winter Heating Price Outlook 2023-2024, at T.1 (Sept. 20, 2023), <https://neada.org/wp-content/uploads/2023/09/winteroutlook2023.pdf>.

<sup>29</sup> U.S. Dep't of Energy, Energy Info. Admin., 2020 Residential Energy Consumption Survey, <https://www.eia.gov/consumption/residential/data/2020/>

<sup>30</sup> PA Public Utility Commission, 2022 Universal Service Programs and Collections Performance Report, at 16 (Sept. 2023), <https://www.puc.pa.gov/media/2573/2022-universal-service-report-final.pdf>.

<sup>31</sup> PUC, Terminations and Reconnections: Year-to-Date November 2022 vs. Year-to-Date November 2023, <https://www.puc.pa.gov/filing-resources/reports/terminations-for-electric-gas-water-companies/>.

<sup>32</sup> See 66 Pa. C.S. § 2803 (defining “universal service and energy conservation as “Policies, protections and services that help low-income customers to maintain electric service. The term includes...services that help low-income customers to reduce or manage energy consumption in a cost-effective manner...”).

We also cannot escape the fact that the global COVID-19 pandemic presented unique and unprecedented challenges, which were especially pronounced across low income communities. The pandemic highlighted the pervasive nature of energy insecurity and underscored the critical importance of access to safe and efficient home energy services. As we have emerged from the pandemic, we are seeing dramatic shifts in federal and state policy priorities related to energy - with emphasis on reducing the energy usage and energy burdens of lower income families. The most compelling examples of this, at the federal level, are the Justice40 Initiative and the subsequent signing of the Bipartisan Infrastructure Law (BIL) and the Inflation Reduction Act (IRA). In January of 2021, President Biden signed an Executive Order initiating the Justice40 initiative which set forth an historic goal to ensure that 40 percent of certain federal investments benefit disadvantaged communities.<sup>33</sup> The IRA and the BIL are each providing vehicles for such funding, including the creation of Home Energy Rebate programs that could directly benefit low income customers by providing funding to support home electrification and to provide additional weatherization and energy efficiency measures.<sup>34</sup> Importantly, the pandemic also created unprecedented challenges to the delivery of LIURP services, including temporary statewide shutdowns of LIURP service delivery to help stop the spread of the deadly virus. When LIURP services resumed, programs faced heightened levels of inflation for materials and labor, placing additional strain on already stretched LIURP budgets and further reducing the ability of LIURP programs to reach households in need of assistance.<sup>35</sup>

While updates to the LIURP regulations are necessary and timely for all the foregoing

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<sup>33</sup> The White House, Justice40, A Whole-of-Government Initiative, <https://www.whitehouse.gov/environmentaljustice/justice40/>, accessed January 3, 2024.

<sup>34</sup> U.S. Department of Energy, Office of State and Community Energy Programs, Home Energy Rebate Programs, <https://www.energy.gov/scep/home-energy-rebates-programs>, accessed January 3, 2024.

<sup>35</sup> See *Pa. PUC v. Columbia Gas*, R-2022-3031211, Joint Petition for Partial Settlement, Append. J, at 7 (citing CAUSE-PA St. 1 at 26-27), (submitted September 2, 2022).

reasons, CAUSE-PA notes that feedback received by the Commission eight years prior to the publication of this proposed rulemaking is not timely and may be somewhat outdated. We encourage the Commission and others evaluating this rulemaking to consider this for drafting of the final rule, prioritizing comments and corresponding data submitted in response to this NOPR, as well as Commission proceedings that include more recent information specific to LIURP challenges in individual utility service territories.

Through the instant proceeding, the Commission has the opportunity to strengthen the statewide LIURP programs and improve the ability of public utilities to react to unexpected challenges. We urge the Commission to do so, and offer a package of comprehensive recommendations and proposed regulatory amendments to transform the program to meet the ever-growing need for LIURP services across our Commonwealth.<sup>36</sup>

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<sup>36</sup> For some sections, we offer proposed regulatory language to actualize our proposed amendments, which conform to the regulatory drafting structure for final regulations contained in 1 Pa. Code § 307.3a. However, in some sections, regulatory amendments to implement our proposed reforms are dependent on several intervening factors that overly complicate proposed amendments to the regulatory language. Thus, we have not provided regulatory language for all recommended amendments or reforms, though we stand ready to assist the Commission, upon request, to develop specific language incorporating each of our recommendations into the final regulatory package.



### **III. COMMENTS**

As discussed, LIURP is a critically important universal service program that helps reduce utility bills and energy insecurity for economically vulnerable households. Improving the delivery of LIURP services to low income households will provide numerous benefits for individuals, families, communities, and other ratepayers, including improved health, safety, and home comfort; reduced delinquencies and collections costs; reduced universal service costs; and reduced peak demand. LIURP is an important tool to help address disparities in housing quality and, in combination with other universal service programs, helps make utility service more affordable for low income households and vulnerable consumers.

As noted in the background Section above, the Commission's proposed regulatory amendments are borne from comments received seven years ago. Much has changed in that time. These Comments aim to address program needs to ensure that the programs are adequately funded and effectively coordinated to address the needs of low income households for comprehensive energy efficiency and conservation services in the face of Pennsylvania's rapidly changing energy landscape.

#### **A. Section 58.1 - Statement of Purpose**

*CAUSE-PA supports the Commission's proposed amendments to the Statement of Purpose, as they establish a more holistic framework that better reflects the intersectional goals of LIURP to reduce energy usage, reduce energy bills and universal service costs, and improve health, comfort, and safety of low income Pennsylvanians.*

As discussed above, LIURP provides direct economic benefits to vulnerable low income customers and other ratepayers, and has the potential to materially improve participants' quality of life. Weatherization and energy reduction measures installed in low income residences can improve home conditions, human health, and household financial conditions. A codified

Statement of Purpose is essential to establish a regulatory framework that fosters programs that are designed, funded, and implemented to meet the usage reduction needs of low income customers.

In its Proposed LIURP Rulemaking, the Commission modifies its Statement of Purpose to clarify the intended benefits of LIURPs. Specifically, the proposed Statement is amended to include a utility's special needs customers for LIURP eligibility in addition to its low income customers and to affirm that LIURP measures are "intended to decrease a LIURP participant's energy usage and public utility bills or to improve health, safety, and comfort levels of household members, or both."<sup>37</sup> By contrast, the existing Statement of Purpose states that the "programs are intended to assist low income customers conserve energy and reduce residential energy bills."<sup>38</sup> Improved health, safety, and comfort are currently noted as a potential co-benefit, in that "the program should also result in" those things.

CAUSE-PA strongly supports the revised Statement of Purpose to emphasize remediation of health and safety issues that prevent installation of comprehensive efficiency and weatherization services for low income customers. These revisions help to provide a more holistic framework for the program, ensuring LIURP is positioned to address intersectional energy, health, and safety needs.

Including health, safety, and comfort as part of the primary intention of LIURPs will provide an important framework so that utilities can appropriately prioritize important health and safety measures that act as a barrier to low income customers accessing LIURP services.<sup>39</sup> By

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<sup>37</sup> NOPR Annex at 1.

<sup>38</sup> Id.

<sup>39</sup> Bruce Tonn, Erin Rose, Beth Hawkins, Michaela Marincic, Health and financial benefits of weatherizing low-income homes in the southeastern United States, Building and Environment, Volume 197, 2021, <https://doi.org/10.1016/j.buildenv.2021.107847>.

contrast, homes that cannot be weatherized because of health and safety concerns are dangerous to live in and dangerous to communities. Injuries and illness related to unsafe and inefficient housing are estimated to contribute billions of dollars in direct and indirect healthcare costs annually and impose additional societal costs related to lost productivity and lower quality of life.<sup>40</sup> This is particularly true for uniquely vulnerable households, including families with young children, older adults, and individuals with a disability.<sup>41</sup> A 2017 evaluation by APPRISE for Columbia Gas shows that health and safety issues often prevent weatherization work because low income households with these issues have LIURP work canceled, deferred, or they are treated with only minor measures. This results in the loss of potential high yield energy savings that increase the likelihood that the customer may be able to afford their energy bill in the future.<sup>42</sup> In turn, walking away from a job with potential high yield energy savings after investing time and resources into vetting eligibility and conducting an initial home audit results in substantial administrative cost and program resources. Whenever possible, health and safety barriers should be remediated to permit efficiency measures to be installed.

Prioritizing health, safety, and comfort in concert with reduced energy consumption and resultant lower energy bills also allows for improved integration and coordination of a utility's universal service programs. Importantly, effectively structured LIURPs can help low income

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<sup>40</sup> Federal Reserve Bank of Philadelphia and PolicyMap, Measuring and Understanding Home Repair Costs: A National Typology of Households, (2019), available at: <https://www.philadelphiafed.org/-/media/frbp/assets/community-development/reports/measuring-and-understanding-home-repair-costs/0919-homerepair-costs-national-report.pdf>.

<sup>41</sup> See Shenassa ED, Stubbendick A, Brown MJ. Social disparities in housing and related pediatric injury: a multilevel study. *Am J Public Health*. 2004 Apr;94(4):633-9. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1448310/>.

<sup>42</sup> See, e.g., Columbia Gas 2019-2021 USECP, APPRISE Columbia Gas LIURP Health and Safety Research, Attachment A at 39, available at: <https://www.puc.pa.gov/pcdocs/1645337.pdf>. In 2017, APPRISE found that 47% of the total jobs were flagged as having a potential health and safety issue, and 70% of these jobs were cancelled/deferred. When they assessed the reasons for the cancelled jobs, 91% of the cancelled/deferred jobs were due to health and safety issues.

participants to be better able to pay their energy bills, and help to reduce CAP costs.<sup>43</sup> Customers enrolled in CAP must maintain energy usage at reduced levels to avoid being removed from CAP and bearing categorically unaffordable energy burdens at full tariff rates. LIURPs provide essential assistance to help low income customers improve usage levels, and ultimately maintain CAP rates without exceeding maximum usage levels. It is essential that the current rulemaking strive to reduce unnecessary barriers through prioritization of robust health and safety measures.

Notwithstanding our support of the amended Statement of Purpose, we note that several proposed amendments throughout the rulemaking would run counter to the Commission's amended statement of purpose. We will highlight these discrepancies throughout our Comments and urge revision to ensure that LIURPs are adequately funded and accessible to meet the needs of low income consumers, consistent with the Commission's overarching statement of purpose.

#### **B. Section 58.2 - Definitions**

*CAUSE-PA discusses both support for and concerns with proposed new definitions and amendments to existing definitions enumerated below, requesting clarification and further adjustment to ensure all definitions are crafted to provide the maximum benefit for implementation of LIURPs.*

In the definitions of the proposed rulemaking, the Commission sets forth the foundational policy for LIURP development and implementation. Definitions must be appropriately tailored so that terms are applied in a manner that facilitates accessibility, and will allow for the maximum benefit, of LIURP services. As set forth below, we address proposed amendments to existing definitions and added definitions in the NOPR and suggest several important amendments to clarify and enhance the proposed definitions. The definitions identified below are discussed in alphabetical order, following the structure of the NOPR Annex. Some terms are addressed fully in this section and others are discussed in more detail later in our comments.

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<sup>43</sup> Id.

*i. Administrative Costs*

The term “administrative costs” is defined in the existing regulation as “[e]xpenses not directly related to the provision of program services” and includes a non-exhaustive list of included expense categories. The Commission proposes to add training as an enumerated administrative cost, and to replace “audit” with “quality control.”<sup>44</sup> The Commission explains that audit expenses are “directly related to the installation of program measures” – and are therefore not administrative costs.<sup>45</sup>

CAUSE-PA generally supports the proposed addition of training as an enumerated administrative cost. Workforce development, as a function of training, is a fundamental need for successful LIURP implementation, and we support the use of administrative costs for this function.<sup>46</sup> The Commission indicates at the outset of the NOPR Preamble that it has established a Memorandum of Understanding with the Department of Community and Economic Development (DCED) to facilitate inter-agency coordination between LIURP and DCED’s Weatherization Assistance Program (WAP).<sup>47</sup> CAUSE-PA strongly recommends that the PUC ensure any LIURP administrative funds expended to support contractor training are coordinated with WAP provider training. Coordination of workforce development activities across LIURP and WAP would help to leverage resources and improve service delivery across these two critical weatherization and efficiency programs.

CAUSE-PA further notes that, in Section 58.5, the Commission proposes to add language related to administrative costs, specifically exempting LIURP pilot programs from the 15% cap on administrative costs and requiring these costs be tracked separately from other costs of a pilot

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<sup>44</sup> NOPR Annex at 1.

<sup>45</sup> NOPR Preamble at 25.

<sup>46</sup> <https://www.pct.edu/business/clean-energy/pa-weatherization>

<sup>47</sup> NOPR Preamble at 7.

program. CAUSE-PA asserts that 15% is a generous spending cap for administrative costs – especially given the Commission’s proposed elimination of audit costs – and should be sufficient for administration of both existing and pilot programs. By comparison, Pennsylvania’s LIHEAP’s administrative and planning costs are capped at 10% of available funds,<sup>48</sup> and Pennsylvania’s Whole-Homes Repair program allows for up to 4% of a grant award to be spent on administration costs and up to 10% of grant awards may fund services including (but not limited to) technical assistance, application processing, coordination, analysis, reporting, and evaluation.<sup>49</sup> The Commission proposes to define administrative costs as inclusive of only those costs *not directly related to the provision of program services*. This is sufficiently narrow to ensure pilot programs have flexibility to develop and implement innovative program services. If a utility anticipates that a pilot will incur administrative costs that exceed 15%, the onus should be on the utility to request a regulatory waiver of the 15% administrative cap as part of the pilot program approval process. We discuss proposed regulations regarding LIURP pilot programs in more detail in Section E in these comments.

*ii. Community Based Organization - CBO*

The term “community-based organization” or “CBO” is a newly defined term in the proposed rulemaking and is consistent with the federal definition of the term.<sup>50</sup> The proposed definition reflects that CBOs are public or private nonprofit organization representing a community or large portion of a community, working to meet the community’s needs. CAUSE-PA supports inclusion of an explicit definition for the term. However, we are concerned that

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<sup>48</sup> Pa. Dep’t of Human Services, Low-Income Home Energy Assistance Program, Fiscal Year 2024, Final State Plan, page ii; [https://www.dhs.pa.gov/Services/Assistance/Documents/Heating%20Assistance\\_LIHEAP/FY2024-LIHEAP-Final-State-Plan.pdf](https://www.dhs.pa.gov/Services/Assistance/Documents/Heating%20Assistance_LIHEAP/FY2024-LIHEAP-Final-State-Plan.pdf)

<sup>49</sup> Pa. Dep’t of Community & Economic Dev., Whole-Homes Repair Program Guidelines, September 21, 2023, page 2. <https://dced.pa.gov/download/whole-home-repairs-program-guidelines/?wpdmdl=117114>

<sup>50</sup> See 20 U.S.C. § 7801 (relating to definitions).

various proposed amendments throughout the regulatory package serve to undervalue the critical role of CBOs in the delivery of LIURP services across local communities, and do not adequately reflect the statutory mandate that 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.”<sup>51</sup> We discuss these concerns in more detail in Section G(ii) of these comments.

*iii. De Facto Heating*

The term “de facto heating” is proposed to be added and defined as the “[u]se of a portable heater as the primary heating source when the primary or central heating system is non-functioning or public utility service has been terminated.”<sup>52</sup>

CAUSE-PA supports inclusion of a definition of de facto heating in the proposed rulemaking. De facto heating is unaffordable and unsafe. When a family is unable to use a primary heating system – or their heating source is inadequate to keep their home at a safe temperature – they often resort to dangerous, high usage / high cost heating methods including electric space-heaters, electric stoves, and/or portable generators. Reliance on these alternative sources for heat increases the risk of carbon monoxide poisoning and house fires.<sup>53</sup> Alternative heating devices are most often responsible for home heating equipment fires, accounting for more than two in five fires, as well as the vast majority of the deaths and injuries in home fires caused by heating equipment.<sup>54</sup> In addition to safety concerns, reliance on de facto heating

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<sup>51</sup> 66 Pa. C.S. § 2804(9).

<sup>52</sup> NOPR Annex at 2.

