



National Fuel®

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January 16, 2024

VIA ELECTRONIC FILING

Ms. Rosemary Chiavetta
Pennsylvania Public Utility Commission
400 North Street, Second Floor North
P.O. Box 3265
Harrisburg, PA 17120-3265

**RE: Comments of National Fuel Gas Distribution Corporation to Notice of Proposed Rulemaking Relative to Initiative to Review and Revise the Existing Low-Income Usage Reduction Program (Regulations at 52 Pa. Code §§ 58.1 – 58.18) (the “Rulemaking”)
Docket No. L-2016-2557886**

Dear Secretary Chiavetta,

Enclosed for filing, please find National Fuel Gas Distribution Corporation’s Comments to the Pennsylvania Public Utility Commission’s above-referenced Rulemaking.

Should you have any questions or comments, please do not hesitate to contact me at (814) 871-8177 or via e-mail at sisinnid@natfuel.com.

Very truly yours,

Dominick A. Sisinni

Enclosure

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Initiative to Review and Revise the Existing
Low-Income Usage Reduction Program (LIURP) :
Regulations at 52 Pa. Code §§ 58.1 – 58.18

Docket No. L-2016-2557886

**COMMENTS OF
NATIONAL FUEL GAS DISTRIBUTION CORPORATION
TO NOTICE OF PROPOSED RULEMAKING ORDER**

I. INTRODUCTION.

National Fuel Gas Distribution Corporation (“National Fuel” or the “Company”) submits the following Comments to the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) Notice of Proposed Rulemaking Order entered on May 18, 2023 at the above-captioned docket (“NOPR Order” or “NOPR”). The NOPR Order proposes several updates to the Commission’s existing Low-Income Usage Reduction Program (“LIURP”) regulations, found at 52 Pa. Code §§ 58.1, *et seq.* (the “LIURP Regulations”).

Comments to the NOPR Order are due 60 days followings its publication in the *Pennsylvania Bulletin*. On January 15, 2024, the Energy Association of Pennsylvania (“EAP” or “Association”) filed Comments to the NOPR Order on behalf of its member companies (the “EAP Comments”) at the above-captioned docket. As more thoroughly noted herein, National Fuel strongly agrees with the positions and comments contained in the EAP Comments, and, in many instances, as will be noted below, National Fuel explicitly adopts those positions as its own while incorporating certain positions taken in the EAP Comments by reference.

II. BACKGROUND

The EAP Comments contain, among other things, a comprehensive summary of: (a) the regulatory backdrop prior to and leading up to the issuance of the NOPR Order; (b) the history of the development of LIURP and other low-income policies, practices and services; (c) the goals that LIURP seeks to advance; and (d) the means by which LIURP is funded (*i.e.*, LIURP funds are included in utility rates as part of distribution costs and recovered from other ratepayers). National Fuel incorporates such provisions of the EAP Comments by reference as if fully set forth at length herein. National Fuel adds that it offers LIURP (as well as a LC-LIURP Pilot) pursuant to Commission approval received in its current 2022-2026 Universal Services and Energy Conservation Plan.¹

III. COMMENTS.

A. OVERVIEW.

To meaningfully evaluate the NOPR, National Fuel believes it is important for all stakeholders to remain focused on the longstanding goals of LIURP, namely, helping low-income customers “conserve energy and reduce residential energy bills [via weatherization measures] . . . [which] should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs.”²

National Fuel contends that LIURP’s longstanding goals have appropriately struck the balance between: (a) providing weatherization benefits to low-income and other qualifying customers; and (b) allowing the incidental benefits related to lower collection costs, lower

¹ *See, generally*, Docket No. M-2021-3024935.

² *See*, 52 Pa. Code § 58.1.

consumption, etc. to inure to other ratepayers. Any amendments to the LIURP Regulations must therefore bear a congruence to and otherwise advance these original goals of LIURP. Such a congruence is necessary since, as noted above, LIURP programs are *utility*-provided and *ratepayer*-funded. Thus, any expansion of LIURP or other weatherization programs beyond their original scope would result in utility ratepayers bearing additional costs with questionable upside to them.

As noted in the EAP Comments, LIURP is not a panacea designed to ameliorate deficiencies in Pennsylvania’s housing stock or the like (such goals, though laudable, instead are a function of government and the social service programs that government administers).³ In this vein, National Fuel is concerned that any proposed changes to the LIURP Regulations which seek to fundamentally expand or repurpose LIURP into a “catch-all” program which aims to solve societal goals other than weatherization measures, could have a negative impact on those ratepayers who fund utilities’ varied LIURPs and task utilities with providing social services which they are simply not equipped to offer.

