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VIA eFILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

**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 **Reply Comments Of PECO Energy Company (“Reply Comments”)** in the above-referenced matter. As instructed, the Reply Comments have been served upon the following individuals:

Regina Carter, Bureau of Consumer Services, regincarte@pa.gov;
Joseph Magee, Bureau of Consumer Services, jimagee@pa.gov;
Louise Fink Smith, Esq., Law Bureau, finksmith@pa.gov;
Erin Tate, Esq., Law Bureau, etate@pa.gov; and
Karen Thorne, Regulatory Review Assistant, Law Bureau, kathorne@pa.gov.

If you have any questions, please contact me directly at 267-533-0835.

Very truly yours,

Jennedy S. Johnson

Enclosures

c: RA-PCLAW-LIURP@pa.gov; and ra-pcpcregreview@pa.gov

**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** :
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: **DOCKET NO. L-2016-2557886**
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REPLY COMMENTS OF PECO ENERGY COMPANY

I. INTRODUCTION

On January 16, 2024, PECO Energy Company (“PECO” or the “Company”) filed its Comments in response to the Pennsylvania Public Utility Commission’s (“the Commission”) May 18, 2023, Notice of Proposed Rulemaking (“NOPR”) concerning proposed amendments to the existing Low Income Usage Reduction Program (“LIURP”) regulations. PECO expressed support for the Commission’s overall efforts to update the regulations, addressed some feasibility concerns with certain Commission proposals, and urged the Commission to preserve LIURP’s focus on usage reduction.

Comments to the NOPR were filed by sixteen other interested parties, including statutory advocates,¹ low-income advocates,² environmental justice and consumer groups,³ energy efficiency contractors⁴ and other utilities.⁵ A wide variety of additional proposals were provided

¹ Comments were filed by the Office of Consumer Advocate (“OCA”).

² Comments were filed by the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (“CAUSE-PA”); the Commission on Economic Opportunity and the Pennsylvania Weatherization Providers Task Force (collectively, “CEO”); and the Tenant Union Representative Network (“TURN”).

³ Comments were filed by the Energy Justice Advocates (“EJA”) and the Consumer Advisory Council (“CAC”).

⁴ Comments were filed by the Pennsylvania Coalition of Local Energy Efficiency Contractors (“PA-CLEEC”).

⁵ Comments were filed by Columbia Gas of Pennsylvania, Inc. (“Columbia Gas”); Duquesne Light Company (“Duquesne”); FirstEnergy Pennsylvania Electric Company (“Penelec”); National Fuel Gas Distribution Corporation (“NFG”); Peoples Natural Gas Company, LLC (“Peoples”); Philadelphia Gas Works (“PGW”); PPL Electric

by the commenting parties, with several parties recommending changes that would require substantial increases in LIURP budgets and move some of the focus of LIURP programs away from usage reduction. PECO continues to believe that LIURP should remain a usage reduction program and continue to balance the needs of LIURP participants and the program costs borne by all residential customers.

The Company supports the Reply Comments submitted by EAP in this proceeding. The Company further notes that its Reply Comments do not address all of the many proposals set forth in the Comments of other parties, and PECO's decision not to comment on a particular proposal does not indicate agreement with that proposal or support for its adoption by the Commission.

II. REPLY TO COMMENTS

A. The Commission Should Reject Proposals Seeking Across The Board Substantial Increases To LIURP Budgets

Several commenters recommended new benchmarks for the development of LIURP budgets. CAUSE-PA and OCA, for example, each proposed that LIURP budgets be designed to serve the identified need within a 15-year period.⁶ PA-CLEEC recommended a uniform minimum LIURP budget set at of 1% of a utility's jurisdictional revenues.⁷ For PECO, setting a budget target of 1% of jurisdictional revenues would result in a more than 200% increase in the Company's current LIURP budget.

While PECO recognizes the desire to increase the budget for services provided by LIURP, the Company believes that mandated substantial budget expansions may result in

Utilities ("PPL"); and UGI Utilities, Inc. ("UGI"). Comments were also filed by the Energy Association of Pennsylvania ("EAP").

⁶ CAUSE-PA Comments, p. 45; OCA Comments, p. 29.

⁷ PA-CLEEC Comments, p. 3.

unreasonable bill impacts to residential customers, including low-to-moderate income (“LMI”) customers and CAP customers. PECO agrees with the Commission that LIURP funding changes must include consideration of, among other things “the impact on utility rates” and the “[energy service provider] capacity necessary” to provide LIURP services.⁸ Proposals to increase LIURP budgets should be addressed in utility-specific proceedings, such as a universal service and energy conservation plan (“USECP”) proceeding or base rate proceeding, where a range of utility-specific factors, including impact on customer rates, can be considered. Such proceedings would also provide stakeholders with an opportunity to raise issues concerning customer needs in a specific utility’s service territory. For all these reasons, PECO urges the Commission to reject the proposals requesting across-the-board or recurring LIURP budget increases.