<sup>53</sup> Richard Campbell, [Home Heating Fires](https://www.nfpa.org/News-and-Research/Data-research-and-tools/US-Fire-Problem/Heating-equipment), National Fire Protection Association (NFPA), (Jan. 2021), available at: <https://www.nfpa.org/News-and-Research/Data-research-and-tools/US-Fire-Problem/Heating-equipment>

<sup>54</sup> *Id.*

sources can result in substantially higher direct and indirect costs to households, depletion of CAP credits, acute and chronic rate unaffordability, accrual of exorbitant arrears, and involuntary termination.

According to the Commission's 2023 Cold Weather Survey, released last month, approximately 45% of occupied households whose electric heat service was involuntarily terminated (170 of 372) and 30% of occupied households whose gas heat service was involuntarily terminated (941 of 3054) were actively using a potentially unsafe alternative heating source.<sup>55</sup> But the scope of de facto heating is far greater than these numbers suggest, as many families that rely on de facto heating to *supplement* an inadequate primary heating source are still connected to service. The U.S. Energy Information Administration (EIA) Residential Energy Consumption Survey (RECS) data also suggests disparities related to poverty and race for homes that more frequently are forced to rely on de facto heating. In 2020, 15% of households with annual income between \$20,000 and \$39,999 reported leaving their home at an unhealthy temperature and 6.5% were unable to use their primary heating equipment. In turn, Black households were 9% more likely than white households to keep their homes at an unhealthy temperature and 6.7% more likely to be unable to use their primary heating equipment.<sup>56</sup>

By proposing to add a definition of de facto heating, the Commission is taking an important step to help alleviate the reliance on de facto heating sources and reduce disparities in access to reliable, affordable central heating sources through the provision of LIURP services.

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<sup>55</sup> Pa. PUC, 2023 Pennsylvania Cold Weather Survey Results, [cold weather survey results2023.pdf \(pa.gov\)](#).

<sup>56</sup> U.S. Department of Energy, Energy Information Administration, 2020 Residential Energy Consumption Survey. <https://www.eia.gov/consumption/residential/data/2020/>



Notwithstanding our support of including a definition of de facto heating in the proposed rulemaking, CAUSE-PA is concerned that the proposed definition is too narrow. We recommend amending the definition by replacing “portable” with “alternate.” Households facing extreme energy insecurity will use whatever heat source is available to warm the home, including non-portable heaters such as ovens or stoves.<sup>57</sup> CAUSE-PA proposes using “alternate” to better capture all sources of de facto heating, regardless of their portability. We further propose that the Commission include use of alternate heating equipment when a primary heating source is *inadequate* to heat the home – in addition to situations where the primary heating source is “non-functioning” or service has been terminated. Our proposed regulatory revisions are as follows.

***De facto heating—Use of a ~~portable heater~~—AN ALTERNATIVE HEATING SOURCE as the primary heating source when the primary or central heating system is INADEQUATE, non-functioning, or public utility service has been terminated.***

*iv. Dwelling*

The term “dwelling” is proposed for inclusion in Chapter 58 and is defined to mirror language in Chapter 56 (56.2) as “a structure being supplied with residential utility service such as a house, apartment, mobile home, or single meter multiunit.” CAUSE-PA recommends the Commission strike “single meter” from the definition of dwelling in the LIURP regulation to ensure programs are able to serve master-metered residential buildings and/or common areas of a single-metered building in appropriate utility jurisdictions. Philadelphia Gas Works (PGW) currently operates a Low Income Multifamily Efficiency program as part of its LIURP, a reflection of the fact that all customers in PGW’s service territory – including commercial classes that include master-metered multifamily buildings – contribute to universal service

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<sup>57</sup> See Richard Campbell, Home Heating Fires, National Fire Protection Association (NFPA), (Jan. 2021), available at: <https://www.nfpa.org/News-and-Research/Data-research-and-tools/US-Fire-Problem/Heating-equipment>.

program costs.<sup>58</sup> If the Commission narrows its definition of dwelling unit to exclude master-metered residential buildings, it could impact the ability of PGW (or other utilities in the future) to provide comprehensive usage reduction services for this important type of low income residential housing. Our proposed amendment to the definition is as follows.

**Dwelling—A structure being supplied with residential utility service such as a house, apartment, mobile home or ~~single meter~~ multiunit under § 56.2 (relating to definitions).**

v. *ESP – Energy Service Provider*

The term “ESP – Energy service provider” is a new proposed definition that states “an organization, contractor, subcontractor, or public utility representative responsible for providing program services on behalf of a public utility.”<sup>59</sup> CAUSE-PA is not generally opposed to the addition of this definition, but we are concerned with its application throughout the proposed regulation, which we address in more detail in sections G and H. This definition is noted as a general reference for program service providers in the Preamble to the regulation.<sup>60</sup> We note that ESPs are provided very specific and substantial responsibilities for all aspects of LIURP implementation, from audit to post-installation services. CAUSE-PA is concerned that the proposed definition is not appropriately inclusive of Community Based Organizations (CBOs), which serves to undermine the statutory preference for CBOs in the delivery of program services in local communities.

CAUSE-PA recommends the following modification to the definition of ESP to better prioritize the use of CBOs:

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<sup>58</sup> PGW Universal Service and Conservation Plan 2023-2027, Docket No. M-2021-3029323, Revised July 11, 2023, pages 62 and 63, Appendix M: Low Income Multifamily Efficiency (LIME) Program Frequently Asked Questions.

<sup>59</sup> NOPR Annex at 3.

<sup>60</sup> NOPR Preamble at 22.

**ESP—Energy service provider—~~AN~~ A COMMUNITY BASED organization, contractor, subcontractor, or public utility representative responsible for providing program services on behalf of a public utility.**

vi. *Eligible Customer*

The term “eligible customer” is proposed for amendment, adding “meets the usage threshold and other criteria for a public utility’s LIURP, as specified in its USECP.” The existing regulation simply states that the customer must have low income or meet the qualifications of a special needs customer.

As discussed in further detail below with regard to the definitions of *residential electric baseload customer* and *residential space-heating customer*, and in section I regarding the Commission’s proposed prioritization factors, CAUSE-PA is concerned that existing static usage thresholds exclude customers that reside in smaller homes and apartments that may not meet a high usage threshold, but are nevertheless in need of comprehensive energy reduction services to control disproportionately high costs. We are also concerned that LIURP is not appropriately responsive to the increased reliance on space-cooling and the corresponding need for comprehensive usage reduction services to address high cooling costs.

To ensure the Commission retains flexibility to adjust LIURP eligibility criteria based on emerging needs, CAUSE-PA recommends that the Commission amend the definition of eligible customer to require only that the customer meet the criteria established in a public utility’s LIURP, as specified in its USECP – eliminating reference to a usage threshold. This simplified definition would ensure the Commission could amend or eliminate usage thresholds to meet emerging needs without the need for further regulatory amendments.

In turn, consistent with our later recommendations regarding inclusion of space-cooling to address the emerging need for comprehensive usage reduction services related to increasing

summer cooling costs, we recommend the Commission include explicit reference to “space-cooling” in the definition of eligible customers.

Specifically, we propose the following further amendments to the definition of *eligible customer*:

***Eligible customer*—A [low income or special needs customer who is a residential space heating customer, or a residential water heating customer, or a residential high use electric baseload customer of a covered utility] space-heating, SPACE-COOLING, water- heating, or electric baseload low-income or special needs residential customer who meets the usage threshold and other criteria for a public utility’s LIURP, as specified in its USECP.**

vii. *Energy Audit*

The Commission proposes to replace the term “energy survey” with “energy audit.”<sup>61</sup> This definition is proposed to be edited from “[a]n onsite inspection of a residential building for the purpose of determining the most appropriate usage reduction measures,” to “[a]n initial assessment of a dwelling performed by an ESP to determine the energy usage and appropriate program services.”<sup>62</sup> CAUSE-PA is supportive of these proposed edits, which update the definition to the more commonly used and understood “energy audit.” We are also cautiously supportive of removing the requirement from the definition that the audit be carried out onsite, but only if the Commission further clarifies that remote auditing is utilized in a limited manner to increase initial LIURP participation.

As a result of the COVID-19 pandemic, which restricted the ability of contractors to safely enter a home, many utilities implemented auditing processes utilizing remote virtual

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<sup>61</sup> NOPR Annex at 3.

<sup>62</sup> NOPR Annex at 3.

inspections.<sup>63</sup> While the acute health and safety concerns associated with the pandemic have largely subsided, many utilities continue to offer remote virtual inspections. This hybrid approach to energy audits can provide another option for some households who otherwise may be precluded from LIURP participation.

While convenient, virtual inspections are limited in that auditors are unable to perform important diagnostic tests, such as a blower door test, which determines air leakage (the amount of energy escaping the home).<sup>64</sup> Advanced diagnostic testing is particularly important in the assessment of potential space-heating and space-cooling jobs that involve comprehensive building shell measures to reduce air leakage and improve efficiency of the home. Onsite auditors can also more easily identify, and remedy, health and safety measures needing immediate attention (such as a gas leak). While remote virtual audits offer a helpful option to encourage prospective LIURP participants to participate in the program, or as an initial assessment to identify potential baseload services or to assess the potential scope of a space-heating or space-cooling job, they are not an appropriate replacement for an onsite energy audits – especially for space-heating and/or space-cooling jobs. CAUSE-PA contends that remote virtual inspections should be used *only* as a tool to encourage participation, to identify potential baseload measure installation, or as an *initial* assessment of the scope of a space-heating or space-cooling job – provided a full onsite audit is performed before comprehensive heating or cooling measures are installed. We recommend the following proposed amendments to the definition of *energy audit*:

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<sup>63</sup> Remote Virtual Inspection; Building Energy Codes Program; Office of Energy Efficiency and Renewable Energy; U.S. Department of Energy; <https://www.energycodes.gov/remote-virtual-inspection>

<sup>64</sup> U.S. Department of Energy, Energy Saver, Blower Door Tests, <https://www.energy.gov/energysaver/blower-door-tests>, accessed January 5, 2024.

*Energy [survey—An onsite inspection of a residential building for the purpose of determining the most appropriate usage reduction measures.] audit—An initial assessment of a dwelling performed by an ESP to determine the energy usage and appropriate program services. AN ESP MAY PERFORM AN INITIAL REMOTE AUDIT FOR RESIDENTIAL BASELOAD SERVICES BUT MUST COMPLETE AN ONSITE AUDIT FOR ALL RESIDENTIAL SPACE-HEATING OR SPACE-COOLING SERVICES.*

*viii. LIURP Budget*

The Commission proposes to add the term “LIURP budget”, which it defines as “the expected cost of providing program services in a given program year, as approved in a USECP proceeding.”<sup>65</sup> CAUSE-PA has considerable concerns regarding this definition and its application, particularly regarding the proposal that LIURP budgets could only be approved in a USECP proceeding. We strongly oppose limiting review and approval of LIURP funding determinations to USECP proceedings alone, and we urge the Commission to allow all rate-supported utility programs to be evaluated in the context of any appropriate proceeding. Indeed, we submit that the Commission’s proposal contradicts multiple statutory mandates, interferes with due process, and would impermissibly restrict the Commission’s ability to effectively oversee utilities’ universal service programs. We discuss our concerns in detail in Section C of these comments, which also addresses sections 58.4 and 58.17 regarding LIURP budgets. We urge the following amendment to the proposed definition of *LIURP budget*:

**LIURP budget—The expected cost of providing program services in a given program year, as approved BY THE COMMISSION ~~in a USECP proceeding.~~**

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<sup>65</sup> NOPR Annex at 4.

*ix. Program Measure*

The Commission proposes to amend the term “program measure,” which currently includes “[i]nstallations which are designed to reduce energy consumption,” to more broadly include “[a]n installation and other work performed on a dwelling under this chapter.”<sup>66</sup> CAUSE-PA supports this amendment as it expands the existing definition to allow for the installation of health and safety measures and other measures that support home comfort.

Broadening this definition provides needed flexibility for public utilities to remediate health and safety issues in the home that, if not addressed, may otherwise prevent the installation of measures designed to reduce energy consumption. For example, measures designed to remediate mold address an important home health and safety issue, but will not directly reduce energy consumption. Rather, mold remediation allows for proper air ventilation, which in turn allows for safe air sealing. If public utilities are only allowed to install measures specifically prescribed for energy reduction, homes in need of comprehensive energy efficiency will be excluded from LIURP participation. Expanding this definition allows for *all* relevant and necessary measures to be installed that will ultimately support energy usage reduction, even if not explicitly designed as such. Indeed, as discussed at greater length above, it is of critical importance that the Commission’s regulations continue allowing programs to remediate ancillary non-energy issues within a home to facilitate delivery of comprehensive efficiency measures.

*x. Public Utility*

The Commission proposes that the term “public utility” be defined as an EDC with at least 60,000 residential customers and an NGDC with at least 100,000 residential customers. The NOPR Preamble asserts that, “The proposed definition is consistent with 52 Pa. Code Sections

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<sup>66</sup> NOPR Annex at 5.

54.77 and 62.7, which specify that only EDCs serving at least 60,000 residential customers and NGDCs serving at least 100,000 residential customers are subject to universal service program and reporting requirements.”<sup>67</sup>

CAUSE-PA respectfully asserts that this proposed definition is unnecessarily restrictive. While Sections 54.77 and 62.7 of the regulations provide relaxed reporting requirements for EDCs with less than 60,000 residential customers and NGDCs with less than 100,000 residential customers, the regulations *should not wholly exempt* these utilities from their duty to ensure gas and electric services are universally accessible to all residents who reside in their service territory through the provision of comprehensive universal service programming for vulnerable households.<sup>68</sup>

Neither the definition of EDC in the Electricity Generation Customer Choice and Competition Act (Competition Act)<sup>69</sup> nor the definition of NGDC in the Natural Gas Choice and Competition Act (Choice Act)<sup>70</sup> are limited by residential customer counts. Both statutes require that universal service and energy conservation policies, activities and services are appropriately funded and available in each EDC and NGDC service territory.<sup>71</sup> And both Acts require – *at a minimum* – that universal service programs are maintained at a level prior to the Choice Acts. While smaller EDCs and NGDCs did not have LIURPs in place when the Choice Acts were passed, this mandate does not restrict the Commission from ensuring the reasonable growth of these programs to respond to identified needs across the state.

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<sup>67</sup> NOPR Preamble at 28.

<sup>68</sup> See 52 Pa. Code §§ 54.77(1), 62.7(a)(1).

<sup>69</sup> 66 Pa. C.S. § 2803 ("Electric distribution company.").

<sup>70</sup> 66 Pa. C.S. § 2202 ("Natural gas distribution company.")(Note that although the Natural Gas Choice and Competition Act limits the term NGDC to include only gas utilities with \$6 million or more in annual residential revenue, this requirement is much lower in comparison to the restrictive customer count levels proposed by the NOPR).

<sup>71</sup> 66 Pa. C.S. §§ 2203(8), 2804(9)



As discussed at length in the Background section of our Comments above, LIURP is a vital component of an appropriate universal service and energy conservation plan. The Commission has a duty to ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric and gas distribution territory.<sup>72</sup> Such policies, activities, and services must “help residential low-income customers ... to reduce or manage energy consumption in a cost-effective manner.”<sup>73</sup> CAUSE-PA submits that Pennsylvanians who happen to reside in a smaller utility service territory should have equitable access to the same kinds of universal service programs as those who reside in a larger utility service territory. Indeed, the same energy disparities are present in smaller utility service territories, necessitating the same comprehensive usage reduction services to help control unnecessarily high home energy costs and improve universal access to home energy services.

The statutory definitions of “Public utility” in the umbrella definition section of the Public Utility Code<sup>74</sup> and in Chapter 14 of the Code<sup>75</sup> both define the term broadly. We recommend that the Commission provide a broader, more inclusive definition to ensure LIURP services are available to customers living in the service territories of smaller utilities. We recommend the following amended language:

**Public utility— AN EDC OR NGDC SERVING RESIDENTIAL CUSTOMERS UNDER THE JURISDICTION OF THE PUBLIC UTILITY COMMISSION.**

**(1) An EDC with at least 60,000 residential customers.**

**(2) A NGDC with at least 100,000 residential customers.**

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<sup>72</sup> 66 Pa. C.S. §§ 2804(9), 2203(8).

<sup>73</sup> Id.

<sup>74</sup> See 66 Pa. C.S. § 102 (“Public utility - (a) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for [ . . . ] (i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.”).

