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Mobilify Southwestern Pennsylvania
National Housing Trust
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North Hills Community Outreach
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Sustainable Pittsburgh
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January 16, 2024

VIA eFILE

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

**Re: Comments on the Proposed Amendments to Current Regulations for the
Low-Income Usage Reduction Program (LIURP), *Docket No. L-2016-2557886***

Dear Secretary Chiavetta:

The undersigned environmental justice, consumer, environmental, business, and faith-based organizations (collectively herein, Energy Justice Advocates) submit the following joint comments and recommendations regarding the Pennsylvania Public Utility Commission's (herein Commission or PUC) Proposed Rulemaking to Review and Revise the Existing Low-Income Usage Reduction Program (LIURP) Regulations at 52 Pa. Code §§ 58.1 – 58.18.

LIURP is a fundamental universal service program that plays a critical role in addressing energy insecurity for low income Pennsylvanians. Through the installation of comprehensive energy efficiency, conservation, and weatherization measures, the program helps to reduce disparities in energy burdens for low income families over the long term. Effective and efficient delivery of LIURP services provides a multitude of benefits for Pennsylvania families and communities, including improved health, safety, and home comfort; reduced involuntary termination rates; reduced collections costs; reduced universal service program costs; and reduced energy demand.

The Commission must ensure LIURP is appropriately funded and accessible to Pennsylvania's economically vulnerable households. This is not only sound public policy, it is also a statutory mandate.¹ To help fulfill this overarching goal, the undersigned organizations offer the following recommendations to improve LIURP services for Pennsylvania's low income families.

Program Funding (Section 58.4)

The Commission proposes substantial amendments to section 58.4 regarding the review and approval of a utility's LIURP budget.

The Energy Justice Advocates are supportive of the Commission's proposal in subsection (d.1) to require unspent LIURP funds to roll forward into the following program year. However, we recommend the Commission further amend the proposed language to clarify that such funds should be added to the overall available funding for the subsequent year. Without this clarification, we are concerned unspent funds could be used to supplant a portion of the LIURP budget for the following year.

¹ 66 Pa. C.S. §§ 2802-04; 2202-03.

We are also deeply concerned with the Commission's proposal in subsections (a.1) and (c) to relegate LIURP funding determinations to quinquennial Universal Service & Energy Conservation Plan (USECP) proceedings. The Commission should not tie its own hands in its ability to investigate the adequacy of program services. USECP proceedings are "comment only" policy proceedings, which occur every five years. Comment proceedings do not provide an opportunity to investigate a utility's proposed needs assessment or budget, and are not alone sufficient to assess the adequacy of a utility's LIURP services to meet the needs of Pennsylvania families. In the intervening years, a utility's rates could increase dramatically - along with the corresponding need for comprehensive energy reduction services. If the Commission approves a rate increase without assessing the necessity of a corresponding increase in the budget for universal service and energy conservation programs, it could effectively erode the availability and effectiveness of LIURP services.

The Commission is charged with the oversight of utility-administered universal service and energy conservation programs, including LIURP,² and should not adopt regulatory restrictions that undermine its own ability to investigate and assess the adequacy of LIURP services in the context of a base rate proceeding, where the Commission determines the justness and reasonableness of a public utility's rates, terms and conditions, policies, and services.

The Energy Justice Advocates are further concerned that the Commission proposes in section (c)(8) to eliminate the requirement that a utility develop a "plan for providing program services to eligible customers within a reasonable period of time." The Commission proposes to strike this reasonableness requirement, instead requiring only that utilities propose a general timeline for service delivery. The Commission should restore this explicit reasonableness requirement to ensure comprehensive energy reduction services are reasonably accessible to all those in need.

Finally, we note our support for the Commission's proposal in section (a.2) to allow up to 25% of a utility's LIURP budget to support services to "special needs" customers with income between 151-200% of the federal poverty guidelines. Special needs households at this income level are often ineligible for other assistance programs, regardless of relative energy burden. At the same time, the Commission must ensure that this expansion does not erode the availability of services to households at lower income levels. It is important that the Commission ensure utilities are

² 66 Pa. C.S. § 2804(9).

accurately assessing the scope of need at all eligible income levels to determine appropriate funding levels.

