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January 17, 2024

Rosemary Chiavetta, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

**Re: 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**

Dear Secretary Chiavetta:

Enclosed please find the comments of the Energy Association of Pennsylvania to the Notice of Proposed Rulemaking Order entered on May 18, 2023 at the above-captioned docket.

We ask that you accept these refiled (corrected) comments nunc pro tunc due to the wrong docket number listed on the first filing of our comments on January 16, 2024. Our initial, on-time filing was rejected on January 16, 2024 due to this error.

Please contact me if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "Nicole W. Luciano".

Nicole W. Luciano
Director of Policy

Enclosure

CC (via email): Regina Carter, Bureau of Consumer Services
Joseph Magee, Bureau of Consumer Services
Louise Fink Smith, Esq., Law Bureau
Erin Tate, Esq., Law Bureau
Karen Thorne, Law Bureau

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Initiative to Review and Revise the Existing
Low-Income Usage Reduction Program (LIURP) : Docket No. L-2016-2557886
Regulations at 52 Pa. Code §§ 58.1 – 58.18

**COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA
TO NOTICE OF PROPOSED RULEMAKING ORDER**

I. INTRODUCTION

On May 18, 2023, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) issued a Notice of Proposed Rulemaking Order (“NOPR Order”) regarding an update to the PUC’s existing Low-Income Usage Reduction Program (“LIURP”) regulations at 52 Pa. Code §§ 58.1 – 58.18. The May 2023 NOPR Order follows a December 16, 2016 Secretarial Letter that initiated this review via request for stakeholder input on various topics related to utility LIURPs. The NOPR Order summarizes comments to the 2016 Secretarial Letter, proposes amendments to the existing LIURP regulations (outlined in Annex A to the NOPR Order), seeks comments on the proposed amendments, and asks for additional feedback on a series of questions new and novel to this proceeding regarding customer accounts with arrearages in excess of \$10,000.

The Energy Association of Pennsylvania (“EAP” or “Association”) respectfully submits these comments on behalf of its Electric Distribution Company (“EDC”) and Natural Gas

Distribution Company (“NGDC”) members¹. Individual EDC and NGDC members may also submit individual company comments targeted to their specific service territories.

At the outset, EAP emphasizes that LIURP is a *utility*-provided and *ratepayer*-funded program that all stakeholders have an interest to ensure runs efficiently and effectively. EAP believes the best way to achieve the improvements and streamlining of the program sought by the Commission and other stakeholders is to remain focused on the purpose and achievable goals of *utility*-funded weatherization measures. EAP urges the Commission not to increase the costs already borne by ratepayers through an expansion of utility weatherization programs beyond their scope to address deficiencies in the Commonwealth’s housing stock or to solve issues related to low-income customer payment and attendant utility costs. Individual utility LIURPs are defined by the low-income population in their individual service territory, the impacts from weather, the state of housing stock, and the availability of similar services offered by state-administered, federally-funded programs and local non-government agencies. The regulatory framework should remain sufficiently flexible to account for variations that exist between service territories.

II. BACKGROUND

The Commission and various stakeholders first formally addressed low-income policies, practices, and services in 1984; the enactment of Act 114 of 1986 provided the Commission the express authority to order conservation and load management programs. *See, Recommendations for Dealing with Payment Troubled Customers*, Docket No. M-840403. As a result of Commission

¹ Electric Utility Members: Citizens’ Electric Company; Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Pike County Light & Power Company; PPL Electric Utilities; UGI Utilities, Inc.-Electric Division; Wellsboro Electric Company; and West Penn Power Company. Gas Utility Members: Columbia Gas of Pennsylvania, Inc.; Leatherstocking Gas Company, LLC; Pike County Light & Power Company; National Fuel Gas Distribution Corp.; PECO Energy Company; Peoples Natural Gas Company LLC; Philadelphia Gas Works; UGI Utilities Inc.- Gas Division; and, Valley Energy Inc.

action, electric and natural gas utilities began filing low-income usage reduction plans that consider how to address arrearages for low-income customers via weatherization.

LIURP and other low-income programs were further addressed by the enactment of retail choice legislation in the 1990s. The Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §§ 2801-2812, became effective on January 1, 1997. The Natural Gas Choice and Competition Act, 66 Pa. C.S. §§ 2201-2212, became effective on July 1, 1999. The primary purpose of the competition statutes was to introduce competition into the retail electric generation market and the natural gas retail market for small volume customers. The General Assembly, in enacting retail choice legislation, highlighted the importance of continuing to help low-income customers maintain utility service. Under both retail choice statutes, universal service and energy conservation programs² remained subject to the administrative oversight of the Commission, which must ensure that the utilities run the programs in a cost-effective manner. *See*, 66 Pa. C.S. §§ 2203(8) and 2804(9). The Commission is charged with ensuring that universal service and energy conservation services are appropriately funded and available in each utility distribution territory. *Id.* Although neither statute defines “affordability,” the Commission’s Policy Statement on Customer Assistance Programs provides some guidance on the concept of affordable payments. *See*, 52 Pa. Code §§ 69.261-69.267. The Commission’s goal of balancing the interests of customers who benefit from the programs with the interests of the customers who pay for the programs is a paramount consideration in examining customer affordability and cost-effectiveness of all universal service programs, including LIURP.