<sup>75</sup> See 66 Pa. C.S. § 1403 (“Public utility - Any electric distribution utility, natural gas distribution utility, small natural gas distribution utility, steam heat utility, wastewater utility or water distribution utility in this Commonwealth that is within the jurisdiction of the Pennsylvania Public Utility Commission.”).

*xi. Residential Electric Baseload Customer*

The Commission proposes to amend the term “residential high use electric baseload customer,” deleting the term “high use” from the defined term and deleting the provision “utilizing greater than 125% of the usage of the covered utility’s average residential baseload customer” from the definition.<sup>76</sup>

As discussed in section I, CAUSE-PA is supportive of high usage as a criterion for *prioritizing* LIURP services, when high usage is appropriately tiered according to the square footage of the residence. However, static usage thresholds – such as the 125% threshold identified in the existing definition – result in the inequitable exclusion of Pennsylvanians residing in smaller homes and apartments. RECS collects information about the size of a respondent home or housing unit as part of the data collection protocol:

The square footage, or size, of a home is an important characteristic in understanding its energy use. The amounts of energy used for major end uses such as space heating and air conditioning are strongly related to the size of the home.<sup>77</sup>

In its 2020 RECS, EIA found that households with incomes less than \$10,000 annually paid \$0.35 *more* per square foot for home energy costs than households with incomes of \$100,000 or more annually.<sup>78</sup> National Fuel Gas (NFG) recently started a low consumption LIURP pilot that is targeted to serve homes with high usage relative to the square footage of the home. The first home treated in the pilot showed a 25% reduction in energy consumption in the first 12 months

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<sup>76</sup> NOPR Annex at 5.

<sup>77</sup> U.S. Energy Info. Admin., 2015 RECS Square Footage Methodology (Oct. 2017), [https://www.eia.gov/consumption/residential/reports/2015/squarefootage/pdf/2015\\_recs\\_squarefootage.pdf](https://www.eia.gov/consumption/residential/reports/2015/squarefootage/pdf/2015_recs_squarefootage.pdf).

<sup>78</sup> U.S. Energy Info. Admin., 2020 RECS, Average U.S. Household Energy Expenditures per Square Foot (2020) [https://www.eia.gov/todayinenergy/detail.php?id=56640&src=%E2%80%B9%20Consumption%20%20%20%20%20Residential%20Energy%20Consumption%20Survey%20\(RECS\)-b3](https://www.eia.gov/todayinenergy/detail.php?id=56640&src=%E2%80%B9%20Consumption%20%20%20%20%20Residential%20Energy%20Consumption%20Survey%20(RECS)-b3).

after LIURP measures were installed.<sup>79</sup> This is a promising beginning to this pilot program and highlights how evaluating energy usage based on square footage is a meaningful indicator for assessing energy reduction.

CAUSE-PA supports the Commission’s proposed elimination of reference to high usage thresholds in the definition of “residential baseload customer.” The Commission’s proposed amendment would help ensure services are available to low income customers who are typically excluded from LIURP because they have a smaller living space, even if their usage is disproportionately high compared to similarly sized homes. Removing the high use qualifier should allow EDCs greater flexibility in providing LIURP services to residential electric baseload homes in need of usage reduction services to help control disproportionately high energy costs and would provide greater ability to address de facto heating situations where dangerous electric baseload usage is driven by reliance on alternate electric heating devices, but usage may nevertheless remain lower than a utility’s static high usage threshold.

*xii. Residential Space-Heating Customer*

CAUSE-PA urges the Commission to ensure LIURP is able to comprehensively address high usage associated with both space-heating and space-cooling needs.

With increasing temperatures and prolonged periods of extreme heat in the summer months, cooling is becoming an urgent and growing energy and health need across our state.<sup>80</sup> A study conducted by University of Pennsylvania researchers found that, from 2008 to 2017, extreme heat was associated with a higher death rate from all causes, with a pronounced increase

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<sup>79</sup> National Fuel Gas Distribution Corporation’s Universal Service and Energy Conservation Plan for 2022-2026, Commission Final Order, Docket No. M-2021-3024935, pages 38 and 43, (Order entered May 3, 2022).

<sup>80</sup> Community Legal Services & Esperanza, *Enduring the Extremes*, at 1, 3 (June 2023).

among older adults, men, and Black individuals.<sup>81</sup> In 2022, the EPA released a similar report concluding that heat-related illnesses and deaths are often concentrated in low income communities.<sup>82</sup> In short, these studies draw a direct link between increased heat-related illness and fatality and the inability to affordable stable home cooling services in the home. As Pennsylvania’s climate continues to warm, energy use in the summer months will continue to grow – driving an increased need for comprehensive usage reduction services to ensure access to affordable cooling.

To ensure LIURP is equipped to account for this emerging need, CAUSE-PA recommends the Commission add “space-cooling” to the definition of “residential space-heating customer” – and to make corresponding changes to the definition of “residential electric baseload customer.” The proposed amended regulatory language would appear as follows.

*Residential [space heating] space-heating OR SPACE-COOLING customer*—A residential customer [of the covered utility utilizing] using the electric or **natural** gas service provided by the [covered] **public** utility as the primary heating **OR COOLING** source for the [customer’s residence. **The term includes customers with gas furnaces that have historically been used for heating but may not currently be operable**] **dwelling**.

*Residential [high use] electric baseload customer*—A residential customer [of a covered utility utilizing] **using** [the] electric service [provided by the covered utility for nonspace heating] **from the EDC for purposes other than space-heating, SPACE-COOLING or [nonwater heating end uses such as lighting and major and minor appliance usage and utilizing greater than 125% of the usage of the covered utility’s average residential baseload customer] water-heating**.

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<sup>81</sup> Khatana SAM, Werner RM, Groeneveld PW. Association of Extreme Heat With All-Cause Mortality in the Contiguous US, 2008-2017. *JAMA Netw Open*. 2022;5(5):e2212957. doi:10.1001/jamanetworkopen.2022.12957

<sup>82</sup> United States Environmental Protection Agency. (2022). Heat Islands and Equity. <https://www.epa.gov/heatislands/heat-islands-andequity>

These definitional changes will help to ensure the program is able to provide more comprehensive weatherization and building shell measures designed to remediate high usage driven by space-cooling needs.

*xiii. Special Needs Customer*

The term “special needs customer” is proposed for amendment to better align with existing provisions in USECPs and with the 2023 LIHEAP State Plan. The Commission proposes to remove the requirement that a customer would need to have an arrearage to be considered special needs and clarifies special needs customers are “a customer with a household income between 151% and 200% of the FPIG and with a household member or members who are age 62 and over or age five and under, need medical equipment, have a disability, are under a protection from abuse order, or are otherwise so defined as a special needs customer under the approved provisions of the public utility’s USECP is a special needs customer.”<sup>83</sup> This proposed amendment will help to improve the availability of usage reduction services to uniquely vulnerable and income constrained households that are unlikely able to afford to invest in energy conservation and weatherization to reduce home energy usage. Households in the special needs populations identified by the Commission often have disproportionately higher home energy burdens, as they are more likely to be homebound, rely on energy-based medical equipment, and/or require stable temperatures in the home.<sup>84</sup>

CAUSE-PA is supportive of the Commission’s proposed amendments to more clearly define the categories of customers that must be included as a special needs customer. The amended definition will provide a floor for utilities to extend LIURP to key groups of special

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<sup>83</sup> NOPR at 27.

<sup>84</sup> Carli Friedman, Unsafe temperatures, going without necessities, and unpayable bills: Energy insecurity of people with disabilities in the United States during the COVID-19 pandemic, *Energy Research & Social Science*, Volume 92, 2022, 102806, <https://www.sciencedirect.com/science/article/pii/S2214629622003097>)

needs customers, while allowing utilities flexibility to incorporate *additional* categories of special needs customers that may be identified in their service territory. Furthermore, by removing the requirement that a special needs customer must have an arrearage, the proposed amendment expands the availability of services to customers in need of assistance and who have certain special needs, regardless of whether they carry an arrearage balance.

With regard to inclusion of victims of domestic violence as a “special needs” customer group, we note that proposed definition only includes victims of domestic violence with a Protection from Abuse Order - which is misaligned with the statutory protections available to victims of domestic violence with a PFA *or other court order that contains clear evidence of domestic violence*.<sup>85</sup> We are supportive of the Commission’s express inclusion of survivors of domestic violence as a “special needs” customer group, but we urge the Commission to further amend the proposed definition to align with section 1417 of the Public Utility Code. Our recommended edits to the proposed language is below.

*Special needs customer*—A customer [**having an arrearage with the covered utility and**] whose household income is [**at or below**] **between 151% and 200%** of the [**Federal poverty guidelines**] **FPIG with one or more household members who meet any of the following criteria:**

- **Are age 62 and over or age five and under.**
- **Need medical equipment.**
- **Have a disability.**
- **Are under a protection from abuse order OR OTHER COURT ORDER THAT CONTAINS CLEAR EVIDENCE OF DOMESTIC VIOLENCE.**
- **Are otherwise defined as a special needs customer under the public utility’s approved USECP.**

Notwithstanding our support for the proposed special needs customer groups, we note that inclusion of a broader range of special needs customers should not erode the availability of services to low income households. We address this critical caveat further in section C(ii).

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<sup>85</sup> 66 Pa. C.S. § 1417.

xiv. *USECP – Universal Service and Energy Conservation Plan*

The term “USECP—Universal Service and Energy Conservation Plan” is a newly proposed term, defined as “[a] documented and Commission-approved plan describing the benefits, policies, and procedures related to a public utility’s universal service and energy conservation programs.” CAUSE-PA notes that the proposed definition does not include program budgets, needs assessment, and/or other explicit funding considerations.<sup>86</sup> These are critical aspects to a holistic USECP, and are not necessarily incorporated by the current reference to program “benefits, policies, and procedures”.

To correct this oversight, we recommend the following amendment:

**USECP—Universal service and energy conservation plan—A documented and Commission-approved plan ASSESSING THE NEED FOR ASSISTANCE IN A PUBLIC UTILITY’S SERVICE TERRITORY AND describing the benefits, policies, and procedures, AND BUDGETS related to a public utility’s universal service and energy conservation programs.**

As discussed in section C, below, CAUSE-PA firmly opposes the Commission’s proposal to relegate assessment of universal service programming to universal service plan proceedings. To maintain proper oversight of universal service programming, the Commission must retain its ability to review universal service programs in the context of reviewing the justness and reasonableness of proposed changes to a utilities’ rates. However, we nevertheless believe a USECP should contain a complete scope of a public utilities’ universal service and energy conservation programming. As such, we believe it is important that the Commission require utilities to include a formal needs assessment and budget within their USECP, and the definition of USECP should be accordingly amended to include these critical aspects of a utilities’ USECP.

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<sup>86</sup> NOPR Annex at 6

### C. Sections 58.2, 58.4, and 58.17 - LIURP Budgets

- i. *Limiting Commission review of LIURP budgets to quinquennial USECP proceedings deprives stakeholders of due process and curtails Commission oversight and meaningful evaluation of program performance.*

In the Commission's proposed definition of "LIURP budget" in section 58.2, and throughout sections 58.4 and 58.17, the Commission proposes to curtail its oversight and review of LIURP funding, proposing that funding may be revised *only* through the course of a public utilities' quinquennial USECP proceeding or through a petition filed by a public utility.<sup>87</sup>

CAUSE-PA strongly opposes the Commission's proposal to relegate its review of LIURP funding to a utilities' quinquennial USECP proceeding, as it would negatively impact the due process rights of stakeholders and would substantially curtail the ability of the Commission and stakeholders to review real time changes impacting the cost-effectiveness and availability of LIURP in other relevant proceedings, such as a utility base rate proceeding. It is critical that the Commission retain its ability to fully assess and holistically review the justness and reasonableness of a utility's rates, terms and conditions of services, and ratepayer-supported programs – including LIURP – in the context of a utility rate proceeding.

The Commission's proposal to restrict review of a utilities' LIURP budget to a quinquennial USECP proceeding would impermissibly narrow the scope of consideration of a given utility's existing rates, rules, and regulations in a public utility rate case, impeding the Commission's ability to conduct a thorough investigation of whether a utilities' rates are just and

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<sup>87</sup> NOPR Preamble at 31.



reasonable.<sup>88</sup> The Public Utility Code defines “Rates” broadly to include any charge whatsoever of any public utility, as well as “any rules, regulations, practices, classifications or contracts affecting any such [. . .] charge.”<sup>89</sup> This definition necessarily includes all rate-payer funded programming, including LIURP.<sup>90</sup> Section 1301(a) of the Code mandates that “every rate made, demanded, or received by any public utility . . . shall be just and reasonable, and in conformity with regulations or orders of the commission.”<sup>91</sup> Section 1501 of the Code requires every public utility to provide service on reasonable terms.<sup>92</sup>

Through the course of a rate case investigation, the Commission must determine the lawfulness, justness, and reasonableness of the utility’s proposed *and existing* rates, rules, and regulations. By excluding LIURP budgets from this evaluation, the Commission curtails the due process rights of stakeholders who may seek to challenge the justness and reasonableness of a utility’s rates (inclusive of ratepayer-funded programming), and undercuts its own ability to evaluate the utility’s LIURP spending and the effectiveness of its universal service programming within the broader context of the utility’s rates, rules, and regulations as a whole. If its proposed LIURP budget restrictions are approved, the Commission would impede its own ability to properly evaluate, regulate, and oversee a public utility’s universal service programs.

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<sup>88</sup> Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301. The fundamental question of whether rates are just and reasonable must be decided in a rate case.

<sup>89</sup> 66 Pa. C.S. § 102 (“Rate. Every individual, or joint fare, toll, charge, rental, or other compensation whatsoever of any public utility, or contract carrier by motor vehicle, made, demanded, or received for any service within this part, offered, rendered, or furnished by such public utility, or contract carrier by motor vehicle, whether in currency, legal tender, or evidence thereof, in kind, in services or in any other medium or manner whatsoever, and whether received directly or indirectly, and any rules, regulations, practices, classifications or contracts affecting any such compensation, charge, fare, toll, or rental.”).

<sup>90</sup> See Nat’l Utilities, Inc. v. Pa. PUC, 709 A.2d 972, 979 (Pa. Commw. Ct. 1998), following D.C. Transit Sys., Inc. v. Washington Metro. Area Transit Com’n, 466 F.2d 394, 411 (D.C. Cir. 1972), *cert denied*. Pennsylvania and federal courts have recognized, in the context of setting just and reasonable rates, that the impacts upon customer service, and the quality of service provided, are within the scope of regulatory consideration.

<sup>91</sup> 66 Pa. C.S. § 1301(a).

<sup>92</sup> 66 Pa.C.S. §1501.

Pursuant to the Choice Acts, the Commission has a statutory obligation to oversee universal service programs – including LIURP – to ensure the programs are appropriately funded, cost-effective, and accessible to those in need of assistance to maintain energy services to their home – and are not eroded over time.<sup>93</sup> At the same time, the Commission has the duty and obligation, through the course of a utility rate proceeding, to ensure that all rates charged and the terms and conditions of all services – including utility-funded programming – are just and reasonable.<sup>94</sup>

The Commission’s evaluation of LIURP budgets should not be limited to USECP proceedings where the utilities’ programs are presented in isolation, without consideration of a utilities’ overall rates and with no opportunity to conduct discovery, offer expert testimony, or be heard by an administrative law judge (ALJ). In a rate proceeding, stakeholders can investigate a utilities’ actual LIURP expenditures, evaluate the adequacy of a utilities’ programming in the context of a proposed rate increase, and have the ability to obtain pertinent program data not otherwise available in a utilities’ USECP proceeding. Indeed, a rate proceeding provides far more appropriate levels of due process to stakeholders than the limited comment and reply comment process provided in a USECP proceeding.<sup>95</sup> CAUSE-PA thus affirms that it is most appropriate to evaluate the appropriateness of a utilities’ LIURP budget and other pertinent program features in the context of a USECP proceeding *and* in any rate case filed during the duration of the plan, where parties can more fully evaluate program performance and spending and address intervening factors that affect LIURPs.

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<sup>93</sup> 66 Pa. C.S. §§ 2802(10), (17), 2803, 2804(9); 66 Pa. C.S. §§ 2202, 2203(8).

<sup>94</sup> 66 Pa. C.S. §§ 102, 1301, 1501.

<sup>95</sup> Id.