On the other hand, National Fuel believes that any proposed amendments to the LIURP Regulations which facilitate utilities’ efforts to meaningfully offer their LIURP and other weatherization efforts in a way which allows utilities to advance the original goals of LIURP would result in a net benefit. In this regard, National Fuel feels strongly that amendments which reduce administrative burden, overhead, and redundant reporting and prescriptive program requirements would positively impact LIURP and ratepayers. After all, given the fact that the Commission’s Bureau of Consumer Services (“BCS”) exercises oversight of each utility’s LIURP and other universal services offerings in each utility’s specific triennial universal service and energy

³ See, EAP Comments at Section II, p. 9.

conservation plan proceeding (each, a “USECP Proceeding”),⁴ the Commission (and other interested stakeholders, including the Statutory Advocates) are provided an opportunity to meaningfully evaluate the impact of each utility’s LIURP without the need for any more prescriptive, granular regulation.

Mindful of the foregoing, these Comments of National Fuel tend to advance those proposals in the NOPR which: (a) provide utilities with greater flexibility to offer its LIURP to the longstanding group of customers (and to provide weatherization services) LIURP was designed to benefit; and (b) remove administrative burdens/complexities from the LIURP regulations.

B. PROPOSED CHANGES TO REGULATION.

1. Proposed Revisions to Section 58.1. Statement of Purpose.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;⁵ and (2) adopts said response of EAP as National Fuel’s own comments.

2. Proposed Revisions to Section 58.2. Definitions.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;⁶ and (2) adopts said response of EAP as National Fuel’s own comments.

By way of further comment, National Fuel expresses concern with the proposed expanded definition of “special needs customer.” This proposed definition would serve to expand LIURP’s in a way which veers from the historic, core goal of LIURP to provide weatherization measures to low-income customers. While the Commission has articulated that this proposed definition of

⁴ See, 52 Pa. Code §§ 54.71- 54.78 (electric) and §§ 62.1 - 62.8 (gas).

⁵ EAP Comments at Section III, p. 9.

⁶ EAP Comments at Section III, pp. 10-12.

“special needs customer” would further the objective of achieving parity with the Pennsylvania Department of Human Services’ LIHEAP definition of “vulnerable household” (as such term is used in the 2023 LIHEAP State Plan), as noted in the EAP Comments, the proposed definition of “special needs customer” is not congruent with the aforementioned definition of “vulnerable household”⁷ and thus fails under this rubric.

Additionally, National Fuel believes that the proposed definition of “special needs customer” would function to increase complexity in the administration of each covered utility’s LIURP. To be sure, for utilities to serve “special needs customers,” they would need to develop processes and procedures for vetting/verifying that customers fit into one of the many enumerated qualifying classes of individuals. Additionally, National Fuel believes that custom reporting would need to be developed in order to query data to meaningfully analyze applicable metrics from such class of individuals, with IT and administrative costs required to develop same.

3. Proposed Revisions to Section 58.3. Establishment of residential low-income usage reduction program.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;⁸ and (2) adopts said response of EAP as National Fuel’s own comments.

4. Proposed Revisions to Section 58.4. LIURP budgets.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;⁹ and (2) adopts said response of EAP as National Fuel’s own comments.

⁷ See, EAP Comments at Section III, p. 11.

⁸ EAP Comments at Section III, p. 12.

⁹ EAP Comments at Section III, pp. 12-14.

5. Proposed Revisions to Section 58.5. Administrative costs.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;¹⁰ and (2) adopts said response of EAP as National Fuel's own comments.

6. Proposed Revisions to Section 58.6. Consultation.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;¹¹ and (2) adopts said response of EAP as National Fuel's own comments.

7. Proposed Revisions to Section 58.7. Integration.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;¹² and (2) adopts said response of EAP as National Fuel's own comments.

8. Proposed Revisions to Section 58.8. Tenant household eligibility.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;¹³ and (2) adopts said response of EAP as National Fuel's own comments.

9. Proposed Revisions to Section 58.9. LIURP outreach.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;¹⁴ and (2)

¹⁰ EAP Comments at Section III, p. 14.

¹¹ EAP Comments at Section III, pp. 14-15.

¹² EAP Comments at Section III, pp. 15.

¹³ EAP Comments at Section III, pp. 15-16.

¹⁴ EAP Comments at Section III, pp. 16-17.

adopts said response of EAP as National Fuel's own comments.

10. Proposed Revisions to Section 58.10. Prioritization of program services.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;¹⁵ and (2) adopts said response of EAP as National Fuel's own comments.