² Defined as the policies, practices, and services, such as CAP, usage reduction programs, service termination protections and consumer education that help low-income customers maintain utility service. *See* 66 Pa C.S. §§ 2202 and 2803.

The Commission's primary means of ensuring the availability and affordability of LIURP is the reporting requirements and triennial review of company programs vis-à-vis company Universal Service and Energy Conservation Plans ("USECPs") as outlined in 52 Pa. Code § 54.74 (a) (electric) and § 62.4 (a) (gas). The Commission further elaborated on this responsibility by promulgating the Universal Service and Energy Conservation Reporting Requirements regulations ("Reporting Requirements"). 52 Pa. Code §§ 54.71- 54.78 (electric) and §§ 62.1 - 62.8 (gas). These Reporting Requirements require each NGDC serving more than 100,000 residential accounts and each EDC serving more than 60,000 residential accounts to submit an updated USECP every three years to the Commission and its Bureau of Consumer Services for approval. 52 Pa. Code §§ 54.74 and 62.4.

The main goal of utility LIURPs is to assist low-income residential customers "conserve energy and reduce residential energy bills... [which] should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectable accounts expense, collection costs and arrearage carrying costs." *See*, 52 Pa Code § 58.1. LIURP is targeted toward customers with annual incomes at or below 150 percent of the federal poverty income guidelines ("FPIG"), with a current allowance for companies to spend up to 20 percent of their annual program budgets on those customers with incomes between 150 and 200 percent of FPIG. *See*, 52 Pa Code § 58.2. LIURPs prioritize high energy users where measures presumedly offer the greatest opportunity for bill reduction. In general, as described in the Commission's annual Universal Service Report, EDCs target those customers with annual usage of at least 6,000 kWhs and NGDCs target customers with annual usage of at least 130 Mcfs. Where possible, many utilities target those customers who are also payment troubled (in arrears). LIURP is available to both homeowners and renters, although renters need landlord approval for program measures.

LIURP funds are included in utility rates as part of distribution costs and are recovered from residential customers³. While the exact recovery mechanism for LIURP costs varies across utilities, the cost of LIURP and other universal service programs may be disproportionately paid by non-low-income residential ratepayers.⁴ Low-income customers also pay for these programs if they are not in CAP. The funding levels are based on a “needs assessment” – which historically has been based on data such as census and utility data, although no specific data requirements have been established by the Commission. *See*, 52 Pa Code §§ 58.4(a) and 58.4 (c). The utilities administer the program using both non-profit and for-profit contractors.

Under most utilities’ LIURPs, program measures are installed on a payback recovery basis of seven years or less for the majority of program measures, with some exceptions allowing payback of up to 12 years or utilizing other performance measures. For those who use a payback recovery, it is determined by the time it takes to recover the cost of the installed program measure through the projected energy savings the measure brings the household. *See*, 52 Pa Code § 58.11 (a).

According to the most recent Universal Service Report (2022)⁵ compiled by the Commission, EDCs spent a total of \$44.3 million in 2022 and are projected to have spent \$51.6 million in 2023 on LIURP. NGDCs spent \$25.2 million in 2022 and are projected to have spent \$28 million in 2023. Utility LIURP spending for 2022 was nearly \$70 million, out of a total of \$567 million spent last year on universal service programs.⁶ As these funds are often directly

³ One utility also recovers these costs from firm commercial and industrial customers.

⁴ This could occur where the costs of a utility’s Commission-approved USECP is not recovered from those residential customers on a customer assistant program (“CAP”). In such cases, LIURP costs for those customers are recovered from other residential ratepayers.

⁵ PA PUC 2022 Universal Service Programs and Collections Performance Report, <https://www.puc.pa.gov/media/2573/2022-universal-service-report-final.pdf>

⁶ Note that when the instant review started in December 2016, the 2015 yearend data available showed that EDCs spent \$32.2 million in 2015 and were projected to have spent \$34.5 million in 2016 on LIURP. NGDCs spent \$19.7 million in 2015 and were projected to have spent \$19.2 million in 2016. Utility LIURP spending for 2015 was nearly

recovered from residential ratepayers, the utilities have an onus to ensure that they are efficiently and effectively utilized in administering LIURP and other universal service programs.

Pennsylvania’s electric and natural gas utilities have worked diligently to implement and administer these programs for over twenty years. Considering the passage of time since their initial implementation, EAP believes revisiting and reevaluating the regulations may be prudent. However, much time has passed between the Commission’s initiation of this review and today. As such, EAP suggests that any review of LIURP regulations consider related Commission action since 2016, as well as the growth of federally-funded weatherization programs administered by the Pennsylvania Department of Community and Economic Development (“DCED”) and the additional availability of programs funded by the federal Inflation Reduction Act (“IRA”)⁷ and administered by the Pennsylvania Department of Environmental Protection (“DEP”).

Specifically, since the December 2016 Secretarial Letter, the Commission has: amended its CAP Policy Statement; updated the utilities’ USECP filing and review schedule⁸; and initiated a new review of utility universal service programs⁹ following an incomplete open docket to establish a “comprehensive universal service rulemaking”¹⁰. Customers, utilities, the PUC, and other stakeholders continue to grapple with the economic effects of the 2020 COVID-19 pandemic and the associated termination moratorium¹¹ on arrearages and energy affordability.