Regarding universal service considerations raised in a rate case, the Commission has acknowledged that deferring consideration of such issues pending a quinquennial (five-year) USECP proceeding can result in denying low-income customers critical relief for an extended period – in essence resulting in unjust and unreasonable rates between the time a rate increase is approved and the time corresponding LIURP amendments are reviewed. The Commission stated in one recent case, “In our view, such a result is unreasonable and thwarts the purpose of universal service, which is to help low-income customers *maintain* their natural gas service.”<sup>96</sup> The Commission has also acknowledged that “a base rate case proceeding provides a more formal review process than the USECP review process,” and found that a rate case proceeding is “the more appropriate forum” to address the low-income customer service issues raised in that proceeding.<sup>97</sup>

Relegating LIURP budgets to be solely addressed in the context of a USECP proceeding would cause undue delay in addressing factors inherent in rate proceedings that necessarily affect a company’s LIURP and would thwart the intersectional purposes of LIURP.<sup>98</sup> The Commission reviews USECPs every five years – though the approval process is not on a mandatory timeline and can be significantly delayed, causing the expired plan to remain in place for months or even years. In the interim, it is critical to examine whether a utility’s universal service programming will be impacted by an intervening rate increase, and, if so, to make necessary changes to remediate that impact. Such a review is an essential element in determining the justness and reasonableness of a proposed rate increase, as well as the adequacy of the customer service provided to low income customers. The failure to provide such an examination and to remediate

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<sup>96</sup> *Pa. PUC v. PGW*, R-2023-3037933, Final Order at 216 (Entered Nov. 9, 2023) (citing 66 Pa. C.S. § 2202).

<sup>97</sup> *Id.*

<sup>98</sup> 52 Pa. Code § 58.1

the effect in the context of a rate case, causes low income households to face unjust and unreasonable rates, resulting in increased involuntary termination rates for low income households and higher uncollectible expenses, which ultimately drives up costs for other residential consumers.

Notably, in addition to increasing rates, there are a multitude of other intervening factors that can impact the accessibility of universal service programming and, as such, necessitate intervening review of program funding. Dynamic economic conditions, shifting state and federal energy priorities, and shifts in extreme weather patterns and temperatures each necessitate adjustments to program budgets to ensure programs are accessible and appropriately funded to serve identified need. It is critical that the Commission not tie its own hands in its ability to appropriately review the adequacy of a utilities' services and the justness and reasonableness of all rates - including those used to support LIURP services - in the context of current economic conditions.

The Commission states unwarranted concern in the NOPR Preamble that, "When a LIURP budget is modified outside a USECP proceeding through a settlement, the settlement agreement often does not explain how the LIURP budget was determined or how this change addresses an unmet need in the public utility's service territory."<sup>99</sup> Before approving a proposed settlement, the Commission must review the full record to ensure each term is just and reasonable and supported by substantial record evidence. If a particular term is unclear, or requires further explanation or support, the Commission can amend the proposed settlement and/or may order the parties to provide further support. If the Commission is concerned that a prior settlement did not include an adequate explanation supporting proposed amendment to a

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<sup>99</sup> NOPR Preamble at 37.

LIURP budget, it should have ordered the parties to further explain *before* approving the settlement – it should not now single out LIURP for exclusion from consideration in assessing the justness and reasonableness of a utility’s rates.

It is imperative that the Commission maintain the ability to evaluate and adjust LIURP funding and other critical programmatic aspects through a base rate proceeding if the weight of the evidence in the proceeding demonstrates that an adjustment is necessary to ensure the program remains accessible and adequately funded to serve those in need of assistance and is otherwise consistent with applicable laws and regulations. Limiting the evaluation of LIURP budgets to USECP proceedings will deprive stakeholders of due process and undermine the effectiveness of the programs by limiting their ability to adapt due to intervening factors during the long five-year period between filings. We therefore urge rejection of the proposed changes to the definition of “LIURP Budget” in Section 58.2, and throughout Sections 58.4 and 58.17, that would relegate LIURP funding determinations to a USECP proceeding. The proposed amended language would appear as follows, amending sections 58.2, 58.4, and 58.17:

§ 58.2. Definitions.

**LIURP budget—The expected cost of providing program services in a given program year, as approved in a USECP proceeding BY THE COMMISSION.**

§ 58.4. [Program funding] LIURP budgets.

**(a.1) General. A public utility shall propose annual LIURP budgets for the term of a proposed USECP that is filed with the Commission for review and approval. Upon approval of the USECP by the Commission, the public utility shall continue providing program services at the budget level approved in the USECP unless the LIURP budget is revised in a future USECP proceeding.**

**(c) [Guidelines for revising program funding] Revisions to a LIURP budget. A revision to a LIURP budget is accomplished in a USECP proceeding.—A**

revision to a **[covered] public** utility's **[program funding level is to] LIURP budget must** be **[computed]** based upon factors **[listed in this section. These factors are] including all of** the following: [...]

§ 58.17. [Regulatory review] Modifications of a LIURP.

A **[covered] public** utility **[may not implement a required usage reduction program, nor subsequently significantly] ~~shall establish or subsequently~~ MAY NOT ESTABLISH, IMPLEMENT, OR MODIFY ITS LIURP ~~{a program approved under this chapter until the PUBLIC utility has received Commission approval for the proposal } modify its program services and LIURP budget through a USECP proceeding.~~**

- ii. *The Commission is right to expand the allowance for “special needs” customers from 20% to 25% of the program budget, though the expansion should not erode the availability of assistance to low income customers with income at or below 150% FPL.*

In its NOPR, the Commission proposes to increase the spending limit for “special needs customers” from 20% to 25% of the LIURP budget. The Commission explains this increase provides public utilities greater flexibility to serve more special needs customers who are ineligible for CAP but still need help with their utility bills. As explained above in the definitions section, CAUSE-PA is generally supportive of the Commission’s proposal to amend the definition of “special needs customer” to clarify that “special needs customers” include households with Seniors, young children, individuals with a disability or who rely on medical equipment, survivors of domestic violence,<sup>100</sup> and other customer groups identified in a public utility’s USECP.<sup>101</sup> The additional clarification of special needs qualifications and additional allowable spending will help utilities better address the needs of low income households who are in need of assistance but do not qualify for other types of assistance such as LIHEAP or CAP.

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<sup>100</sup> Note that CAUSE-PA recommended further amendment to include all survivors of domestic violence protected under 66 Pa. C.S. § 1417, rather than limiting to survivors with a protection from abuse order (PFA).

<sup>101</sup> NOPR Preamble at 27.

CAUSE-PA is generally supportive of the Commission’s proposal to increase the overall percentage of LIURP funding that utilities can use to serve special needs customers. As explained above, households with special needs customers often face disproportionately high energy burdens – often driven by unique medical needs and other energy usage considerations unique to these vulnerable groups. However, we are concerned that this expanded funding allotment will erode the availability of services to households currently eligible for the program.

The Commission acknowledges in its NOPR Preamble that increasing the percentage of the LIURP budget allocatable to special needs customers will increase the pool of potential LIURP referrals and provides more opportunities for coordination with WAP and other weatherization programs.<sup>102</sup> However, it does not also acknowledge that expanded eligibility – absent expanded funding – will necessarily erode services to currently-eligible households.

The need for LIURP services already dramatically exceeds available program funds. As we note earlier in these comments, in some utility service territories, it would take decades – in some cases as long as 95 years – to provide LIURP services to all eligible customers at existing eligibility and funding levels.<sup>103</sup> If the Commission authorizes utilities to allocate an additional five percent of funding to serve special needs customers, current funding levels *must* be increased accordingly so that the least economically resourced customers are not further deprived of receiving LIURP services.

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<sup>102</sup> NOPR Preamble at 38.

<sup>103</sup> See, e.g., FirstEnergy Companies Joint Proposed Universal Service and Energy Conservation Plan for 2024-2028, Supplemental Information, Docket Nos. M-2022-3036532, M-2022-3036533, M-2022-3036534, M-2022-3036535, filed April 25, 2023, p 23.

- iii. *The Commission should provide more clarity on the methodology for determining LIURP budgets and should ensure the budget has a reasonable nexus with the required needs assessment.*

In proposed section 58.4(c)(1)-(8), the Commission enumerates factors for a public utility to assess when proposing revisions to its LIURP budget, including (1) the number of estimated low income customers by income tier, (2) the number of confirmed low income customers by income tier, (3) the number of special needs customers, (4) the number of confirmed low income customers that could be served, considering the number of dwellings already served or not in need of services, (5) the number of special needs customers that could be served, considering the number of dwellings already served or not otherwise in need of services, (6) expected participation rates, based on the number of eligible customers and historical participation, (7) the total expense of program services, including the cost of measures, education, and training, and (8) a plan for providing services to eligible customers within a proposed timeline, with consideration to provider capacity, time and materials, and the impact on utility rates.<sup>104</sup>

As an initial observation, we note that the Commission does not establish any methodology for how these factors should be calculated or the weight each should be provided in establishing a reasonable budget for LIURP services. We are concerned this lack of specificity will lead to broad discrepancies in the assessment of need and, in turn, the availability of funding and access to services across utility service territories. In fact, the Commission is proposing to *eliminate* language in subsection (8) that currently requires utilities to establish a plan for providing services to all eligible households within a “*reasonable period of time.*”<sup>105</sup> Given USECP proceedings are based on comments alone, there is no ability for stakeholders to

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<sup>104</sup> NOPR Preamble at 38-39.

<sup>105</sup> NOPR Annex at 8.



investigate whether the utilities' assertions with regard to each category are appropriately assessed or whether the timeline a utility establishes for LIURP services is just and reasonable.

CAUSE-PA is also concerned about the Commission's repeated reliance on historical participation rates (4), (5), and (6) to assess funding needs for services on a forward-going basis. While historical program performance criterion will help well-performing LIURPs to continue to perform well, it could serve to exacerbate issues with underperforming LIURPs – resulting in a reduction of services in areas of the state that are already underserved.

CAUSE-PA is further concerned that the Commission's proposed factors do not appropriately consider the *depth* of the need, as opposed to the number of households that may be eligible for services. Indeed, there is a significant difference in the necessary budget to provide electric baseload services as compared to comprehensive space-heating and/or space-cooling services. In turn, in establishing a proposed budget, the Commission should establish a clear nexus between the utilities' needs assessment and the provision of services to meet that identified need.

To address these concerns, CAUSE-PA recommends the Commission further amend the factors in section 58.4(c) to include an assessment of the depth of services needed (e.g., baseload, heating, cooling). Consideration should be given to the age of housing stock in the area, as well as winter and summer usage patterns based on location and climate. Data utilized to assess the need for LIURP services should not be based on the utilities' historical data alone. Rather, assessment of need should include relevant census data and other available statewide and national data sets, such as affordable housing data maintained by the Pennsylvania Housing Finance Agency (PHFA) and the federal Department of Housing and Urban Development (HUD). In turn, we recommend the Commission develop a standardized methodology for

calculating a proposed budget based on the factors enumerated in section 58.4(c) that includes an articulable nexus between identified need and proposed annual funding and projected participation levels. At minimum, we urge the Commission to require that LIURP budgets be set at a level that will serve identified need within a 15-year period. If a utility proposes a budget inadequate to serve identified need within that period of time, it should be required to explain and justify the deviation.

Finally, CAUSE-PA recommends the Commission consider establishing a periodic statewide evaluation of need utilizing a neutral third party evaluator. Such a process would obviate the need for utilities to perform an individual needs assessment, similar (though not the same) as the Statewide Evaluator process utilized for assessing the potential energy savings for Act 129 programming. Establishing a statewide evaluator process, used in establishing appropriate LIURP budget levels, would help to improve consistency in the availability of LIURP services across the state.

- iv. The Commission should clarify that unspent LIURP funds must be carried over and added to the following year's budget.*

In the NOPR, the Commission proposes to add section 58.4(d.1), which would require a public utility to “reallocate unspent LIURP funds to the LIURP budget for the following program year unless an alternate use is approved by the Commission in a USECP proceeding.”<sup>106</sup> The Commission explains that this provision is intended to “incentivize public utilities to use all available LIURP funds each year or seek out more eligible LIURP participants for the following year.”<sup>107</sup>

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<sup>106</sup> NOPR Preamble at 39.

<sup>107</sup> Id.

CAUSE-PA supports this additional provision, and notes that the absence of such a requirement has served in the past as a disincentive for utilities to operate a robust program – in some cases resulting in the loss of tens of thousands of dollars in program services. Notwithstanding this strong support, CAUSE-PA urges the Commission to further clarify that unspent funds must be *added to* the budget for the following year and, in turn, should be expended first – before drawing down funds from the new budget.

These clarifications are necessary to ensure carry-over funds are used to supplement – rather than supplant – a utility’s LIURP budget for the following year. In the past, utilities required to carry over unspent funds, without an explicit requirement that such funds be *added to* the budget for the following year, have used the carry-over funds to reduce the following year budget by the amount that was carried over. CAUSE-PA recommends that the Commission amend section 58.4(d.1) to clarify that unspent funds must be added to the budget for the following year, and should be spent first – before utilizing new funding for program services. Recommended language amending section 58.4(d.1) is as follows:

**(d.1) Unspent LIURP funds. A public utility shall annually reallocate unspent LIURP funds to SUPPLEMENT the LIURP budget for the following program year unless an alternate use is approved by the Commission in a USECP proceeding.**

#### **D. Section 58.13a – LIURP Pilot Programs**

*CAUSE-PA supports expanding the types of pilot programs considered but opposes limiting consideration of pilot proposals to a USECP proceeding.*

The Commission proposes to add section 58.13a to provide direction for the development and evaluation of pilot programs, providing parameters for the process, timeframe, and reporting requirements. The section would permit a public utility to propose a pilot program to offer innovative services and enumerates the types of pilot programs that public utilities may propose -

including pilots related to energy conservation education, renewable energy sources, fuel switching, and air conditioning.<sup>108</sup> The Commission explains that this section is intended to expand the types of permissible pilot programs.

CAUSE-PA supports the Commission's intent to expand the types of public utility pilot programs. Allowing these types of pilot programs will help further the stated purpose of LIURP, and will at the same time help to ensure that low income customers are not left behind in Pennsylvania's transition to renewable, clean energy. However, the language proposed by the Commission does not explicitly indicate that other types of pilots (many of which are currently in place) are still permissible, such as emergency furnace repair, service line repair, health and safety, low consumption, and multifamily programs.<sup>109</sup> We recommend that the Commission further amend section 58.13a(a) to ensure that permissible pilot programs include – ***but are not limited to*** – the enumerated pilot programs included in subsections 58.13a(a)(1)-(4).

Notwithstanding support for the Commission's inclusion of other categories for approved pilot programs (with the above recommended clarification), CAUSE-PA opposes the proposed language in section 58.13a(c)-(d) that would require proposed pilot programs to be subject to approval only in a USECP proceeding - and its proposed restriction that pilot programs not exceed a maximum timeframe of five years or the expiration of the public utility's current USECP, whichever comes later.<sup>110</sup> These restrictions would pose a barrier to developing pilot programs that could be proposed for less than five years because it would mean that a utility

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<sup>108</sup> NOPR Preamble at 78.

<sup>109</sup> In Columbia Gas's 2024-2028 Universal Service and Energy Conservation Plan proceeding, in response to the Commission's Order Directing Supplemental Information and Establishing Comment Period, Columbia indicated that two homes enrolled in its Health and Safety Pilot were completed by the end of 2021, and realized 33.28% and 24.36% weather normalized savings, respectively. Columbia Gas of Pennsylvania, Inc. Universal Service and Energy Conservation Plan for 2024-2028, Supplemental Information provided to the Commission by Columbia, Docket No. M-2023-3039487, pages 23-24, (Supplemental Information submitted July 17, 2023).

<sup>110</sup> NOPR Preamble at 78.

would need to cease operation between the expiration of the original pilot and the USECP proceeding without any avenue for the utility to seek to continue the program in the interim.

This proposal would also limit the ability of stakeholders to evaluate pilot programs through discovery and expert testimony in the context of other relevant proceedings, such as an Act 129 energy efficiency and conservation (EE&C) plan proceeding or a voluntary gas efficiency proceeding. As discussed above regarding the proposed relegation of LIURP budgets to consideration solely within the USECP, such a restriction would fundamentally limit due process of the parties. In practice, pilots have often been developed through rate cases, EE&C Plan proceedings, and other litigated proceedings to address the need for rate remediation and/or to advance innovative cross-program coordination. If relegated to consideration in USECP proceedings, the Commission would foreclose the ability of utilities and stakeholders to improve intra- and inter-utility coordination through innovative LIURP pilots.