B. The Eligibility And Prioritization Requirements For LIURP Should Be Feasible For Utilities To Implement And Retain Their Focus On Documented High Usage

Several parties made proposals to remove or alter references to usage in the LIURP regulations, including changes to the definition of eligible customer, the means to determine household usage, and the consideration of historical usage. CAUSE-PA, for example, recommended eliminating the reference to a usage thresholds in the definitions of “eligible customer” and “residential baseload customer.”⁹ OCA recommended that the definition of eligible customer be modified to refer to a customer meeting high usage thresholds or other criteria.¹⁰ Regarding usage determinations, a few parties also recommended that usage per square foot be considered instead of usage per household, especially for multi-family properties.¹¹ CAUSE-PA further recommended that “single meter” be stricken from the

⁸ LIURP NOPR, Annex A, Proposed § 58.4(c)(8).

⁹ CAUSE-PA Comments, p. 22, 30.

¹⁰ OCA Comments, pp. 6-7.

¹¹ *See, e.g.*, CAUSE-PA Comments, 66; OCA Comments, p. 40.

definition of “dwelling” to support inclusion of multi-family properties.¹² Finally, CAUSE-PA and CAC expressed concern that considering the number of consecutive service months at a dwelling (which is relevant to historical usage) could potentially exclude customers with a recent termination.¹³

PECO opposes proposals that would remove or permit the removal of high usage as a core eligibility requirement for LIURP. PECO understands that low-income customers may have a range of needs beyond usage reduction but notes that other substantial universal service programs, such as CAP, are available to provide additional assistance. In PECO’s view, LIURP program funds should be used almost exclusively towards the purpose of usage reduction for high usage customers, with any other goals being secondary and subsidiary.

The Company also opposes the recommendations to: (1) remove consideration of the availability of historic usage data; and (2) require consideration of usage per foot instead of household usage. As a threshold matter, if a utility does not have a complete usage history for a customer at a service address, the utility cannot determine if that customer has high usage. If LIURP services are provided in the absence of complete usage history, the utility could potentially direct resources to customers who are not actually usage-eligible and therefore reduce available resources for customers who have already demonstrated high usage.

Second, utilities should be permitted to assess energy usage on a household basis instead of on a per square foot basis. PECO does not have housing information (e.g., square footage) for all homes in its service territory and would be unable to identify or prioritize LIURP services to customers on a per square footage basis without conducting costly audits that would utilize funding that would otherwise have been directed towards known high usage households.

¹² CAUSE-PA Comments, p. 20.

¹³ CAUSE-PA Comments, p. 67; CAC Comments, p. 3.

Further, while PECO understands the desire to have usage reduction measures available to multi-family properties, the Company believes it is important to retain the reference to “single meter” in the definition of “dwelling” because LIURP eligibility is based on household usage. PECO notes that it already coordinates with the Company’s Act 129 EE&C program to provide multifamily/master meter units with appropriate weatherization and energy efficiency audits and installations.

C. The Existing Income Limits For Low-Income And Special Needs Customers Should Be Maintained

The OCA has proposed to raise the income limits that are identified in the proposed definitions of “low-income customer” and “special needs customer” to 200% of the Federal Poverty Income Guidelines (“FPIG”) and 300% of FPIG, respectively. OCA acknowledges that its position on the definition of low-income customer has “evolved” from prior universal service comments where it supported the existing 150% threshold.¹⁴

PECO opposes changing the LIURP income limits for low-income customers. Importantly, the Commission recently concluded a multi-year examination of the design of CAP programs, including consideration of customer energy burdens, and retained the maximum income limit of 150% of FPL in the definition of “low-income customer” in the CAP Policy Statement.¹⁵ A few pages of commentary by the OCA in this docket should not be sufficient to support a definition for LIURP that is inconsistent with the definition of “low-income customer” for CAP.

The Company also disagrees with raising the income threshold for a “special need customer” from 200% to 300% of FPIG. Without an increase to the existing LIURP budgets,

¹⁴ OCA Comments, pp. 10-16.