The DCED Weatherization Assistance Program (“WAP”) is funded and evaluated by the U.S. Department of Energy (“DOE”). As with LIURP, the measures are provided through a

\$52 million, out of a total \$418 million spent on universal service programs. A comparison of the 2015 data with data from 2022 demonstrates that utility universal service spending (including LIURP specifically) has gone up nearly 35% in the last seven years.

⁷ Public Law 117-369, 136 Stat. 1818, commonly known as the Inflation Reduction Act of 2022 (“IRA”).

⁸ Universal Service and Energy Conservation Plan (USECP) Filing Schedule and Independent Evaluation Filing Schedule, Docket No. M-2019-3012601, Order entered October 3, 2019.

⁹ 2023 Review of All Jurisdictional Fixed Utilities’ Universal Service Programs, Docket No. M-2023-3038944.

¹⁰ Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907.

¹¹ Emergency Order Re: Establishing Public Utility Service Termination Moratorium, Docket No. M-2020-3019244.

network of agencies operating in all counties of the Commonwealth. Additional funds for this program are provided by the U.S. Department of Health and Human Services (“HHS”) via the Pennsylvania Department of Human Services (“DHS”) as a part of the Low-Income Home Energy Assistance Program (“LIHEAP”). Fifteen percent of the state's federal allocation for LIHEAP is set aside for DCED's Crisis Interface Program, which provides emergency weatherization services such as the repair or replacement of heating systems, broken window repair or replacement, and pipe-thawing. Eligibility is determined via overall LIHEAP eligibility by DHS. DCED's standard weatherization service is open to those whose income is at or below 200 percent of FPIG, and both renters and homeowners may qualify. Prioritization is based on a point and ranking system using multiple factors such as household size, ages of occupants, and energy use. For WAP, household average expenditure is \$7,669¹² and the total annual budget is \$24.5 million.¹³¹⁴ The federal Infrastructure Improvement and Jobs Act (“IIJA”)¹⁵ enacted in 2021 provided an additional \$25 million in competitive funding to expand the impact of DOE WAP.

For electric companies under the Commission’s jurisdiction, additional weatherization services are offered via “Act 129” programs. Now in its fourth phase, the Commission has required each EDC’s energy efficiency and conservation plan to include specific measures for households at or below 150% of the FPIG and further established a minimum percentage for such measures that must be offered, in proportion to that sector’s share of the total energy usage in the EDC’s service territory. For 2021-2026, approximately 5% of all total program savings (based on potential megawatt hours) must come from the low-income segment.¹⁶

¹² DCED Programs site: <https://dced.pa.gov/programs/weatherization-assistance-program-wap/>

¹³ DOE Weatherization State Plan Budget 2023-2024. <https://dced.pa.gov/download/23-24-doe-state-plan-budget/>

¹⁴ Compare this to the \$69.5 million spent by utility ratepayers on LIURP in 2022, per the PUC’s annual Universal Service Report, p.53-54. <https://www.puc.pa.gov/media/2573/2022-universal-service-report-final.pdf>

¹⁵ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (2021).

¹⁶ Energy Efficiency and Conservation Program, Docket No. M-2020-3015228, Implementation Order entered June 18, 2020.

On the federal level, the Inflation Reduction Act (“IRA”) was signed into law in 2022 and authorized many new programs, tax credits, and rebates designed to help households save money and lower energy usage. Tax credits allow for all income levels have been extended through 2032 and significantly upgraded. Heat pumps and heat pump water heaters are now eligible for a 30 percent tax credit capped at \$2,000, up from the previous \$300 cap. The IRA also established a High-Efficiency Electric Home Rebate (“HEERA”) Program to provide state energy offices with rebate programs for electrification projects. Participating homes can receive up to \$14,000 in rebates; eligible households are ones with annual income at or below 150% of the area median income with full reimbursement available for households at or below 80% of area median income. Whole building projects are also eligible. The total Pennsylvania allocation for these rebates over the life of the IRA programs is \$259 million.¹⁷ IRA funds are also earmarked for a Home Owner Managing Energy Savings (“HOMES”) program to fund energy efficiency retrofit projects. The program is focused on whole-house efficiency work with rebates determined by total projected energy savings for the home. Low to moderate income families can receive \$4,000 (or 80% of total project costs) for work that has 20-35% energy savings and up to \$8,000 for work that has over 35% energy savings. Both these federally-funded programs are administered in the Commonwealth by DEP.

All of these programs – LIURP, WAP, Act 129, and now IRA-funded HEERA and HOMES – are providing weatherization services to the same pool of low-income customers in Pennsylvania. Further, there is a limited pool of qualified contractors across the state available to perform this work. While the overarching goal of these revisions to LIURP regulations may be to improve coordination of these various programs, many of the specific recommendations appear to

¹⁷ U.S. Department of Energy, <https://www.energy.gov/scep/articles/ira-home-energy-rebates-state-allocations>

expand the role of the utility piece of the weatherization puzzle without considering the needless cost impact on residential utility customers who fund utility-provided weatherization. LIURP is, and should remain, a targeted program provided by utilities to “assist low-income customers conserve energy and reduce residential energy bills.”¹⁸ Ratepayer-funded LIURP, and other utility universal service programs, is not intended to be a “catch-all” solution for all Pennsylvanians who might struggle to pay their energy bills or for remediation of housing stock deficiencies in the Commonwealth. The social agency of last resort is – and should remain – a function of government with its access to taxpayer funds and ability to bring appropriate program resources and expertise to address low-income community needs. Utility programs, such as LIURP, provide some assistance to address bill affordability but cannot fund resolution of the many complex issues faced by their low-income customers.