By their nature, pilot programs are small-scale, short-term trials used to evaluate the viability of a project idea to later be incorporated into a utility's regular LIURP program. However, the NOPR proposes that in order to either discontinue a pilot program or incorporate the pilot as a regular component of its LIURP would only be allowed to do so through a USECP proceeding.<sup>111</sup> Considering that USECP proceedings only occur every five years, and regularly extend beyond the prior approved plan period, this proposal would essentially require all pilots to be proposed with 5-year minimum terms. This is unnecessarily restrictive and removes flexibility where pilot programs are more appropriately structured for longer or shorter terms. This restriction also delays the ability to develop regular LIURP program components from successful pilot programs, where a five year pilot design is unnecessary.

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<sup>111</sup> NOPR Preamble at 78.

CAUSE-PA urges elimination of the restrictive provisions in section 58.13a that would relegate consideration of an innovative LIURP pilot to a USECP proceeding. While the Commission would retain the authority to determine whether and to what extent to approve a LIURP pilot in another proceeding, it should not foreclose the possibility.

**E. Sections 58.5, 58.14c(d), & 58.15(3)(ii) – Administrative Costs**

- i. The 15% cap on administrative costs should apply to all administrative costs, including administration of pilot programs.*

The Commission proposes in section 58.5 to retain a 15% cap on administrative costs, as well as the current exemption for pilot program costs.<sup>112</sup> As discussed above in section B(i) (regarding the definition of administrative costs), CAUSE-PA respectfully recommends that the 15% cap on administrative costs should apply to all administrative costs, including pilot program administrative costs. Pilot programs cannot be properly evaluated for permanent inclusion in a LIURP if their structure is fundamentally different than the utility's other existing LIURP programs. A 15% cap on administrative costs is a generous spending cap and should be established for all LIURP programs – including pilot programs. If additional administrative funds are anticipated to develop and launch a pilot program, a utility would have the ability to seek a regulatory waiver – ensuring any extraordinary administrative costs are explicitly identified by the utility and afforded an appropriate level of enhanced scrutiny by the Commission.

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<sup>112</sup> NOPR Annex at 9, NOPR Preamble at 41.

- ii. *The Commission should clarify that all training costs are included in the 15% cap on administrative costs.*

The Commission proposes new language in section 58.14c(d), allowing a public utility to use “up to 1% of its total LIURP budget” on costs associated with inter-utility trainings, coordinated trainings, or outreach, or a combination.<sup>113</sup> CAUSE-PA strongly supports this new provision, as it will help to leverage energy efficiency workforce development resources and improve coordination of program services across utility and state and federal efficiency and weatherization programs.

Notwithstanding our support for this provision, we submit that further clarification is likely prudent to ensure consistent implementation. As discussed above in section B(i), the Commission proposes to amend the definition of “administrative costs” in section 58.2 to include training. However, it is not clear whether inter-utility training costs are included in the 15% cap on administrative costs set forth in section 58.5, or whether Section 58.14c(d) creates a separate classification for additional training expenses beyond the 15% administrative cap.

As written, CAUSE-PA reads the combination of these provisions to indicate that costs associated with inter-utility trainings, coordinated trainings, and outreach would count against the 15% administrative cost cap. We support this interpretation, but encourage the Commission to clarify that the 1% allowance for inter-utility training costs is meant to be included in the 15% administrative cost cap.

- iii. *The Commission should require utilities to disaggregate cost categories and itemize administrative costs in the required data identified in section 58.15.*

The Commission proposes substantial amendments to a public utilities’ annual LIURP reporting requirements in Section 58.15, including a new requirement that utilities report on the

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<sup>113</sup> NOPR Annex at 21,

total LIURP costs, including administrative costs – among various other explicit cost categories. However, the Commission does not clarify that each cost category should be disaggregated to allow appropriate review of utility spending. As drafted, the language appears to only require utilities to report a single number – “[t]he total LIURP costs” – inclusive of “material and labor costs of measures installed, administrative costs, inter-utility trainings, coordinated trainings and outreach, health and safety, incidental repairs, energy conservation education and cost to serve special needs customers.”<sup>114</sup>

CAUSE-PA recommends that the Commission amend section 58.15(3)(ii) to explicitly require that utilities disaggregate the total LIURP costs by category identified in the regulation. Further, given the breadth of costs included in the definition of administrative costs, CAUSE-PA recommends the Commission further require disaggregation of reported administrative costs by category identified in the definition of administrative costs – rather than requiring a single number for administrative costs. This further disaggregation will be critical to assessing the impact of including training costs as a new category of allowable administrative costs.

#### **F. Section 58.12 – Incidental Repairs / Health and Safety Measures**

CAUSE-PA strongly supports the intent of the Commission’s proposed amendment to Section 58.12 to improve the ability of LIURP contractors to perform incidental home repairs and to install health and safety measures to facilitate delivery of comprehensive LIURP services. As stated above, we also strongly support the Commission’s decision to include explicit consideration of health, safety, and comfort of customers in Section 58.1, statement of purpose.

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<sup>114</sup> NOPR Annex at 22.



Nevertheless, we urge further amendment to ensure health and safety measures and incidental repairs are accessible on an equitable basis across the state.

*i. Section 58.12(a)(2) - Description of Health and Safety Measures*

With respect to the Commission’s proposed description of “Health and safety measures” at subsection 58.12(a)(2), we recommend adjusting the language to indicate that covered health and safety measures *are not limited to* the specific measures listed in the proposed regulation. While the measures listed by the Commission include the most common types of health and safety measures installed by utilities, other health and safety needs may arise that require treatment for the safety of the LIURP customer and the installers. We note that the Commission’s enumeration of specific “health and safety measures” in section 58.12(a)(2) does not match the more broadly defined term in section 58.2, which includes all program measures or repairs “necessary to maintain and protect the physical well-being and comfort of an occupant of a dwelling or an ESP, or both.”<sup>115</sup> CAUSE-PA’s recommended amendment to the regulatory language would appear as follows:

**(2) Health and safety measures. These measures may include BUT ARE NOT LIMITED TO installing smoke alarms or carbon monoxide detectors, performing combustion testing and identifying and remediating potential hazards such as knob and tube wiring, mold, asbestos and moisture.**

This recommended edit will provide necessary clarity and better aligns with the Commission’s proposed definition of “health and safety measure” in Section 58.2 by helping ensure that utilities have the flexibility to install health and safety measures that are necessary to protect the health and safety of the program participant but may not fit neatly within these specific enumerated measures.

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<sup>115</sup> NOPR Annex at 3.

ii. *Budget Allowance*

The Commission proposes in section 58.12(b) that utilities must establish a separate allowance for health, safety, and incidental repairs, to be approved through a utility's USECP proceeding. As explained above in section C, review of a utility's health and safety allowance should not be restricted to USECP proceedings as utilities should have the flexibility to increase the allowances due to intervening factors. Unanticipated events often arise that impact the adequacy of funding for health and safety measures and incidental repairs, such as increasing utility rates, natural disasters, public health emergencies, and inflationary pressures, and necessitate the Commission's attention sooner than the five-year USECP review process would allow.

Moreover, CAUSE-PA is concerned that the proposed regulatory language *allows* a utility to identify a health and safety allowance but does not *require* a utility to establish such an allowance.<sup>116</sup> We recommend the Commission require utilities to establish a *minimum* allocation for both incidental repairs and health and safety measures to ensure funding is established and appropriately allocated to both purposes on a equitable statewide basis.

CAUSE-PA recommends the following adjustments to section 58.12(b):

**(b) Allowances. PUBLIC UTILITIES SHALL ESTABLISH A SEPARATE ALLOWANCE FOR INCIDENTAL ~~Incidental~~ repairs and FOR health and safety measures ~~must have separate allowance limits, approved through a USECP proceeding.~~ ALLOWANCES FOR THE COMBINED TOTAL BUDGET FOR BOTH INCIDENTAL REPAIRS AND HEALTH AND SAFETY MEASURES WILL NOT BE LESS THAN \$2,000 PER HOME.**

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<sup>116</sup> The proposed language in section 58.12(a) would require public utilities to identify criteria used for performing incidental repairs and health and safety measures, and section 58.12(b) requires public utilities to have separate allowance limits for incidental repairs and health and safety measures, but those limits only need to be established if the public utility decided it wishes to fund the measures.

*iii. Deferrals*

The Commission's proposed section 58.12(c), regarding deferrals, has three prongs. This section (1) allows utilities to defer a dwelling that does not meet the criteria for incidental repairs or health and safety measures or that exceeds the maximum budget allowance and requires utilities, (2) requires utilities to provide written notification to customers when the dwelling is deferred, and (3) requires utilities to report on the number of jobs that are deferred.

To enhance program coordination, CAUSE-PA recommends that the Commission clarify that before a job is deferred due to exceeding the maximum budget allowance for the repairs, the public utility should be required to assess whether it could perform the work in coordination with other programs, leveraging the available health and safety and/or incidental repair allowance with other program resources.

Regarding deferrals that do not meet the criteria for incidental repairs or health and safety measures, or that exceed the maximum budget allowance (alone or combined with other resources), CAUSE-PA recommends the Commission develop further guidelines establishing clear criteria for such deferrals. We are concerned that, if left undefined, utilities may be utilizing criteria that are inappropriate or biased – exacerbating disparities in access to services across historically disadvantaged communities. Such guidance should seek to ensure that the maximum amount of LIURP eligible households can be served by the program. The guidance should also seek to ensure that that customers receive the resources necessary to address identified health and safety issues either by the utility or other identified source of assistance.

We strongly support the proposed requirement that, if deferral is truly necessary, the public utility shall inform the customer in writing and describe the conditions that must be met for program measures to be installed. However, as noted above, we recommend that utilities be required to work with those deferred to connect with other available programming to complete

the work. If the utility is not able to coordinate with other programs or otherwise assist the customer to connect with other sources of assistance to cover the deficiency in funds, the utility should be required to provide the customer with a letter detailing the health and safety measures which must be remediated, along with the estimated cost of remediation.

Regarding the tracking of deferrals, we recommend that the Commission require the utilities to report on more than just the number of deferrals within the last three years. Simply tracking the number of deferrals is not adequate to understand the full scope of the barriers at issue and whether adjustments to deferral process need to be made. Utilities should also track the number of deferrals according to the reason for the deferral, type of measure required, steps taken to coordinate with other agencies, and the number of jobs the utility is able to subsequently remediate after coordination with other agencies.

**G. Sections 58.7, 58.14b & 58.14c – Integration and Coordination of Program Services**

*CAUSE-PA supports the Commission’s proposals to improve requirements for weatherization and energy efficiency program coordination and integration but recommends further clarification.*

CAUSE-PA has long supported and encouraged coordination of utility universal service programs and integration of LIURP with other available weatherization and energy efficiency programs. Integrated and coordinated programming results in further reduced energy usage and associated costs than the installation of LIURP program measures alone and helps support a whole-home approach to the delivery of efficiency services. While CAUSE-PA supports the Commission’s efforts in this regard, we recommend further clarification of proposed sections 58.7 and 58.14c.

- i. *CAUSE-PA supports the revised requirement for LIURP program integration and coordination in section 58.7(b) but recommends slight modification.*

The Commission’s proposed amendments to section 58.7(b) remove ambiguity, firmly making program integration a requirement, both across utility programs and with other relevant local, state, and federal assistance programs. Stronger language is proposed to clarify that LIURPs “must be designed to operate in conjunction with a utility’s other available universal service programs” – as well as with “other relevant public or private programs that provide energy assistance or similar assistance to the community.”<sup>117</sup> At the same time, the Commission proposes to change the word “shall” to “must”, potentially weakening the mandatory nature of program coordination.

CAUSE-PA strongly supports policies that advance effective program coordination. When designed to specifically operate in conjunction with other programs, LIURP can better provide holistic services necessary to drive down overall home energy usage and, in turn, energy costs. Integration of service delivery and leveraging resources from other state and federal programs will allow for the provision of the most comprehensive services in each home, maximizing efficiencies for LIURP and the other attendant programs.

Notwithstanding our support for section 58.7(b), CAUSE-PA nevertheless recommends that the Commission clarify that any changes from “shall” to “must” are non-substantive in nature – including in this provision. It is unclear based on the current language of the proposed rulemaking whether this change in diction is intended to substantively change required compliance under rulemaking provisions. The Commission should clarify that the changes of “shall” to “must” do not lessen or relieve the important requirements and obligations pursuant

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<sup>117</sup> NOPR Annex at 10.

Section provisions. We note that the Commission replaces the word “shall” with “must” in many instances throughout the rulemaking, including in this section. If this change in wording is intended simply to increase the plain language of provisions, the Commission should clarify this purpose and make clear that any adjustment of directive “shall” language to “must” is non-substantive and does not change the importance or required nature of provisions.

- ii. *The Commission should explicitly require utilities to prioritize the use of local Community Based Organizations (CBOs) in the delivery of LIURP services.*

Currently, the language in section 58.7(a) and (c) require coordination with community resources and mandate the use of independent agencies with demonstrated experience and effectiveness in the administration and provision of program services.<sup>118</sup> These sections are now reserved, with replacement language related to service providers proposed in section 58.14b relating to the use of an ESP for program services.<sup>119</sup> In relevant part, the Commission proposes to add language in section 58.14b(d) ***permitting*** a utility to prioritize contracting with a qualified CBO: “A public utility may prioritize contracting with CBOs that meet its ESP qualifications.”<sup>120</sup>

CAUSE-PA submits that the proposed language in 58.14b(d) is insufficient to fulfill the Commission’s statutory mandate to encourage the use of CBOs in the delivery of LIURP services,<sup>121</sup> and runs contrary to sound public policy to ensure local, trusted, and mission-driven agencies are contracted to deliver services across their communities. Stating that a public utility “*may*” prioritize contracting with CBOs falls short of this statutory mandate, as it merely permits the use of CBOs – it does not actively encourage such use.

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<sup>118</sup> NOPR Annex at 10.

<sup>119</sup> NOPR Annex at 10, 21.

<sup>120</sup> Id.

<sup>121</sup> 66 Pa. C.S. § 2804(9); 66 Pa. C.S. § 2203(8)

CBOs are trusted community-rooted resources and serve as the first point of contact for many low income households to learn about available assistance programs – including utility, home repair, housing, food, and other vital gap-filling services that help low income families meet basic needs. Community trust is critically important for program education and implementation,<sup>122</sup> especially when programs, like LIURP, require contractors to enter and perform work within a home. It is an unfortunate reality that predatory behavior is a common experience perpetrated on economically vulnerable households.<sup>123</sup> Many low income households are rightly suspicious of any program offering that claims to be free, especially when offered by an entity that lacks direct ties to the local community. CBOs are therefore important to the implementation and reach of LIURPs, and CAUSE-PA is concerned that reliance on fewer CBOs could have a chilling effect on LIURP enrollment *and* on the utilities’ ability to effectively coordinate the delivery of comprehensive, leveraged, integrated, and coordinated weatherization and efficiency programming to low income households.

We are also concerned that limiting the use of CBOs to implement LIURP services may result in inequitable distribution of services across utility service territories. Only engaging larger ESPs, that are not located in every community, could result in several communities without local service providers. The Commission attempts to mitigate this by proposing section 58.14b(c), requiring that “[a] public utility which outsources program services shall contract with multiple ESPs if possible and shall file and serve a justification if selection is limited to one ESP.”<sup>124</sup>

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<sup>122</sup> Urban Institute, *Why Investing in Trusted Community-Based Organizations Is Crucial to Sustainability* (Nov. 16, 2022), <https://www.urban.org/stories/why-investing-trusted-community-based-organizations-crucial-sustainability>.

<sup>123</sup> See, e.g., AARP, <https://www.aarp.org/money/scams-fraud/info-2019/home-improvement.html?intcmp=AE-FWN-LIB2-POS9>, Accessed January 15, 2024.

<sup>124</sup> NOPR Annex at 20.

However, this required “justification” does not require the utility to specifically explain how a non-local ESP will ensure services are provided equitably across a utility service territory – nor does it impose any requisite levels of community presence or engagement to ensure underserved communities will have adequate access to LIURP services.

CBOs provide a host of wrap-around services to low income families - connecting Pennsylvanians to housing, healthcare, food, childcare, and energy assistance in a coordinated and integrated fashion. Notably, several CBOs also provide CAP enrollment services to low income customers. Failure to adequately prioritize the use of CBOs undermines efforts to streamline and coordinate energy assistance and other needs-based programming.