Recommendations:

- Strike proposed sections 58.4(a.1) and (c), and revise the proposed definition of “LIURP budget” to eliminate restrictions on the review of LIURP funding determinations.
- Restore the requirement in section 58.4(c)(8) that utilities develop a plan for providing services to all eligible customers within a reasonable time.
- Amend proposed section 58.4(d.1) to clarify that unspent funds must be added to the utility’s approved LIURP budget for the following year.

Fuel Switching (Section 58.11a)

Fuel switching is a valuable tool for households looking to switch their source of energy in favor of a cleaner, more cost-effective option. The proposed language in section 58.11a. outlines new guidance for public utility companies to make fuel switching costs for LIURP recipients covered by LIURP funding.³ While this new language eliminates pay-back and makes fuel switching easier for some low income customers, those served by two separate public utility companies must receive both companies’ approval for the process to move forward. Choice of home energy fuel sources should be driven by an assessment of overall household energy burden and decided by the customer, not by company preference.

Recommendations:

- LIURP funds should be authorized to support fuel-blind fuel switching when the new source would result in the lowest projected overall annual home energy burden, including winter heating and summer cooling costs, without requiring permission from the other utility or fuel vendor.

³ NOPR Annex at 14.

Cooling (Sections 58.3, 58.11a)

Pennsylvania’s increasingly hot summers are causing cooling costs to make up a greater percentage of home energy expenses. The Commission must adapt its proposed language to reflect the cooling needs of low income families.

Recommendations:

- Amend the definition of “Residential Space-Heating Customer” in section 58.3 to also include space cooling customers to allow more in-depth weatherization services, inclusive of building shell measures, to be provided to reduce cooling costs.
- Consider total home energy costs - including summer cooling costs - in the assessment for fuel switching and add language prioritizing efficient cooling measures throughout the regulation.

Stakeholder Engagement (Section 58.6)

Current language directs public utilities to consult “with persons and entities with experience in the design or administration of usage reduction [programs].”⁴ Proposed language further clarifies that these consultations “may typically be with a USAC, LIURP advisory committee, past recipients of weatherization services, social service agencies, and community groups.”⁵ Most of the parties listed are unchanged from the original language. While the small addition of “may typically be with” is likely intended to include more stakeholders with specific energy efficiency and weatherization expertise, it makes consultation with advisory groups permissive rather than required.

Recommendation: Further amend proposed regulatory language to specifically require consultation with a utility’s universal service and LIURP advisory groups, rather than making the consultation permissive.

Coordination and Service Delivery (Sections 58.7, 58.11, 58.14, 58.16)

There were a number of edits and additions made throughout the Annex related to coordination. The Energy Justice Advocates agree with the Commission’s stronger proposed language

⁴ NOPR Annex at 9.

⁵ Id.

generally including more coordination with community groups,⁶ as well as the language requiring public utility companies to coordinate their LIURP services with similar energy efficiency programs and other services available in the community and to provide direct assistance to LIURP participants to enroll in these programs.⁷

However, the proposed language throughout much of the Annex also deletes current language that is more inclusive of required involvement by Community-Based Organizations (CBOs) in favor of Energy Service Providers (ESP) alone.⁸ As defined in proposed language, CBOs are considered a subset of ESPs.⁹ An ESP could be a large entity unknown to the communities where LIURP services are being provided, while CBOs are local and trusted by the communities they serve. In order to meaningfully provide comprehensive LIURP services to reach as many families as possible, trusted community partners are key and ought to be prioritized.

The Commission's proposed amendments in section 58.11 would also require separate ESPs to perform audits and to install measures.¹⁰ While the proposed language is well-intentioned to prevent financial incentive, we fear that the requirement for separate ESPs to perform these two inter-related functions could delay projects, be an inefficient use of LIURP dollars and contractor time, and erode community trust with multiple contractors entering a home for a single program. Instead of bifurcating the audit and installation process, we submit that the Commission should instead adopt regulatory language that strengthens the preference for nonprofit CBO service providers and improves post-installation inspection procedures and quality control and compliance monitoring. These amendments would help to strengthen and streamline coordination of service delivery.