Finally, in addition to addressing the Commission’s specific suggestions below, EAP asks the PUC to share the “data and analyses”¹⁹ conducted between the PUC and DCED on LIURP and WAP. To the extent this data and analysis was used to inform PUC suggestions on regulatory revisions contained in the NOPR Order, it should be shared with stakeholders for their review and to better understand the Commission’s proposed regulatory revisions.

III. COMMENTS

A. PROPOSED CHANGES TO REGULATION

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

EAP supports the proposed changes to Section 58.1, save for the feedback regarding “special needs customers” discussed below.

¹⁸ 52 Pa Code § 58.1.

¹⁹ NOPR Order, p. 7.

2. Proposed Revisions to Section 58.2. Definitions.

EAP supports the Commission’s proposed revisions contained in its “first group” of definitions. The Commission notes that these definitions are updates to reflect “common universal service and low-income related programs and terms”²⁰ which include: “BCS – Bureau of Consumer Services”, “CAP – Customer Assistance Program”, “CAP shortfall”, “CARES – Customer Assistance and Referral Evaluation Services”, “CBO – Community-based organization”, “FPIG – Federal Poverty Income Guidelines”, “Hardship Fund”, “LIHEAP – Low-Income Home Energy Assistance Program”, “LIURP budget”, “LIURP funding mechanism”, “LIURP funds”, “Payment troubled customer”, “USAC – Universal Service Advisory Committee”, “USECP – Universal Service and Energy Conservation Plan”, “USECP proceeding”, and “Universal service programs”.²¹

EAP also supports the Commission’s proposed revisions to the second group of definitions under this section that are included to “clarify LIURP-specific terms and services.” NOPR at 21. These terms include: “De facto heating”, “Dwelling”, “ESP – Energy service provider”, “Health and safety measures”, “Impact evaluation”, “Incidental repair”, “LIURP – Low-Income Usage Reduction Program”, “LIURP job”, “Post-installation inspection”, “Program year”, and “Weatherization”.²² EAP supports the Commission’s proposed revisions to the third group of definitions aimed at clarifying those terms related to the regulation of public utilities. These terms include “Commission – The Pennsylvania Public Utility Commission”, “CNGDO – City natural gas distribution operation”, “EDC – Electric distribution company”, and “NGDC – Natural gas distribution company”.²³

²⁰ NOPR Order at p. 18.

²¹ NOPR Order at pp. 18-21.

²² NOPR Order at pp. 21-24.

²³ NOPR Order at pp. 24.

The Commission makes additional proposals to provide “amendments and clarifications” to existing terms. These terms include “Administrative costs”, “Eligible customer”, “LIURP Advisory Committee”, “Low-income customer”, “Pilot program”, “Program measure”, “Program service”, “Residential electric baseload customer”, “Residential space-heating customer”, “Residential water-heating customer” and “Special needs customer”.

EAP has some concerns with the proposed revisions to the definition of “special needs customer.” The Commission proposes changes to this definition to remove the arrearage requirement component of the definition and for it to apply to those customers between 151% and 200% of PFIG with one or more household members who: are age 62 and over or age 5 and under; need medical equipment; have a disability; are under a protection from abuse order; or are otherwise currently defined as a special needs customer under the utility’s approved USECP. The Commission’s rationale for this change is to make utility LIURP qualifications for a “special needs customer” more consistent with that of the PA Department of Human Services’ (“DHS”) LIHEAP definition of a “vulnerable household” per the 2023 LIHEAP State Plan at 601.3. NOPR at 27.

If consistency with DHS definitions for “vulnerable household” is the goal, the definition should include *only* the parameters that “at least one member who is elderly (age 60 or over), disabled, or age five and under.” Utilities will not necessarily know disability or medical device need status. If disability and medical device necessity status is to be kept as a special needs designation, EAP would suggest adding clarifying language that will enable utilities to more easily make this determination, such as via source of income documentation in the LIURP application process or confirming that the customer has an active medical certificate on the account. These additional, proposed demographic questions are not currently a part of the LIURP application and eligibility process for many utilities.

EAP supports the Commission’s proposed revisions in its fifth group of definitions to terms including “Energy audit”, “Energy conservation education”, and “Public utility”.

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

EAP supports the proposed revisions to this section.

4. Proposed Revisions to Section 58.4. LIURP budgets.

EAP supports the Commission’s proposal to allow up to 25% (up from 20%) of LIURP budgets to be spent on “special needs customers,” notwithstanding the comments raised above regarding the definition of such customers.

EAP does, however, have concerns about the proposals contained in this section regarding the required factors to be considered in setting the LIURP budget. The Commission proposes factors related to “the estimated number of customers by FPIG level”, “the number of confirmed low-income customers by FPIG level” and “the number of special needs customers.” EAP notes that utilities do not necessarily have this data, nor is it always accurate. To the extent the Commission wishes to use publicly-available U.S. Census-level data, it should be listed as the reference point in the regulation so that all parties know where the estimates are coming from, as utilities themselves do not collect income information for all their customers or all the households in their service territory. To the extent utilities *do* have income information, it is provided voluntarily typically as a part of enrollment in a utility’s USECP program offerings or from receipt of a LIHEAP grant. Utilities would not, for instance, have broadly-available, separate income data (particularly by FPIG level) other than what is readily available from the U.S. Census Bureau. Further, this data may be overly broad and not indicative of the true need for a specific utility in its jurisdiction, e.g., not all households use natural gas in a given region. The lack of data is also true of “special needs” status of their customer base. Utilities could collect this type of

demographic data *after* an eligibility determination is made and/or enrollment in a program is complete for the portion of their customers who voluntarily agree to enroll in these programs.