For these reasons, and consistent with our recommendation in section B, above, regarding the definition of ESP, we urge the Commission to modify the proposed language in Section 58.14b(d) to require utilities to prioritize contracts with CBOs that meet the qualifications of an ESP. The proposed amended language in section 58.14(d) would appear as follows:

**(d) A public utility ~~may~~ SHALL prioritize contracting with CBOs that meet its ESP qualifications.**

#### **H. Section 58.11, 58.14, & 58.14a – Energy Audits / Program Measure Installation / Quality Control**

The Commission proposes to amend several provisions governing the nuts and bolts of LIURP implementation, including requirements for energy audits, measure installation, and quality control.

- i. CAUSE-PA supports the proposed revisions related to assessment of measures for installation.*

In Section 58.11, the Commission proposes to assign responsibility to public utilities for ensuring an energy audit is conducted, directing that public utilities arrange for an ESP to



conduct an audit “to determine if the installation of program measures or if the provision of other program services or if both would be appropriate.”<sup>125</sup> In addition, the Commission proposes to delete existing language establishing a payback period of 7 or 12 years for each installed measure.<sup>126</sup> Instead, the Commission proposes in section 58.11(d) to require that an energy audit determine whether the total estimated energy savings would exceed the cost of installation of all program measures over the expected lifetime of those program measures.<sup>127</sup> In addition, in Section 58.11(e), the Commission proposes language that would afford additional flexibility to determine if a program measure is necessary for long-term health, safety, and comfort of the occupants, *regardless of estimated energy savings*.<sup>128</sup>

CAUSE-PA supports the Commission’s proposed language assigning utilities with responsibility for conducting energy audits and amending the criteria for measures to be installed. Existing language requires an audit (currently called a survey) to be completed but does not explicitly state how it will be accomplished or by whom. The Commission’s proposed amended language clearly assigns responsibility to the utility for ensuring the audit is arranged and identifies that the work is to be conducted by an ESP. Nevertheless, as noted above in sections B, G and H regarding the definitions of Energy Audit and ESP and the effective coordination of LIURP services, CAUSE-PA urges the Commission to prioritize the use of CBOs to perform these services and recommends restrictions on the use of remote energy audits to circumstances where an in-person audit is not possible.

CAUSE-PA supports the flexibility proposed in the amended language to determine which measures are appropriate for installation. Allowing utilities to calculate total estimated

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<sup>125</sup> NOPR Annex at 13.

<sup>126</sup> Id.

<sup>127</sup> NOPR Annex at 14.

<sup>128</sup> Id.

energy savings as compared to the overall cost of all installed measures over the full lifetime of the measures will help to promote the delivery of more comprehensive services, including critical shell measures which often have a higher overall cost but a much longer useful life.<sup>129</sup> In addition, allowing utilities to determine that a program measure may be necessary for health, safety, and comfort - regardless of energy savings - will further expand the types of measures that could be installed under a LIURP. This will allow flexibility to perform repairs or install health and safety measures which may be necessary to facilitate installation of energy savings measures. Finally, this critical flexibility in assessing the appropriate measures for installation will allow for greater ease of coordination and integration with other state and federal weatherization and energy efficiency programming.

- ii. *CAUSE-PA opposes the use of separate contractors to provide LIURP audits and to install measures, but supports the use of a separate entity to perform quality control functions.*

In section 58.11(c) the Commission proposes to require that the same ESP performing an energy audit would not be permitted to install the program measures identified by the audit. This proposal is intended to keep auditing ESPs impartial in their assessments, without financial motivation biasing the audit.<sup>130</sup> Similarly, in section 58.14a, the Commission proposes to prohibit utilities from using the ESP that installs program measures at a dwelling to conduct the post-installation inspection of those measures.

CAUSE-PA is concerned that requiring separate contractors to perform audit and installation functions will result in unintended consequences that will negatively impact the delivery of LIURP services. As an initial matter, we are concerned about the practical effect on

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<sup>129</sup> [2021 Technical Reference Manual, Volume 2](#) – The 2021 Technical Reference Manual (Volume 2, Residential Measures), with amendments, at Docket No. [M-2019-3006867](#). Adopted at the February 4, 2021 Public Meeting, page 159.

<sup>130</sup> NOPR Preamble at 64.

program participation, as it would require multiple appointments during business hours. Such a requirement will introduce new barriers to service, making it more complicated to schedule services across multiple providers, creating confusion for participants, and making it difficult for working families to participate. Low income families generally have greater scheduling difficulty as they have the least flexible work schedules and may not get paid for time away from work.<sup>131</sup> LIURP participation should not create greater financial hardships for low income families, but the proposed amendments - as conceptualized - increase that risk. Requiring different ESPs to audit and install measures will almost certainly have a chilling effect on LIURP participation and subsequent program implementation.

In addition, we are concerned that decoupling audit and installation functions will negatively impact the continuity of service delivery. Without a fully standardized auditing tool and standardized certification and training programs across all programs, there could be significant variations in the details identified and terms used throughout an audit, creating confusion for the installation provider. For example, if the size of an appliance or ventilation specifications are not explained in the audit, an installer may have to perform the functions of an audit a second time – resulting in a minimum of three separate visits to the home. As a practical matter, ESPs tasked with installation may need to perform a second audit or assessment to ensure they are able to deliver services in accordance with their own agency standards. For example, an initial audit may recommend attic insulation but may not identify air sealing as a necessary measure to enable installation of insulation. An installer may later identify moisture issues that, if unaddressed, could create larger issues with the home if air sealing is not completed. This could create cascading issues with insurance and warranties for the installer – as well as create an

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<sup>131</sup> Winston, P., *Work-Family Supports for Low-Income Families: Key Research Findings and Policy Trends*, Office of the Assistant Secretary for Planning and Evaluation, published February 28, 2014.

unnecessary back-and-forth between the auditing and the installing ESPs to ensure appropriate measures are approved for installation. Ultimately, each ESP is responsible for the work they perform, and are accountable to the utility and the participant - not the auditing ESP.

When an audit is completed, contractors are able to establish a working relationship with the consumer, and are well-positioned to install simple baseload measures, provide energy conservation education to consumers, and identify health and safety issues that may require immediate attention during the initial visit. If a provider is limited to performing an audit, the ability to provide these basic services would be unnecessarily delayed and critical health and safety measures may go unaddressed until a second contractor delivers services to the home.

CAUSE-PA recommends that the Commission revise its proposed language in section 58.11(c) to allow the audit and installation functions to be performed by the same ESP. CAUSE-PA submits that the Commission's concern about the potential for inappropriate financial incentive will be adequately addressed by the Commission's proposed requirement in section 58.14a(e) requiring the post-installation evaluation to be conducted by a different ESP.<sup>132</sup> This provision adequately ensures unbiased evaluation of the work completed and the process used to accomplish that work to ensure successful measure installation and corresponding usage reduction. If issues are identified through the post-installation inspections that suggest an ESP is not performing appropriately comprehensive energy audits or is otherwise gaining an unwarranted financial advantage through the provision of an audit and the installation of identified measures, a utility can and should take appropriate corrective action to address the issues.

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<sup>132</sup> NOPR Annex at 20.

We recommend the Commission either delete section 58.11(c) in its entirety or, alternatively, delete the word “not” to clarify that utilities may use the same ESP to perform an audit and to install measures identified in the audit:

**(c) A public utility may not use the same ESP that performed an energy audit at a dwelling to install the program measures determined appropriate by the energy audit at the same dwelling.**

*iii. CAUSE-PA recommends amendments to proposed criteria for quality control.*

In section 58.14a, the Commission proposes enhanced quality control standards, including setting a minimum percentage of post-installation inspections, establishing a customer complaint process, and (as noted above) prohibiting use of the same ESP that installed measures to conduct the post-installation inspection of those measures.<sup>133</sup> The Commission’s proposal requires utilities to set forth its quality control measures in its USECP.

CAUSE-PA is supportive of the proposed enhancements to the quality control standards for evaluating the work of the ESP and the performance of installed measures.<sup>134</sup> However, we recommend that the Commission provide additional guidance to further standardize the quality control process across utilities, perhaps through the utilization of a statewide quality control contractor. Further clarity and consistency in quality control procedures statewide will help the Commission and interested stakeholders to evaluate the scope and effectiveness of the program in each utility service territory and make appropriate recommendations for program enhancements.

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<sup>133</sup> NOPR Annex at 19 and 20.

<sup>134</sup> NOPR Annex at 19.

We are also especially supportive of the Commission’s proposal to require utilities to establish a consumer complaint process to ensure consumers have a clear path to resolve issues that may arise through the delivery of services in a consumer’s home. Unlike other programs, LIURP services are provided in the home and expose consumers to unique risks. It is important that there be a clear path to resolve any issues without delay.

Nevertheless, and notwithstanding our general support for the improved quality control provisions set forth in section 58.4a, we urge the Commission to consider establishing more detailed statewide technical standards for quality control – perhaps through the adoption of a policy statement or technical manual, or utilization of a statewide quality control contractor. While section 58.4a would require a utility to establish enhanced quality control standards, it lacks sufficient detail to ensure consistent application of quality control provisions across utility service territories.

### **I. Section 58.10 – Prioritization of Program Services**

In section 58.10, the Commission proposes an enhanced mechanism for prioritization of program services. LIURP services are proposed to be provided first to those eligible customers with the highest energy usage and greatest opportunities for utility bill reductions, considering the following factors:

- Size of the dwelling (in existing regulation),
- Number of occupants (in existing regulation),
- Number of consecutive service months at the dwelling (proposed for addition),
- End uses of the utility service (in existing regulation).<sup>135</sup>

After considering the factors listed above, prioritization is proposed to be applied in the following sequence:

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<sup>135</sup> NOPR Annex at 12-13.

- Customers in CAP with the largest pre-program and in-program arrearages as a percentage of their household income;
- Non-CAP customers with the largest arrearage as a percentage of household income.<sup>136</sup>

Among those CAP and non-CAP customers with the largest arrearages, customers with incomes at the lowest federal poverty level (FPL) will be prioritized.<sup>137</sup> The Commission additionally proposes that LIURP cannot be reserved only for CAP customers and utilities cannot require CAP participation to receive LIURP services.<sup>138</sup>

CAUSE-PA is generally supportive of the Commission's proposed prioritization of LIURP services. We support prioritizing services to those with the highest usage and/or arrears, and the lowest income levels. Nevertheless, we are concerned the prioritization framework lacks specificity and could undermine efforts to reach historically underserved customer segments, such as renters, which often have disproportionately high usage.

First, we recommend further clarification of the high usage factor to ensure equitable inclusion of participants with smaller homes or apartments. As discussed in section B of these comments, regarding the definitions of *eligible customer* and *residential electric baseload customer*, existing high usage thresholds are static and often result in the exclusion of smaller homes and apartments with disproportionately high overall usage. The Commission's existing regulation and its proposed amendment thereto includes a requirement that the utility consider the relative size of the dwelling. This factor is vague and, without further context, could be used to prioritize services to larger homes – regardless of relative usage within the home. We recommend the Commission revise this factor to require prioritization of participants with high

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<sup>136</sup> Id.

<sup>137</sup> Id. at 13.

<sup>138</sup> Id.

usage relative to energy used per square foot, rather than establishing prioritization based on the size of the dwelling alone.

We are also concerned that the proposed factor for prioritization of the “number of consecutive service months at the dwelling” may inadvertently exclude customers who have recently experienced a service disconnection or involuntary termination from being prioritized for services. CAUSE-PA recommends the Commission delete that proposed criterion for prioritization from the proposed amendments to the rulemaking.

CAUSE-PA also strongly supports the Commission’s proposed language prohibiting utilities from restricting LIURP services to CAP participants, and providing that public utilities can encourage but not require customers to participate in CAP as a condition of receiving LIURP services.<sup>139</sup> While cross-program participation should be encouraged, it should never be required. As such, CAUSE-PA recommends that the Commission similarly prohibit utilities from requiring CAP participants to participate in LIURP.

Finally, CAUSE-PA recommends inclusion of language that encourages program integration by including prioritization of LIURP projects that are being coordinated with other state and federal programs such as WAP services, Act 129 low income energy efficiency and conservation programming, federal Home Energy Rebate programming, and other programming that may serve holistic weatherization and energy efficiency services. Leveraging program services in this manner will help to reach more households and will improve the ability of LIURP to be braided with other program funds to address the holistic needs of low income consumers.

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<sup>139</sup> NOPR Annex at 13.



## J. Section 58.11a – Fuel Switching

Section 58.11 of the Commission’s existing regulations prohibit fuel switching “between Commission regulated utilities” unless a customer is served by a dual-fuel utility.<sup>140</sup> There are only very limited areas of the state where this exception applies, including areas of PECO and UGI service territories where their respective gas and electric service territories overlap.

In newly-proposed section 58.11a, the Commission sets forth revised standards for fuel switching – allowing utilities to switch the primary fuel source either (1) where the customer is served by a dual-fuel utility, or (2) when the existing source is inoperable, irreparable, or the cost of repair would exceed the cost of replacement *and both utilities agree in writing that fuel switching is appropriate.*<sup>141</sup>

CAUSE-PA supports the Commission's proposal to lift the blanket prohibition on the use of LIURP funds for fuel switching across utilities. However, we believe the proposed conditions by which fuel switching is permitted should be further amended. Fuel switching should never be driven by the preference of a utility. To the contrary, such decisions should be driven solely by a neutral assessment of whether switching the household’s fuel source will reduce overall household energy burden over the long term and, in turn, whether the customer consents to the switch. LIURPs should facilitate program measures that generate the greatest reduction in total usage and, in turn, the greatest reduction in overall energy burden as determined by an energy audit. Fuel switching can, in appropriate applications, significantly reduce a household’s total utility burden and make LIURP a more effective component of a holistic universal service plan focused on preventing unaffordable bills and payment difficulty before they occur.

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<sup>140</sup> 52 Pa. Code § 58.11.

<sup>141</sup> NOPR Annex at 14.

LIURPs are most effective for customers and utilities when programming is coordinated among utilities to provide consumers with the most affordable fuel available. Lifting the current blanket prohibition on fuel switching across utilities unlocks the potential for LIURPs to produce greater total reductions in energy usage and cost by enabling all low-income consumers to meet their energy needs in the most affordable and efficient way, as determined through an energy audit.

The Commission proposes correlated guardrails in Section 58.11 that will ensure LIURP funds used for fuel switching promote LIURP's usage reduction goals and benefit consumers. Specifically, Section 58.11(d), as proposed, would require that an energy audit determine that (1) a measure is not already present or not performing effectively, and (2) the estimated energy savings over the measure's lifetime would exceed the cost of installing it. Section 58.11(e) would provide utilities flexibility surrounding estimated energy savings when a program measure is necessary for the long-term health, safety, or comfort of the household. Taken together, the guardrails in sections 58.11(d) and (e) would provide more appropriate guidance to utilities to determine when to offer fuel switching. Imposing different requirements on low income consumers based on whether they are serviced by a dual-fuel utility or separate utilities maintains the arbitrary discrimination between these groups of low income customers and limits a LIURP's potential to maximize usage and cost reductions. We therefore recommend revising Section 58.11a(a)(1) to clarify that fuel switching is available to households receiving gas and electric service from separate utilities subject to the same requirements as households serviced by dual-fuel utilities.

CAUSE-PA is similarly concerned that requiring both public utilities to agree in writing to fuel switching would pose an unnecessary administrative hurdle that would prohibit low

income customers' access to fuel switching. Requiring dual utility approval would inappropriately enable the utility providing the more expensive fuel to prevent a prudent switch, forcing low income consumers to continue paying higher than necessary energy bills. Even assuming consumers could secure both utilities' approval, this requirement would delay consumers' access to lower energy bills and bloat administrative costs. Administration and its attendant costs should be minimized so that LIURP funds are spent on installing cost-saving measures, not administrative expenses. CAUSE-PA recommends rejecting the proposal to require both utilities to agree to fuel switching. Instead, if fuel switching of a household meets the requirements as proposed in Section 58.11, and would result in an overall reduction in household energy burden, the decision whether to fuel switch should be made by the consumer and the utility authorizing use of its LIURP funds.