By way of further comment, National Fuel believes that the proposal to introduce the concept of "CAP shortfall" as one of the factors that a utility is required to consider when prioritizing eligible customers does not provide any more sound of a metric for determining LIURP priority than do the existing and time-tested concepts of "usage" and "arrears" (as contemplated in the existing LIURP Regulations).

While National Fuel believes using "CAP shortfall" in the priority determination will have little to no benefit, National Fuel cautions that by requiring utilities to consider "CAP shortfall," utilities will invariably need to invest time, resources, and funding (including IT and programmatic costs) in order to incorporate the concept of "CAP shortfall" into LIURP prioritization. In sum, then, introducing "CAP shortfall" into the LIURP prioritization hierarchy produces little (if any) benefit, while adding unnecessary complexity.

11. Proposed Revisions to Section 58.11. Energy audit.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;¹⁶ and (2) adopts said response of EAP as National Fuel's own comments.

¹⁵ EAP Comments at Section III, pp.17-18.

¹⁶ EAP Comments at Section III, pp. 18-19.

12. Proposed Revisions to Section 58.11a. Fuel switching.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel understands that the Commission would like to address fuel switching, but does not support the regulations as drafted. The proposed language does not detail the specific circumstances under which fuel switching should be considered, nor does it indicate which utility’s LIURP (or third-party weatherization program) should bear the costs associated with switching fuels. Further, the proposed regulations do not account for the issue of repairs or replacement in the case where the customer’s main heat source is a deliverable fuel. National Fuel suggests either removing this language, or, in the alternative, modifying the current proposal to address the issues raised above.

13. Proposed Revisions to Section 58.12. Incidental repairs.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;¹⁷ and (2) adopts said response of EAP as National Fuel’s own comments.

14. Proposed Revisions to Section 58.13. Energy conservation education.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;¹⁸ and (2) adopts said response of EAP as National Fuel’s own comments.

15. Proposed Revisions to Section 58.13a. LIURP pilot programs.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;¹⁹ and (2) adopts said response of EAP as National Fuel’s own comments.

¹⁷ EAP Comments at Section III, pp. 20-21.

¹⁸ EAP Comments at Section III, pp. 21-22.

¹⁹ EAP Comments at Section III, p. 22.

16. Proposed Revisions to Section 58.14. Program measure installation.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;²⁰ and (2) adopts said response of EAP as National Fuel's own comments.

17. Proposed Revisions to Section 58.14a. Quality control.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;²¹ and (2) adopts said response of EAP as National Fuel's own comments.

18. Proposed Revisions to Section 58.14b. Use of an ESP for program services.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;²² and (2) adopts said response of EAP as National Fuel's own comments.

19. Proposed Revisions to Section 58.14c. Inter-utility coordination.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;²³ and (2) adopts said response of EAP as National Fuel's own comments.

²⁰ EAP Comments at Section III, p. 22.

²¹ EAP Comments at Section III, pp. 22-23.

²² EAP Comments at Section III, p. 23.

²³ EAP Comments at Section III, p. 23.

20. Proposed Revisions to Section 58.15. LIURP reporting and evaluation.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;²⁴ and (2) adopts said response of EAP as National Fuel's own comments.

By way of additional comment, National Fuel writes to express its concern about the proposed amendment at new Section 58.15(3)(vi), which would require each utility to provide an explanation if more than 10% of its annual LIURP budget remains unspent. More specifically, National Fuel's concern rests not on having to provide an explanation for such scenario (as noted *infra*, there may be many diverse and varied reasons for this), but, rather, with the Commission's continued reliance on annual LIURP spend versus LIURP budget as a measure of program success. The Preamble to the NOPR makes clear that the Commission views a utility's underspend as significant to evaluation the success of its LIURP.²⁵ Thus, National Fuel believes new Section 58.15(3)(vi) can be viewed as the Commission reinforcing and strengthening a view that LIURP spending is *the* touchstone of whether a utility is successful with its LIURP via regulatory codification.

There are numerous reasons why a utility's LIURP budget underspend is not a valid measure of LIURP success. As an initial observation, across all business segments, one would be hard-pressed to find a situation where spending *under budget* is questioned. Yet, in this singular context, a budget underspend is viewed as tantamount to program failure. The requirement imposed by new Section 58.15(3)(vi), when viewed in light of the Commission's stated rationale for requiring such reporting (as gleaned from the Preamble to the NOPR),²⁶ therefore could serve

²⁴ EAP Comments at Section III, pp. 23-24.

²⁵ *See, generally*, NOPR at p. 88.