Again, utilities do not have or collect this type of data on an ongoing basis. The assumption that a utility's LIURP budget should or could account for *all* potentially eligible confirmed low-income or special needs customers is flawed.²⁴ Utility programs are not intended nor financially suited to provide assistance to all technically eligible customers. LIURP is a utility-run program paid for by utility residential ratepayers. Its scope, reach, and capabilities are predicated on the goal of offering energy conservation. Amendments to existing regulations should avoid straying from this specific purpose.

The Commission's suggested edits to the LIURP budget factors appear to treat utilities as social service agencies responsible for weatherization or housing services, which is not the role of a regulated utility. Residential ratepayers should not be the backstop funding source for residential consumer weatherization services. Ratepayer funded assistance programs such as LIURP can play a role to ease affordability concerns for low-income customers, but the utility must also consider the impact on its other residential customers and must balance the cost of assistance programs with its overall obligations to provide reliable, reasonable and safe service. 62 Pa. C.S. §1501.

Relatedly, EAP would disagree with the inclusion of the language suggested in this section that would change the reference from "a reasonable period of time" to "a proposed timeline."²⁵ As stated above, EAP does not agree it is the utility's role to weatherize all potentially-eligible customers in their service territory, particularly if there is a disproportionate number of low-income customers in a service territory. The additional parameter of having to do so by some

²⁴ See discussion *supra* at pp. 6-9 regarding additional available weatherization programs targeted to low-income households.

²⁵ Proposed § 58.4 (c) (8).

predetermined timeline is both burdensome and unreasonable. Presumably, given that USECPs are approved on a five-year interval, the “timeline” would be the five years covered by the approved USECP. Even if a primary goal of energy utilities was to provide weatherization services, it would be unreasonable to require utilities to provide weatherization services to all eligible customers in such a short of a timeframe. Further, some utilities’ customers would not be able to financially do so given the significant costs. If there is some other meaning to ascribe to the use of “eligible customer” or “timeline” in this section of the proposed regulation, EAP asks for clarification.

EAP appreciates the Commission’s proposal to allow for carryover of unspent LIURP funds to the LIURP budget for the following program year.²⁶ However, EAP cautions against the potential compounding effect of carryover in a five-year program. If the utility struggles to exhaust the budget for Year 1, rolls those funds into Year 2 and continues to face the same roadblocks, Year 3 will have rollover from Years 1 and 2 and the issue will be further exacerbated. EAP asks the Commission to consider a percent threshold or other limit where the monies would not need to be reallocated to future LIURP program years, but instead could be redirected to other USECP offerings or returned to ratepayers.

5. Proposed Revisions to Section 58.5. Administrative costs.

EAP supports the Commission’s proposal under this section to exempt pilot programs from the 15% administrative cost cap.

6. Proposed Revisions to Section 58.6. Consultation.

EAP supports the Commission’s proposed revisions to this section with caution that a utility’s advisory committee not be viewed as an additional approving or regulatory body in the

²⁶ Proposed § 58.4 (d.1).

process. It should remain clear that this group is advisory only and not be given equal weight to statutory advocates.

7. Proposed Revisions to Section 58.7. Integration.

EAP is generally supportive of the proposed amendments to this section. However, it has remained unclear as to what “direct assistance” means in subsection (b). Utilities provide outreach regarding LIHEAP and offer available, additional energy assistance to LIURP participants as a matter of course. Low-income customers may have already been given information regarding LIHEAP, may have received LIHEAP, and/or assigned a LIHEAP grant to another utility or deliverable fuel. “Direct” assistance could be interpreted to mean filling out the application, which EAP does not believe is appropriate or may not be what was intended by this regulation. Utility ratepayers should not bear the responsibility for providing LIHEAP or other program application assistance; this should remain with DHS. For clarification, EAP asks the Commission to remove the word “direct” thus allowing for more flexibility regarding information sharing and assistance under this section.

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

EAP supports the Commission’s proposed revisions to this section. In particular, EAP agrees that it is difficult for utilities to enforce the previously required (NOPR Order now suggests optional) stipulation that a landlord not raise rent nor evict the covered tenant for at least 12 months post installation of program measures. This requirement created barriers to participation for tenant customers; making this requirement optional will allow utilities to offer more measures to more tenants.

EAP also recommends that in addition to documenting the landlord approval in writing, utilities should be allowed to obtain consent from landlords via a recorded call or electronic

methods, so long as the utility retains those records. Obtaining landlord consent is a significant challenge for many utilities, and creating a simplified process for landlord approval would result in greater participation.