To help ensure that a LIURP participant has the information needed to make informed decisions about fuel switching, CAUSE-PA recommends requiring the public utility/ESP conducting an energy audit per the proposed Section 58.11 to provide a report to the consumer summarizing the findings of the audit, including an estimation of how fuel switching would impact the consumer's monthly utility bills. Such a report should include an estimate of how much fuel switching would reduce the monthly bill for the original fuel source, how much it would increase the monthly bill for the new fuel source, and an estimate of the net savings fuel switching would yield on the customer's total energy burden. Requiring that the information gathered from an energy audit be shared with consumers would help ensure that LIURP builds in measures for educating consumers about the impact of the decisions they make, empowering consumers to make LIURP decisions with informed consent.

Finally, we note that the Commission’s existing and proposed regulations governing fuel switching address only fuel switching between or within a public utility regulated by the Commission. It is critical that the Commission further clarify that fuel switching is permitted for deliverable fuel customers, where the financial benefits in terms of reduced energy usage and costs – as well as other health and safety benefits for household members – are often most pronounced.

### **K. Section 58.8 – Tenant Household Eligibility**

For a tenant to receive LIURP services, section 58.8(a) of the existing regulations require a landlord to agree not to evict the tenant or raise rent based on the installation of the LIURP measures for a period of 12 months.<sup>142</sup> Notably, a landlord remains free to raise rent or move to evict a tenant for reasons unrelated to the provision of LIURP services.

The Commission proposes to change these important mandatory tenant protections to an “optional public utility requirement.”<sup>143</sup> CAUSE-PA strongly opposes this proposed change. The current requirements for landlords set forth in Section 58.8(a) provide vital protections for tenants seeking LIURP service by ensuring that landlords will not evict them or raise their rent based on the improvements performed through LIURP. These requirements also protect ratepayer investment in LIURP by ensuring that funds are spent in furtherance of LIURP’s purpose to address the usage, health, safety, and comfort of low income customers – rather than improving a property for an owner who later seeks to evict the low income tenant or otherwise increase a tenant’s rent as a result of the LIURP services received.

Removing these critical protections will expose tenant participants to eviction and could erode the availability of quality affordable housing, which is already scarce. Such a result

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<sup>142</sup> NOPR Preamble at 54.

<sup>143</sup> NOPR Preamble at 54.

contravenes the purpose of LIURP by placing the low income customer at risk of harm while enriching a property owner.

In its NOPR Preamble, the Commission contends that “[t]his optional provision is consistent with WAP regulations that require a notarized agreement signed by both the landlord and tenant to ensure that the tenant is current with rents and that during and for 18 months after the completion of WAP services a landlord cannot raise rents or evict a tenant unless it relates to matters not related to the work that was done.”<sup>144</sup> However, for WAP, these provisions are *not optional*, but mandatory. Further, as the Commission notes, the WAP regulation also requires that there be a process in place for landlords and tenants to follow if rent is increased or the eviction proceedings are initiated after weatherization assistance is provided.<sup>145</sup>

CAUSE-PA shares the Commission’s stated concern that tenants are not served at a proportionate rate to homeowners and appreciates the Commission’s attempt to identify reforms that will rebalance the availability of LIURP services for renters.<sup>146</sup> As we have previously identified, renters often face disproportionately high energy burdens, as there is often little to no incentive for a property owner to invest in and install energy efficiency measures to reduce tenant-paid utility bills. However, we are equally concerned that removal of these critical tenant protections will serve to increase already-high rents, and may allow landlords to be enriched through the program – to the detriment of low income renters.

To address any concern that the required tenant protections serve to chill landlord approval and, in turn, tenant participation, we recommend that the Commission develop a standardized, consistent landlord agreement form that clearly states both tenant and landlord

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<sup>144</sup> NOPR at 52 (citing 10 CFR § 440.22(b)(3)).

<sup>145</sup> *Id.*

<sup>146</sup> See id.

protections. CAUSE-PA respectfully asserts that landlords are likely to be willing to sign to help tenants or help improve building efficiency if they understand the program. As it stands, many of the existing landlord approval forms require the landlord to sign away their rights to pursue relief if their property is damaged or destroyed, waive standard warranties, and absolve the utility and service provider of any and all liabilities, leaving landlords with expenses and no recourse to recover costs if their property is negligently destroyed by contractors. These requirements are likely to deter even the most compassionate landlord. Rather than waive tenant protections to drive landlord acceptance, the Commission should develop a standard, plain-language landlord approval form that balances the interests of the utility, the landlord, and the tenant.

Regarding the other changes proposed by the Commission for section 58.8, CAUSE-PA supports the new provision that requires the public utility to provide a tenant household with a copy of the landlord's documented agreement. This is especially important regarding the protections outlined above so that the tenant has a copy of the documents to provide to a judge or other official if the landlord violates the terms and the tenant is forced to try to enforce the agreement. We also strongly support the proposed amendment to section 58.8(a)(2) that allows a tenant household to remain eligible for baseload measures even if the landlord does not approve of more comprehensive measures. This important clarification will help to ensure that renters are able to receive some level of usage reduction services even if the landlord refuses to allow installation of comprehensive measures.

#### **L. Section 58.15 – LIURP Reporting and Evaluation**

CAUSE-PA is supportive of revisions in proposed Section 58.15 which seek to expand tracking and reporting of utility data related to their LIURP programs. Notwithstanding this support, we believe that several key revisions are necessary to proposed Section 58.15 to ensure

that adequate information is being provided to the Commission and stakeholders related to utilities' LIURP programs and low income customers seeking to access LIURP services.

Pursuant to existing section 58.15, utilities are responsible for compiling data related to the number and types of homes weatherized, the costs of certain measures, and program recipient demographics, and utility obligations. Utilities are further required to assess the effectiveness of weatherization contractors in providing program services, including certain impacts on energy savings and customer bills as a result of program services.<sup>147</sup> Importantly, the data and evaluations set forth in existing provisions must be reported to the Commission.<sup>148</sup>

Proposed Section 58.15 sets forth several revisions intended to help evaluate program impact, identify trends in LIURP spending and potential reasons for underspending, and assess the reason for and scope of LIURP deferrals.<sup>149</sup> The proposed language provides dates by which utility reporting must be accomplished; is more specific in its requirements for data compiling, analysis, and reporting; and allows the Commission the flexibility to request additional information by setting minimum data and analyses requirements. Analysis of data is also added to this section, whereas existing language only requires compilation of statistical data.<sup>150</sup> Additionally, proposed Section 58.15 sets forth provisions whereby the Commission would require utilities to provide, at a minimum, certain data and analysis, including data analysis related to actual LIURP production and spending data; the number and characteristics of completed LIURP jobs; and resulting energy savings, payment behavior, and cost effectiveness of program measures.<sup>151</sup>

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<sup>147</sup> NOPR Annex at 21 and 22.

<sup>148</sup> NOPR Annex at 22.

<sup>149</sup> NOPR Preamble at 86.

<sup>150</sup> NOPR Annex at 22 and 23.

<sup>151</sup> NOPR Annex at 22 and 23.

CAUSE-PA is generally supportive of the enhancements set forth in proposed section 58.15 related to LIURP data tracking and reporting. However, to evaluate the true cost *and benefits* of LIURP services, it is necessary to also track costs to the utility related to collection and termination rates for identified high usage customers. This data is essential to determine whether LIURP services are achieving the important goals of reducing termination rates – along with the attendant costs of termination, uncollectible expenses, and collections which affect all ratepayers. We therefore recommend that proposed section 58.15 be revised so that utilities are required to track and report on the costs of termination, the collection costs, and incurred uncollectible expenses for the following segments of customers: (1) high usage customers; (2) high usage confirmed low income customers; (3) high usage customers enrolled in CAPs; and (4) customers who receive LIURP services.

We also recommend that the Commission revise proposed section 58.15 to require tracking and reporting on the number of dwellings that are disqualified for LIURP, by the specific reason for disqualification. Specifically identifying the number of disqualified LIURP households, *by the reason for disqualification*, will provide important insight into barriers to LIURP services. For example, identifying disqualifications for health and safety issues can help to better assess necessary enhancements to remediate these barriers, including whether to increase the allocation for health and safety measures or incidental repairs and to improve coordination with other weatherization services. This data is not required to be reported through USECP proceedings – further limiting the ability of the Commission and stakeholders to meaningfully evaluate whether LIURP services are sufficiently robust and accessible. We therefore recommend that proposed Section 58.15 be revised to require tracking and reporting of the number of dwellings disqualified for LIURP services and the specific reasons for



disqualification, including whether health and safety issues were cited as the reason for disqualification.

Additional clarification is also necessary to ensure that data is being appropriately shared with interested stakeholders. As drafted, proposed section 58.15 does not specify to whom the data outlined in the section shall be provided. Proposed for deletion is the language in the existing section 58.15(3) stating that utilities are “[r]eporting annually to the Commission regarding the findings of this evaluation.” The amended section requires data to be submitted in compliance with reporting instruction provided *by* the Commission but never explicitly instructs utilities to report this data *to* the Commission.

CAUSE-PA recommends that the Commission revise proposed section 58.15 to require that utilities simultaneously report data to the Commission and file required data at the Docket(s) for their currently effective USECP. Additionally, we recommend that utilities be required to append this data to any filing seeking to amend the utilities’ USECP or other which may otherwise impact rates and, in turn, the need for services. These data points are essential for stakeholders to determine whether LIURP services are adequate and available to low income customers and important for meaningful stakeholder engagement, including with utilities’ Universal Service Advisory Committees (USAC).<sup>152</sup> Stakeholders are oftentimes specifically tasked with providing feedback related to important topics that require robust information about LIURP services. For example, the Commission directed PPL to share its assessment with its

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<sup>152</sup> Duquesne Light Company has an Income Eligible Advisory Group which is functionally its USAC. Peoples Gas has a Universal Services Advisory Group which is functionally its USAC. Other utilities refer interchangeably use the word Counsel or Committee for their USACs.

USAC on how changing the re-weatherization timeframe in its most recent USECP, as part of its LIURP services, from three to five years impacts the utility's low income customers.<sup>153</sup>

While the Commission's annual Universal Service and Collections Performance Report (Universal Service Report) contains some of the requisite data points, there are a multitude of pertinent data points that are not included in this report. Moreover, there is always a substantial lag between the reporting period and release of the Commission's Universal Service Report, making it difficult to evaluate the program in light of emerging trends or issues.

It is essential that stakeholders are able to readily access the data set forth in section 58.15 so that they can provide specific and informed feedback regarding the need for program reform. We therefore recommend that proposed Section 58.15 be revised to specify that the data and analyses required to be provided simultaneously to the Commission and filed at the Docket(s) of the utility's currently effective USECP proceeding, and appended to relevant utility filings, including any proposed amendments to a USECP or other related proceeding.

#### **M. Sections 58.6 & 58.16 – Stakeholder Engagement**

In sections 58.6 (related to consultation) and 58.16 (related to LIURP Advisory Committee), the Commission proposes amendments to how public utilities seek guidance from interested stakeholders in designing modifications to LIURPs and adjusting LIURPs for continual improvement, respectively.<sup>154</sup>

- i. CAUSE-PA recommends strengthening requirements that utilities consult with Universal Service Advisory Committees and other similar stakeholder groups prior to amending a LIURP or proposing a pilot.*

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<sup>153</sup> PPL 2023-2027 USECP at 86.

<sup>154</sup> NOPR Annex at 9, 23-24.

Section 58.6 lists which entities or persons public utilities may consult when they are either initiating the process to modify their LIURP or developing pilot programs to include as part of their LIURP. The Commission proposes to amend this Section to specifically include those agencies or individuals with administration or design experience in energy efficiency and weatherization programs. In addition to the existing entities, which include past recipients of weatherization services, social service agencies, and community groups, the Commission proposes to add that public utilities may also consult with their USAC and/or LIURP advisory committee.<sup>155</sup>

CAUSE-PA notes that, while intended to include more people with specific energy efficiency and weatherization expertise<sup>156</sup>, the proposed amendments as drafted could effectively sideline advisory groups that are essential to the development and growth of LIURPs. The proposed language considers these groups as an afterthought – others who “may be consulted” as opposed to those who utilities shall consult with.

The proposed language changes are small but impactful. Existing language states that utilities modifying LIURPs “shall consult with persons with experience in the design or administration of usage reduction programs.” This language is followed immediately by a qualifying statement identifying the type of entities these comprise: “Consultations may typically be with....”<sup>157</sup> The proposed revised language states that utilities modifying LIURPs “shall consult with persons with experience in the design or administration of usage reduction, **energy efficiency, and weatherization** programs.” The Commission proposes to delete the existing qualifying language identifying the type of group and instead replaces that language with,

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<sup>155</sup> NOPR Annex at 9.

<sup>156</sup> NOPR Preamble at 42.

<sup>157</sup> Id.

“Persons and entities consulted may also include....,” indicating that utilities *shall* consult with those generalized entities in the first clause but have the *option* to consult with the other groups listed in the second clause – including USACs and LIURP advisory groups. The USACs and LIURP advisory groups are most often comprised of a broad range of stakeholders from various segments of the community. As we commented in the LIURP Reporting section of these comments, USACs are integral to the development and continual improvement of LIURP service provisions.

CAUSE-PA recommends the proposed language in section 58.6 be amended as follows:

A **[covered] public** utility, when **[making major modifications in] developing a proposal to modify** its **[program] LIURP** design or developing a pilot program, shall consult with persons and entities with experience in the design or administration of usage reduction, **energy efficiency, and weatherization** programs. **{Consultations may typically be with} Persons and entities consulted SHALL ~~may also~~ include a USAC, LIURP advisory committee,** past recipients of weatherization services, social service agencies, **and** community groups[, **other utilities with usage reduction programs, and conservation and energy service contractors**].

- ii. *CAUSE-PA supports utilization of USACs and recommends amendments to membership and scheduling requirements.*

In section 58.16, the Commission proposes to amend the use of advisory panels related to development and implementation of LIURP services. The intention of these proposed amendments is to provide greater flexibility for utilities to collaborate with stakeholders by permitting utilities to combine functions of its LIURP advisory committees and USACs. The proposed amendments also require utilities to meet at least semiannually with its stakeholders.<sup>158</sup>

CAUSE-PA supports the proposal to codify the makeup of USACs and require committees to meet with their respective utilities at least semi-annually. USACs are important

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<sup>158</sup> NOPR Preamble at 89-90.

for guiding the development of all universal service programs, including LIURPs. As mentioned in section L regarding annual reporting requirements, USACs are often tasked with advising utilities, providing specific recommendations and guidance on various issues that are not concretely resolved through USECP proceedings or that require ongoing evaluation.

Notwithstanding this support, we believe that revision to section 58.16 is necessary to clarify the structure and responsibilities of USACs, and to ensure USACs remain responsive to *all* universal service programs. While the Commission intends for improved flexibility and collaboration with these proposed amendments, we are concerned that proposed amendments will have the opposite effect. As proposed, the Commission's amended language requires LIURP advisory committees *or* USACs to meet. This proposal could inadvertently limit stakeholder engagement by requiring only LIURP advisory committees *or* USACs to meet – not both. This will limit the ability of stakeholders to provide feedback related to the full range of universal service programs provided by utilities. For example, if a utility decided only to hold LIURP advisory committee meetings, in lieu of a USAC meeting, or decided to only include LIURP issues at the LIURP advisory committee meeting and not address them in the same detail, or at all, with its USAC, this could unnecessarily limit important feedback for LIURP – including broader considerations for how the program should be integrated with a utilities' other universal service programs. While this rulemaking is responsive to LIURPs, it is essential the proposed language in this rulemaking does not unintentionally undermine the ability of USACs to advise on universal service programs as a whole.

We instead recommend that the Commission amend this section to require a utility that chooses to have both a LIURP advisory committee and a USAC to hold stakeholder meetings for each group – at minimum – on a semiannual basis. For those utilities that convene a LIURP

advisory committee in addition to a USAC, membership for the LIURP advisory committee should include – but not be limited to -- all members of the utility’s USAC. In addition, utilities should be required to augment membership for both LIURP advisory committees and USACs to increase the diversity of feedback from community-led sources to include the following groups: local housing, legal, and social service providers; food assistance providers; weatherization, efficiency, and home repair providers; community health clinics; domestic violence agencies; immigrant and refugee resettlement organizations, and other local community-based organizations serving low income individuals and communities within the utility’s service territory.

Further, the USAC should receive regular updates about the utility’s LIURP, including access to pertinent data and information regarding program utilization, administration, and implementation, to ensure that USAC members provide meaningful feedback about respective LIURPs in a holistic manner.