²⁶ *Id.*

as a perverse incentive to stymy innovation, maintain complacency with existing weatherization measures (versus promoting efficiency and innovation), and serve as a barrier to contracting with the most cost-effective, qualified contractors (insofar as efficiencies and cost savings which reduce LIURP spend would necessarily cause a utility to deviate from its LIURP budget).

More specifically in the weatherization context, a rigid adherence to budget and using same as a measure of success fails to account for the realities inherent in this space, including, just to name a few: (1) lack of contractor availability (something which National Fuel, like other utilities, has struggled with, particularly post COVID-19 pandemic); (2) supply chain disruptions; (3) delays in customer response and scheduling constraints; (4) declining population across the majority of the Commonwealth (and, for sure, within National Fuel's service territory); (5) the efforts of other, competing weatherization programs (such as those federal and state programs referenced in the EAP comments²⁷ and other utilities offering weatherization efforts in the same service territory (*e.g.*, NGDC and EDC operating in same geographic territory with their own LIURPs); and (6) increasing non-Commission based regulation of construction and contractors (*e.g.*, local regulation of construction including need for various permits, etc.). Each of the foregoing factors (and again, the foregoing list is non-exhaustive provided merely for illustrative purposes) operates to slow, delay, or otherwise prevent otherwise-eligible weatherization jobs from being completed. These factors operate totally independent of LIURP budget.

To remedy this concern, National Fuel implores the Commission to not only strike the edits to proposed new Section 58.15(3)(vi) of the LIURP Regulations, but ultimately to revisit its continued focus and reliance on this metric as a measure of LIURP success. In this regard, National Fuel believes that the place where adherence to LIURP budget can be provided in a manner in

²⁷ See, generally, EAP Comments at Section II, pp. 6-9.

which the numbers are properly contextualized (and where all stakeholders can meaningfully provide comment and insight) is in each utility's USECP Proceeding.

21. Proposed Revisions to Section 58.16. LIURP advisory committee.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;²⁸ and (2) adopts said response of EAP as National Fuel's own comments.

22. Proposed Revisions to Section 58.17. Modifications of a LIURP.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;²⁹ and (2) adopts said response of EAP as National Fuel's own comments.

23. Proposed Revisions to Section 58.18. Waiver.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;³⁰ and (2) adopts said response of EAP as National Fuel's own comments.

24. Proposed Revisions to Section 58.19. Temporary suspension of program services.

In response to the proposed revisions of this section of the LIURP Regulations, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;³¹ and (2) adopts said response of EAP as National Fuel's own comments.

²⁸ EAP Comments at Section III, p. 24.

²⁹ EAP Comments at Section III, p. 24.

³⁰ EAP Comments at Section III, p. 24.

³¹ EAP Comments at Section III, p. 24.

C. ADDITIONAL FEEDBACK PER THE NOPR ORDER.

The NOPR Order solicited additional feedback on several additional topics (which were not addressed in the 2016 Secretarial Letter issued at the time the above-captioned docket was opened), including: (a) items pertaining to cost compliance and timeline of the amendments specified in the NOPR Order (“Cost-Benefit Matters”); and (b) the interplay between LIURP and customer accounts with arrearage balances in excess of \$10,000 (“High Arrearages Matters”).

With respect to the Cost-Benefit Matters, National Fuel reserves the right to provide feedback in the form of Reply Comments at the above-captioned docket. With respect to the High Arrearages Matters, National Fuel: (1) incorporates by reference the response taken to same in the EAP Comments;³² and (2) adopts said response of EAP as National Fuel’s own comments. National Fuel also reserved the right to provide additional comment/data in the form of Reply Comments at the above-captioned docket.

IV. CONCLUSION.

National Fuel believes LIURP is an important component of its – and each utility’s – universal service offerings. To ensure the overall integrity of LIURP and to carefully balance the benefits LIURP provides to those customers benefitted from LIURP with exercising stewardship for the class of ratepayers which ultimately fund LIURP, National Fuel believes it is important that any modifications to the LIURP Regulations stemming from this rulemaking process yields a regulatory scheme which: (a) remains focused on the longstanding goals of LIURP (and, in this regard, avoids ushering in changes which would transform LIURP into a sort-of panacea to alleviate all issues pertaining to safe and habitable housing in the Commonwealth); and (b) provides utilities with the flexibility and ability to meaningfully implement LIURP without

³² EAP Comments at Section III, pp. 25-26.

introducing redundant, onerous reporting requirements and prescriptive program parameters with respect to same.

Respectfully submitted,

Date: January 16, 2024



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