9. Proposed Revisions to Section 58.9. LIURP outreach.

EAP agrees with the Commission's goals regarding revisions to this section to allow for additional communication methods to potentially-eligible customers. The change from "mass mailing" to "communication" appropriately recognizes the varied ways in which customers might interact with their utility or be most receptive to receiving information about program offerings. However, EAP would caution against continuing to make this a program requirement as not all utilities have "open enrollment" for their LIURPs. Without "open" eligibility, a mass mailing or communication will interest customers who cannot participate and lead to disappointment or dissatisfaction on the part of customers and wasted effort and cost on the part of utilities. EAP suggests this language be modified from a prescriptive requirement. Even for utilities with a more "open" enrollment, aggressive advertising and notice requirements could produce more interest in the program than the funds or contractors have capacity to handle. EAP also asks for consideration of leniency of the requirement to advertise LIURP in languages other than English for similar reasons.

While not a proposed change, EAP wishes to highlight the continued inclusion of a requirement to send these notices to "publicly and privately funded agencies which assist low-income customers within the public utility's service territory." EAP does not believe it is reasonable to assume that utilities know of all such groups in their service territories. Further, the regulation should make clear that all the costs incurred via the outreach required in this section are recoverable via the established LIURP-related surcharge.

EAP asks the Commission to soften proposed language regarding advertising LIURP services in other languages. The proposal contained in subsection (a) reads: “A public utility **shall** also **consider** providing public service announcements regarding its LIURP in media outlet sources, such as print, broadcast and social media platforms. 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.”²⁷ Emphasis added. There appears to be a discrepancy between the consideration of public advertising and the requirement to advertise the program in additional languages. EAP asks that the language requirement be tied more closely to the advertising language so as not to indicate a separate requirement above consideration as proposed for advertising generally.

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

The Commission makes several proposed changes to this section, including CAP shortfall as one of the factors that a utility is required to consider when prioritizing eligible customers by usage level. CAP shortfall is being defined as “the difference between the actual tariff rate for jurisdictional residential energy service and the amount charged on a CAP participant’s bill. This term is synonymous with ‘CAP credits’”.²⁸ EAP is not convinced that changing the prioritization from usage and arrearage to CAP shortfall is more meaningful or will aid in coordination efforts across various weatherization programs operating in the state as only utilities will have information regarding the degree of CAP shortfall. Further, those with highest arrears will oftentimes also capture those customers who have the highest CAP shortfalls.

EAP again raises the experience of its member companies in struggling to get customers to agree and participate in LIURP; prioritization under this paradigm could create an even bigger

²⁷ NOPR Annex at p. 11.

²⁸ NOPR Annex at p.2.

barrier to getting the number of jobs completed based on the goals and budgets set in USECP proceedings. Utilities should be allowed to provide service to eligible customers as the customer encounters the program and not be held back due to prescriptive prioritization requirements. These proposed multiple layers of prioritization could also make utility LIURPs even more complex to administer, as the priority framework contains so many factors that it becomes difficult to find customers who fit these criteria.

EAP also disagrees with the suggested removal of the option to require CAP participation as a condition to receive LIURP measures. The ability of utilities to retain this requirement aids in incentivizing otherwise reluctant customers into participating. Utilities strive to enroll LIURP participants into their CAPs where appropriate. Some utilities focus their LIURP on CAP participants, believing the impact helps both the customer in maintaining utility service and good payment history and helps the utility by reducing CAP shortfall. The regulatory scheme for universal service must balance the benefit of maintaining CAP eligibility for low-income consumers facing high energy bills with the increasing cost burden of the program to non-CAP residential customers, including those eligible for CAP or just above the income guidelines for CAP eligibility. This balance cannot be achieved if cost effective energy conservation efforts for CAP participants are not promoted and supported by existing utility administered programs such as LIURP.

11. Proposed Revisions to Section 58.11. Energy audit.

EAP disagrees with the Commission's proposed revisions to this section²⁹ that would prohibit the same energy service provider ("ESP") from performing both an energy audit and program measures at the same dwelling. As noted above, many utilities struggle to find enough

²⁹ Proposed § 58.11 (c)

contractors or contractors with enough capacity willing to do utility LIURP work. To prohibit a well-performing vendor from certain types of work would be detrimental to LIURP overall and to the idea of coordination among contractors across utilities and between utility and non-utility weatherization programs. This requirement would dramatically upend the way in which these programs are administered and should not be adopted. It can result in additional communication challenges for ESPs that have to hand off their scope of work. For example, in a situation where a single ESP has the capability to perform the energy assessment, air sealing, and insulation work as well as a heater replacement, that ESP may be able to complete the work sooner with fewer disruptions to the customer than if they had to hire a separate HVAC company and weatherization subcontractor. There also may be increased administrative costs associated with increased reporting, subcontractor cost markups, and additional visits if separate ESPs are required. EAP notes that ESPs may be in competition with one another, which could impact their audit findings. If the Commission is concerned with conflicts of interest, this could be addressed through quality assurance or other protocols that can be developed and approved in USECP proceedings.

EAP believes the proposed changes under Section 58.11 (d) and (e) are appropriate. EAP has long advocated for withdrawing the expected lifetime energy savings thresholds and moving toward allowing utilities to measure LIURP cost effectiveness at the job-level rather than the measure-level. This change will result in more (and more thorough) weatherization and energy savings. However, the regulations still refer to the “expected lifetime” of the individual program measures. It is unclear based on the proposal contained in Section 58.11 (d) (2) how the lifetimes are to be calculated on an individual and then on a collective basis. If the intent is to allow for job-level savings calculations, then EAP suggests removing mention of expected lifetime of individual measures.