Recommendations:

- Develop additional detailed rules requiring utilities to coordinate service delivery with programs similar to LIURP, including but not limited to:
 - Establish guidelines for utilities to braid LIURP resources to effectively leverage other local, state, and federal efficiency dollars.

⁶ NOPR Annex at 23 and 24.

⁷ NOPR Annex at 10.

⁸ NOPR Annex at 13, 14, 19, 20, 21, and 23.

⁹ NOPR Annex at 21.

¹⁰ NOPR Annex at 14.

- Establish rules governing inter- and intra-program data sharing and streamlined enrollment.
- Encourage utilities to integrate compatible administrative systems, applications, and data tracking tools that local contractors can utilize across programs.
- Require utilities to include Weatherization Assistance Program providers on advisory panels to increase opportunities for effective coordination.
- Require utilities to prioritize the use of CBOs to deliver LIURP services.
- Strike the proposed prohibition on using the same ESP to conduct an energy audit and install program measures identified in the completed audit.
- Standardize and strengthen post-installation inspection procedures and quality control and compliance monitoring.

Eligibility (Section 58.8)

Current regulatory language states that landlords cannot evict tenants or raise rents for at least 12 months after LIURP measures are installed. The Commission’s proposed language makes this protection optional rather than required.¹¹

While well-intentioned to improve landlord approval rates, we are concerned that this proposal will serve to erode tenant protections - increasing the risk that landlords will take advantage of the program to increase rent potential and, in turn, eliminate affordable housing options. The current language does not prohibit landlords from evicting a tenant or raising rent for reasons unrelated to the receipt of LIURP services. This fact is commonly misunderstood - leading landlords to reject the program out of hand, without investigating the relative benefits.

There are better options to improve landlord participation without eroding critically important tenant protections. Indeed, there are some complicated and lengthy landlord agreement forms currently in use that would deter even the most compassionate landlord from agreeing to have LIURP services installed. We encourage the Commission to develop standardized policies and procedures for landlord approval that will improve landlord participation, while maintaining protection from eviction or increased rents as a result of efficiency and weatherization measures installed through the program.

¹¹ NOPR Annex at 10.

Recommendation:

- Restore tenant protections that prevent landlords from raising rent or evicting a tenant as a result of the upgrades to the property.
- Create a standardized, simplified landlord agreement form that clearly states both tenant and landlord protections for LIURP recipients.
- Require utilities to include landlord and tenant outreach and education in their Universal Service and Energy Conservation Plans.
- Require utilities to track and publicly report on landlord refusals.

Prioritization (Sections 58.10, 58.12)

Proposed language prioritizes services for high usage low income customers and provides an expanded definition of special needs customers.¹² Later proposed language includes explicit, stronger health and safety and deferral notice language.¹³ We believe that these are excellent additions and amendments to the current language, and will help to ensure the program reaches families most in need. Below, we list a few additional recommendations to further strengthen and clarify some of the proposed language.

Recommendations:

- Section 58.10 - Add prioritization for services that can be coordinated with other programs to leverage the overall resources invested in each home.
- Section 58.12 - Add a minimum requirement for LIURP health and safety budgets of no less than \$2,000 per home, with flexibility to approve additional spending as necessary to ensure installation of available efficiency, weatherization, and usage reduction measures.
 - Require public utility companies to actively refer customers to local home repair contractors, social and housing service providers, and/or other relevant programs that could address issues causing the home to be deferred.

¹² NOPR Annex at 12 and 13.

¹³ NOPR Annex at 15.

Conclusion

The undersigned organizations believe that the above recommendations will help to improve LIURP's reach and comprehensive impact on Pennsylvania's low income households. We are grateful for the opportunity to provide input to the Commission on this critical policy and look forward to the publication of the final rule.

Sincerely,

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