#### **N. Section 58.9 – LIURP Outreach**

In section 58.9, the Commission proposes enhancements to its LIURP outreach requirements to include advertising through print, broadcast, and social media platforms, and proposes to keep important existing notification requirements.<sup>159</sup> The Commission additionally proposes that public utilities shall advertise LIURPs in “a language other than English when census data indicate that 5% or more of the residents of the public utility’s service territory are using the other language.”<sup>160</sup>

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<sup>159</sup> Id.

<sup>160</sup> Id.

CAUSE-PA generally supports the Commission’s proposed outreach provisions. We support maintaining the requirement to provide notice specifically to agencies who assist low income customers within the utility’s service territory. We note that local agencies, rooted in the community, are integral to providing information regarding the availability of low income programs – including LIURP - and we take this opportunity to underscore the importance of prioritizing Community Based Organizations in the delivery of LIURP services.

We are also highly supportive of the proposed updated requirements that expand outreach beyond traditional print outlets, such as newspapers, radio, and television. Recognizing the importance of traditional mediums, we stress the need to complement them with newer communication channels. With a growing demographic engaging with social media, the proposed shift aligns with contemporary trends, widening LIURP-related outreach without diminishing the significance for those using traditional methods. Embracing diverse communication channels enhances program accessibility and inclusivity for a varied audience across generations with distinct preferences and habits.

CAUSE-PA additionally supports the proposed provision for language access to program advertisement and information. However, we suggest amending this language to be more inclusive. In Comments responding to Columbia’s 2024-2028 USECP, the Office of Consumer Advocate (OCA) argued that the 5% threshold need not be the only demarcation of when a public utility should provide translated materials. They noted that, “Columbia has a customer base of approximately 440,000 customers in portions of 26 counties. Five percent of customers represents 22,000 customers.” Given this information, OCA recommended that Columbia “consider amending the 5% standard to examine other languages in the service territories and whether there might be additional opportunities to translate its materials into other languages if a

critical mass of customers is served in a particular community even if it does not meet the 5% threshold.”<sup>161</sup> CAUSE-PA agrees with this assessment, that 5% may be too high a threshold for language access to reach a critical mass of potential LIURP recipients. We note that while an entire service territory may not reach this 5% threshold, there are likely to be areas with concentrated populations of individuals with limited English proficiency that far exceed 5% of the population. We recommend the following amendment to section 58.9 to remove language barriers and improve the accessibility of services:

(a) **[...] The public utility shall additionally advertise its LIURP in a language other than English when census data indicate that 5% or more of the residents of the public utility’s service territory are using the other language.**  
**PUBLIC UTILITIES SHOULD WORK WITH AGENCIES IN THEIR SERVICE TERRITORIES TO IDENTIFY OTHER LANGUAGE NEEDS.**

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<sup>161</sup> Columbia Gas of Pennsylvania, Inc. Universal Service and Energy Conservation Plan for 2024-2028 Submitted in Compliance with 52 Pa. Code § 62.4; Comments of the Office of Consumer Advocate; Docket No. M-2023-3039487, filed August 7, 2023, pages 31-32.



#### **IV. RESPONSE TO ADDITIONAL QUESTIONS**

**Question A: Has LIURP proven to be an effective means to help customers with extremely high arrearage balances (e.g., \$10,000 or more) maintain utility service and pay down this debt?**

LIURP has proven to be effective at achieving meaningful long-term bill savings, which can help stabilize households experiencing energy insecurity. From 2018-2020, the last three years for which industry wide data is available, LIURP saved gas heating participants an average of between \$220-\$304 per year and electric heating participants between \$167-198 per year.<sup>162</sup> LIURP not only provided more affordable bills for customers, but also helped reduce the amount of bill assistance needed to be provided through CAP.

Ultimately, LIURP is a prevention program – helping to reduce energy consumption and corresponding bills before debts are accrued. When provided in conjunction with other universal service programs, such as CAP, LIURP is also effective at helping customers maintain safe and affordable utility service and pay down their debt. Indeed, holistically addressing underlying high usage issues that lead to high bills and, in turn, high arrearages is vital to helping customers afford their bills and pay down accrued debts. However, statewide, LIURP programs are critically underfunded to address the existing need for usage reduction services. Lack of access to usage reduction assistance through LIURP can consequently lead to accrual of significant debts and eventual termination of service – often for an account balance that is beyond what the customer can reasonably afford to get reconnected.

In our experience, households with arrearages in excess of \$10,000 often have very high usage and are in acute need of comprehensive usage reduction services to help control energy costs and reduce their corresponding household energy burden. However, LIURP-eligible

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<sup>162</sup> 2022 Universal Service Report at 57.

households with arrearages at this level have often exhausted their right to payment arrangements and/or have participated in CAP in the past and are now ineligible for further debt forgiveness to address arrears accrued at full-tariff rates. Thus, while LIURP would be an effective tool to help stabilize energy costs for these households on a forward-going basis, it must be paired with reforms to the CAP arrearage management policies and/or payment arrangement policies to ensure households with high balances who participate in LIURP are able to establish an affordable monthly bill (inclusive of debt service payments) on a forward-going basis.

CAUSE-PA is not aware of any studies specifically examining whether LIURP is an effective tool for assisting households with balances over \$10,000 to maintain service, though we recommend the Commission further examine this issue.

**Question B: Would offering LIURP to customers with high utility account balances and unusually high monthly average bills result in a decrease in the cost of collection efforts and a decrease in uncollectible write-offs? If so, what eligibility criteria may apply?**

Yes. Providing LIURP service to low income customers with high account balances and unusually high monthly bills should result in a decrease in the cost of collection efforts and a uncollectible expenses, provided LIURP is paired with appropriate payment arrangements and/or enrollment in CAP to ensure the participant can reasonably address the underlying debt by making affordable monthly payments (either through CAP or through a truly affordable payment arrangement).

**Question C: At what arrearage accumulation point or points should a public utility intervene to assist a customer reduce the household's monthly bill to make the bills more affordable before the customer accumulates a balance of \$10,000 or greater? What criteria could the public utility use to identify customers who could benefit from LIURP treatment to minimize extremely high balances (e.g., amount of arrearage accumulating, age of housing and ability to provide conservation**

**treatment, amount of average monthly bill compared to ability to pay, history of good faith payments, and the like)? Should the accumulation point be based on household income level or FPIG tier? What should the point or points be?**

To strategically address high arrearages and avoid the accumulation of balances of over \$10,000, public utilities should be required to take more a more proactive and prevention-based approach – requiring supportive intervention at specific points. This intervention should not only occur when customers explicitly seek payment agreements but, rather, whenever they detect a customer is having challenges affording their bills. In accordance with section 1410.1 of the Public Utility Code, “When a customer or applicant contacts a public utility to make a payment agreement,” the public utility is required to, “Refer the customer or applicant to the universal service program administrator of the public utility to determine eligibility for a program and to apply for enrollment in a program.”<sup>163</sup> Utilities should extend this to provide such referrals any time a customer expresses that they are having trouble affording their bill.

We offer several recommendations to ensure utilities are taking a proactive and prevention-based approach to collections.

First, we urge the Commission to establish statewide policies that would ensure access to a payment arrangement and/or re-set CAP benefits upon completion of LIURP services. This would include access to debt forgiveness accrued prior to the delivery of usage reduction services and waiver of any maximum credit threshold which a customer may have exceeded in the past – prior to receiving comprehensive usage reduction services. This would help improve participation in LIURP and reduce overall collections and universal service program costs, helping promote long-term stability for households that take proactive steps to reduce their overall energy usage.

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<sup>163</sup> 66 Pa.C.S. § 1410.1(2).

Second, utilities should be required, at a minimum, to screen household income of all residential customers who call requesting a payment plan and should refer potentially income-eligible customers to apply for CAP, LIURP, and other universal service programs *before* entering a payment arrangement. To streamline the referral process, utilities should either assist the customer to enroll in a universal service program over the phone or should provide a “warm transfer” to a universal service program administrator to complete the application process. All utilities should develop call scripts and call center training to implement this referral process and ensure that low income customers who request a payment plan are provided information, referred to, and assisted to enroll in universal services programs. Importantly, all customers at risk of termination who are transferred through this warm referral process should have a hold placed on termination so that their service is not terminated while the CAP application is pending. The Commission should begin routinely reviewing a utilities’ screening procedures through the context of its USECP review. Note that this level of oversight is consistent with the Commission’s duty to oversee universal service and energy conservation policies, which are defined broadly to include internal policies and procedures which impact the ability of low income customers to maintain service.<sup>164</sup>

Utilities should also proactively contact and provide such referrals to any customer who has fallen more than one month behind on their bill prior to initiating collection efforts. Proactive universal service referrals and enrollment should be the first option for addressing customers with arrearages. In determining eligibility and identifying customers who could benefit from LIURP, we propose a comprehensive screening approach. The utilities should consider various criteria, including the age of housing and ability to provide conservation treatment. The utilities

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<sup>164</sup> See 66 Pa. C.S. § 2803.

should proactively screen by reaching out to customers who are behind on their bills. By emphasizing early intervention, utilities can leverage LIURP as a prevention program, addressing high energy consumption and associated bills before significant balances accumulate.

To more accurately identify and better serve low income customers, we further submit that utilities should screen all new and moving customers for income level at the time their service is established. For existing customers, utilities should inquire about a customers' income on any non-emergency calls, and/or should ask whether there has been any update to their income information already noted in their account. Upon establishing an online account, and once annually thereafter, customers should be given the opportunity to voluntarily self-disclose any changes to their income information. All customers identified as low income through this process should be referred for enrollment in universal service programs. Consumers should be able to opt out of disclosing their income if they so choose but should first be informed that they may be eligible for lower rates or energy efficiency measures.

Finally, utilities should be required to develop an auto-enrollment process for CAP utilizing LIHEAP data when it becomes available through the Department of Human Services. Utilizing a stakeholder process that included a broad range of interests, DHS has taken steps to develop a data sharing policy that will allow it to provide utilities with detailed LIHEAP enrollment information for the express and limited purpose of facilitating enrollment in utility-run assistance programs. DHS recently announced during the May 2023 LIHEAP Advisory Committee Meeting that it will begin sharing data with utilities pursuant to this policy in Fall 2024. Utilities should begin planning now to effectively utilize LIHEAP enrollment data to facilitate auto-enrollment in CAP as soon as that data becomes available.

**Question D: How can coordination with other programs (e.g., Act 129) help customers with high arrearage balances who are income-ineligible for LIURP?**

As discussed in answers to Questions A-C, LIURP participation helps drive down energy usage and resultant energy bills. LIURP measures, in combination with other program measures, allow for more holistic weatherization and energy efficiency treatment of homes, which can further reduce energy bills. If this coordination occurs as soon as a customer is identified as having high usage, it will help prevent high arrearages from occurring. If a customer already has significant debt, driving down their current energy costs will prevent accrual of additional debt. As noted above, combining LIURP with CAP or truly affordable payment arrangements will help address the existing debt – and we further recommend the Commission establish policies ensuring that LIURP participants are able to access a new payment arrangement and/or refreshed CAP benefits to help ensure long-term service affordability and stability following delivery of LIURP services. Installing holistic weatherization and energy efficiency measures will prevent the accrual of additional debt, but we must also address existing debt accrued prior to program participation.

CAUSE-PA is thus supportive of strong coordination between Act 129 programming and LIURP to take advantage of programmatic efficiencies that will allow EDCs to address the needs of low income communities more comprehensively. We encourage the Commission to require EDCs to make a greater and more explicit effort to coordinate Act 129 low-income programming with other sources of low income energy efficiency assistance, including but not limited to LIURP. This is not only good policy, but also explicitly required in the statute that Act 129 low income programs must be coordinated with other programs administered by the commission or

another Federal or State agency.<sup>165</sup> This includes LIURP, the Weatherization Assistance Program (WAP), the LIHEAP Crisis Interface Program, and other gas and water utility programs that serve customers within the EDC's service territory.

However, the Commission must be careful that coordination between Act 129 and LIURP programs does not compromise the integrity of the distinct program budgets. The Act 129 statute requires that EDC's respective Act 129 low-income expenditures "*shall be in addition to*" LIURP expenditures.<sup>166</sup> It is thus critical that the integrity of each program be maintained – even as we move to harmonize the two programs to streamline services and delivery to low-income consumers. While coordination must play an important role to leverage resources and improve program reach, the Commission should encourage EDCs to coordinate their Act 129 and LIURP in ways that continue to protect the integrity of these distinct programs.

There are a number of ways that the EDCs could harmonize the two programs, without undermining the integrity of either program. First, the Commission should encourage EDCs to utilize the same contractors to perform LIURP and Act 129 work. Coordinating providers across programs can help limit deferrals, reduce contractor visits (and time off work for the recipient), leverage limited health and safety budgets to help with incidental repairs, and maximize the savings and comfort ultimately achieved for the participant.

EDCs should also standardize application and enrollment forms across their energy efficiency and universal service programs to best match low-income customers to the most comprehensive programming available to suit their circumstances and their need – utilizing a “no wrong door” approach. Standardized applications will more easily facilitate program referrals and limit unnecessary deferrals or rejections. The Commission should, in turn, require electric

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<sup>165</sup> 66 Pa. C.S. § 2806.1(b)(i)(G).

<sup>166</sup> 66 Pa. C.S. § 2806.1(b)(i)(G).

utilities to work with the gas utilities in their service territory to standardize application and enrollment forms for Act 129, LIURP, and any voluntary gas efficiency programs across utilities. Act 129 – as well as voluntary gas efficiency programming – provides an important compliment to LIURP programming, ensuring baseload electric and gas systems are treated holistically to reduce overall energy usage in the home on a single visit and creating economies of scale for the utilities, participants, and other ratepayers. The standardized forms should request sufficient information and permissions to allow the EDC to provide a referral to programs administered by other utilities or agencies. Treating low-income households holistically can help leverage additional bill savings achieved through energy efficiency and will improve program outcomes across the board – leading to improved payment rates, reduced uncollectible expenses, and reduced universal service costs over the long term.<sup>167</sup>

These important steps toward better inter- and intra-program coordination will help leverage program dollars and route low-income households in need of energy efficiency assistance to the appropriate program or combination of programs to address their needs.

**Question E: What other avenues should be considered, in combination with or separate from LIURP, to help public utility customers maintain service if they have arrearage balances near or exceeding \$10,000? What programs exist or could be recommended to address the existing arrearage for customers income-eligible for CAPs so as not to burden ratepayers with write-offs of accumulated arrearages in the future?**

Other avenues to consider, in combination with LIURP, would be the other low income universal service programs offered by natural gas and electric utilities, which are structured to

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<sup>167</sup> In its Final Order in the 2021 Total Resource Cost Test proceeding, the Commission determined that there is merit to the contention that low-income energy efficiency programming produces measurable benefits in terms of reduced arrearages, uncollectible debt reduction, and reduced universal service costs, and committed to revisiting the issue in future TRC Test Orders. See 2021 Total Resource Cost (TRC) Test, Final Order, Docket No. M-2019-3006868, at 73 (Dec. 19, 2019).




provide different yet complementary assistance to low income customers. This includes CAPs, Hardship Funds, and the Customer Assistance, Referral, and Education Services (CARES) Programs. These programs were developed to address and remediate increasing unaffordability and are designed work in tandem to address multiple facets of utility insecurity, ensuring that low income households can maintain affordable utility services and safe living environments while reducing utility collection costs, thereby benefitting other ratepayers.

As noted at the outset of these Comments, the Commission ordered the initiation of a comprehensive universal service program rulemaking back in September 2019. Such a review would have examined the intersection of both CAP and LIURP – ensuring holistic review and reform of each. While the opportunity to review the regulatory framework for these two critical programs in tandem has passed, we nevertheless urge the Commission to proceed with initiating a comprehensive CAP rulemaking that could reform various program rules which serve to undermine the effectiveness of the program at delivering a consistently affordable bill and equitable access to holistic arrearage management benefits to all CAP participants.

V. **CONCLUSION**

CAUSE-PA appreciates the Commission's thoughtful consideration of the issues raised in our comprehensive Comments to the Proposed LIURP Rulemaking. As detailed throughout our Comments, we urge the Commission to adopt a multitude of nuanced reforms and further amendments to its proposed regulatory language to maximize the benefits of LIURP to low income households as well as other ratepayers who support universal service programming through rates.

Respectfully submitted,



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