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

EAP defers to individual member company filings.

13. Proposed Revisions to Section 58.12. Incidental repairs.

EAP is generally supportive of the changes suggested in this section. EAP asks for clarification in Section 58.12 (b) which indicates that incidental repairs and health and safety measures are to have their own spending allowance limits. EAP is reading this suggestion to mean that there will be one “bucket” for both issues, incidental repairs **and** health and safety measures. To the extent that tracking or reporting will be required to separate these two issues, EAP asks that the Commission further delineate or define these terms to ensure effective reporting and comparison across utilities.

With regard to Section 58.12 (d) (2), EAP notes that utilities already report on deferrals.³⁰ To the extent the Commission wishes to aggregate and track this information it can do so from individual utilities’ existing annual reports. It is unclear from the NOPR Order what the additional data will be used for or why the Commission feels it is necessary to “track deferred dwellings for a period of at least three years” other than to align with DCED WAP protocols. Given that these programs (utility LIURP and DCED WAP) are not both reported into one database or have one source of administrative oversight, it does not seem necessary or useful to collect this data (at a cost to ratepayers) without any ultimate purpose or goal in mind.

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

EAP supports most of the Commission’s proposed revisions in this section. EAP does not agree with the proposal contained in Section 58.13(4) related to post-installation education. The requirement reads that “energy conservation education must be provided by phone or in-person to

³⁰ 52 Pa. Code §§ 54.71-54.78 and 61.1-62.8.

recipients of program measures whose energy usage has increased 12 months post-installation.” NOPR Annex at 16. As noted in its comments to the December 2016 Secretarial Letter, there are many reasons why any one individual customer’s energy usage might go up within a year after program measures have been installed. EAP does not believe additional education – particularly costly in-person visits – will cure the natural inclination of some customers to use more energy for comfort or other reasons such as the birth of a child. Any additional education for these customers will come at the cost of installing program measures for other customers, as it can be difficult and time-consuming to reach back to a customer whose last contact with the utility was months ago and who may be satisfied with their own usage. This type of requirement appears to put the onus on the utility to control the customer’s usage which is impractical if not impossible.

Utilities already submit “non-saver” information to the Commission.³¹ To the extent that the Commission believes “non-savers” are an issue, EAP suggest inserting a threshold for these additional outreach activities, such as an increase in usage of 25% or more in the post-measure period. Anything less could be a normal, seasonal variant in usage/energy costs and would not provide much insight into the success of LIURP measures overall. Further, EAP would suggest a lower-cost approach to addressing these customers such as a letter or emailed communication rather than an in-person visit.

EAP suggests that the present \$150 marker in (b) be changed to a percentage threshold; given that these regulations may not be reopened again for many years, this will allow the marker to keep pace with inflation.

³¹ 52 Pa. Code §§ 54.71-54.78 and 61.1-62.8

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

EAP supports the suggested revisions to this section. EAP asks that the same consideration regarding limiting LIURP budget adjustments to USECP proceedings be applied to pilot programs and delineated in this section as well.

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

EAP supports the suggested revisions to this section.

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

EAP supports most of the revisions to this section, save for the proposal contained in Section 58.14a. (d). It is not clear why LIURP measures necessitate a separate complaint process from the one already available to customers via PUC regulations. Utilities have existing, established channels for customers and LIURP contractors to express issues and resolve problems. Utilities also routinely perform LIURP satisfaction surveys. An additional, separate complaint process feels unnecessary and duplicative. EAP suggests striking this language and replacing it with a requirement to share in the LIURP materials provided to customers, the existing available methods for a customer to file a complaint.

EAP raises similar concerns with Section 58.14a (f) as with regarding Section 58.13(4) detailed above. An additional inspection requirement would be very costly; no other weatherization program operating in the state requires another inspection to be done on non-savers whose additional usage cannot be “substantiated.” As above, EAP suggests that if this requirement is to be kept in the regulations that a higher threshold be established for the increase as well as a less-costly outreach method.

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

The Commission proposes to allow utilities to outsource program services to a single ESP, so long as a filing and justification is made by the utility. In cases where a single ESP would be prudent, it would conflict with the Commission's proposed regulations at Section 58.11 (c) which prohibit utilities from using the same ESP for audits as for program measures. EAP reiterates its opposition to the requirement of Section 58.11 (c), as the Commission itself under this section duly recognizes that there may be cases where only one ESP is available.

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

EAP is supportive of the proposals contained in this section, particularly the language under subsection (d) allowing costs associated with inter-utility / coordinated trainings or outreach to be a permissible use of LIURP funds.

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

EAP supports the Commission's proposed changes to the LIURP reporting requirements under this section that would align current practice with existing regulation.

With regard to the newly requested data concerning deferral jobs proposed in 58.15 (3)(i), EAP suggests an implementation timeline of at least two years out from the finalization of these regulations so that utilities can begin tracking this information in order to report it the following year. Utilities do not already collect this level of data as a matter of course. Furthermore, EAP asks the Commission to consider additional definitions for these metrics to ensure the data and reporting is valuable. Recording and tracking this additional information will require IT and other utility expenditures. EAP further asks that the Commission outline the purpose of collecting this additional information and how it might improve program delivery.

EAP reiterates its concerns, as detailed *supra* at p. 14, regarding the 10% underspending threshold.

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

EAP supports the proposed modifications to this section.

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

EAP supports the proposed modifications to this section.

23. Proposed Revisions to Section 58.18. Waiver.

EAP supports the proposed modifications to this section.

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

EAP supports the proposed modifications to this section.

B. ADDITIONAL FEEDBACK REQUESTED BY THE NOPR ORDER

In addition to review and suggested resolution to the 14 questions / issue areas initially raised by the December 2016 Secretarial Letter, the NOPR Order requested additional feedback on several new topics. In particular, the NOPR Order asks for stakeholder input on:

- The benefits and adverse effects of the proposed amendments, include costs and cost savings, explaining how estimates were calculated.
- Quantifying the specific costs, savings, or both with regard to utility compliance to these proposed amendments (cost impacts to LIURP administration.
- Quantifying the additional legal, accounting, consulting, reporting, recordkeeping and other work that would be involved in complying with the proposed regulations.

EAP defers to its member companies on the specifics of this feedback and reserves the right to provide additional feedback in reply comments.

1. Questions A-E Regarding Accounts with High Arrearages

The NOPR Order adds additional questions for stakeholder input regarding the interplay between LIURP and accounts with arrearage balances in excess of \$10,000.³² The Commission notes that “to the extent that these high arrearages are attributable to conservation issues or health and safety issues or both we seek input on potential roles for LIURP in helping to reduce or eliminate further accumulation of arrearages.” NOPR Order at 97. Generally, EAP does not believe that LIURP is a tool for addressing high balance accounts.

As the Commission points out in the NOPR Order, not all households with high balances are eligible for LIURP. As of the latest PUC USECP Report (2022), utility experience with low-income customers and high balance accounts has not been uniform. Some companies have a very low number of total accounts with balances over \$10,000 but a higher percentage of those are low-income customers. Other companies may have more total accounts but have little or no customers who are low-income with such high balances. Given that there has been no reporting information pursuant to 52 Pa. Code § 56.231 which would indicate which, if any, customers have received LIURP and still experience high balances it is difficult to know for certain whether LIURP has proven to be an effective means to help customers with extremely high balances (NOPR Order, Question A, p. 97). Likely a more effective tool for low-income customers to reduce arrearages is participation in CAP. Further, utilities provide the Commission with similar information (amount of arrears reduced via participation in LIURP) via the reporting at 52 Pa. Code §§ 54.71-54.78 and

³² On Dec. 22, 2014, Act 155 reauthorized and amended Chapter 14 of the Public Utility Code (66 Pa. C.S. §§ 1401-1419), known as The Responsible Utility Customer Protection Act. Following the implementation of Act 155, public utilities must report data regarding the number of active (i.e., accounts not final billed) residential accounts that exceed \$10,000 in arrearages at the end of each calendar year, along with those account balances.

61.1-62.8.³³ EAP would encourage the Commission to compile and share this data with stakeholders as a part of this investigation.

Offering LIURP services to those accounts already at high levels of arrearages might be an ineffective use of program funds as the measures cannot address payment behavior. EAP does not believe that it is appropriate to offer LIURP services to a subset of customers with high utility account balances and/or unusually high monthly average bills (NOPR Order, Question B, p. 97-98) as a separate eligibility category. It is not clear what motivation there would be for these customers to participate, as oftentimes these are arrearage levels that have grown over years of chronic nonpayment. In such instances, it would be unfair to ask other ratepayers to subsidize free service in response to chronic nonpayment. As raised previously, EAP believes utility LIURP offerings should remain targeted as they are funded by ratepayers and have been designed and executed over years to prioritize high usage to help decrease bills. From the data already reported to the Commission³⁴, not all accounts with high balances have high bills. For example, the PPL report from 2022 shows some as low as \$16.00.

LIURP is not a collection tool and should not be redefined as such. EAP does not believe offering LIURP at some other “arrearage accumulation point” to assist in making bills more affordable (NOPR Order, Question C, p. 98). There are many other options that utilities and other community partners offer to help customers who may struggle to pay their bills. LIURP works best when it works in tandem with other support such as CAP to help customers reduce their

³³ Per the PA PUC 2022 Universal Service Programs and Collections Performance Report, in 2019 the average **annual** bill reduction per household ranged from \$114 to \$249 depending on job type. While not insignificant, this would hardly be enough to impact a customer with thousands of dollars of arrearages.
<https://www.puc.pa.gov/media/2573/2022-universal-service-report-final.pdf>

³⁴ Individual utility annual filings can be found at Docket No. M-2014-2448824.

arrearrage and establish good payment habits which in turn helps the utility address its collection costs.

IV. CONCLUSION

LIURP is not an omnibus program whose funds can be spent toward the achievement of numerous goals. While LIURP can help to provide affordable service, it is only one tool with limited impact. LIURP expenditures must remain focused on utility usage reduction, not home remediation. To the extent other, taxpayer-funded weatherization programs are unable to fully ameliorate the issues of safe and habitable housing and affordability, ratepayer-funded programs such as LIURP should not be viewed as a monetary backstop. Utilities and their customers – both those who benefit from these programs and those who pay for them – are important stakeholders but they cannot resolve low-income issues in a vacuum. EAP respectfully asks the Commission to continue to view utilities as one piece of a larger puzzle in addressing energy affordability and home comfort across the Commonwealth.

Respectfully submitted,



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