¹⁵ 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261–69.267, Docket No. M-2019-3012599 (Order entered Nov. 5, 2019)

treating customers up to 300% of FPIG under LIURP would reduce the usage reduction service going to lower income customers (200% FPIG and below). If LIURP budgets were increased to accommodate this significant eligibility expansion, then, as explained in Section II.A above, it could create an increased financial burden for all residential customers, including LMI and CAP customers.

For all these reasons, the Commission should reject OCA's proposals to raise the income limits stated in the definition of "low-income customer" and "special needs customer."

D. The Commission Should Retain The Requirement For Utility Agreement In Fuel Switching And Provide An Evaluation Protocol

Several parties opposed the Commission's proposed requirement that electric and gas utilities serving a customer agree to fuel switching before it is implemented under LIURP.¹⁶ TURN, for example, stated that "[t]he appropriateness of fuel switching should be based on the needs of the customer, the cost effectiveness of the repair or replacement, and a fuel-neutral evaluation of the potential for energy savings, not on a case-by-case agreement between utility companies based on the unspecified criterion of 'appropriateness'".¹⁷ PGW also recommended that fuel switching costs under LIURP be borne by the utility that will be serving the fuel switching installation (e.g., if a customer switches from gas heat to electric heat, the electric utility will bear the cost).¹⁸

PECO believes it is appropriate for the relevant utilities to agree that a fuel switching installation is appropriate prior to utilizing LIURP funds (which are collected from all residential customers) to support that installation. PECO also notes that, as with any LIURP measure,

¹⁶ See, e.g., OCA Comments, p. 47; CAC Comments, p. 3; CAUSE-PA Comments, p. 70; EJA Comments, p. 4; TURN Comments, p. 3.

¹⁷ TURN Comments, pp. 3-4.

¹⁸ PGW Comments, p. 7.

utilities would need to obtain the customer’s consent before proceeding with any fuel switching installation. The Company agrees, however, that it would be helpful if the regulations had additional specificity about how fuel switching installations should be evaluated by a utility for cost-effectiveness. Finally, PECO agrees with PGW that the utility that will be serving the fuel switching installation should bear the related LIURP costs.

E. The Commission’s Proposed Language Access Threshold For LIURP Outreach Should Not Be Replaced With Ambiguous Language And Proposals For Costly In-Person Translation Should Be Rejected

In proposed Section 58.9 concerning LIURP outreach, the Commission proposed to integrate the following language access threshold consistent with other Commission language access regulations: “when census data indicate that 5% or more of the residents of the public utility’s service territory are using the other language.”¹⁹ OCA criticized the use of this existing standard and instead recommended that “5%” be replaced with “a substantial number.”²⁰ If the 5% standard is retained, the OCA also recommended that “service territory” be followed with “or other geographically clustered group of [Limited English Proficiency] households.”²¹ When language access obligations apply, the OCA recommends that oral interpretation include “qualified” bilingual employees, staff interpreters or contract in-person interpreters.²²

PECO opposes the OCA’s language access recommendations. First, the replacement of a known, clear standard with subjective terms could lead to different language access outcomes for different utility programs and populations in different utility service territories and could also dramatically expand the language access obligations for LIURP beyond those of any other utility

¹⁹ LIURP NOPR, Annex A, Proposed § 58.9(a). This 5% threshold is already in the Commission’s regulations at 52 Pa. Code § 56.91(b)(17).

²⁰ OCA Comments, p. 41.

²¹ OCA Comments, p. 42.

²² OCA Comments, pp. 42-43.

program. Second, an in-person interpretation obligation would create new and substantial administrative expenses that will reduce the funding available for usage reduction measures. Notably, PECO already provides our customers with telephone interpretation service in over 100 languages, and our PECO.com website includes LIURP program information in English, Spanish and Simple Chinese.

F. Proposals Related To CAP Should Not Be Entertained In This Proceeding

A few parties made proposals related to the operation of CAPs, including: (1) ensuring access to a payment arrangement or re-set of CAP benefits upon completion of LIURP services;²³ (2) revising Commission regulations to state that LIURP participation is not required for CAP participation;²⁴ and (3) requiring utilities to develop an auto-enrollment process for CAP using LIHEAP data.²⁵

PECO believes that this proceeding should remain focused on the operation of LIURP. The Company urges the PUC to reject out-of-scope proposals that relate to how *other* universal service programs, such as CAP, are operated. PECO further notes that requiring CAP customers to participate in LIURP is a reasonable cost-control measure for a substantial program being funded by all residential customers. Finally, statewide CAP process changes such as auto-enrollment, should be considered as part of a dedicated PUC working group, not a LIURP rulemaking docket.

G. Utilities Should Not Be Subject To Undue Regulation Of Their ESP Selection Processes

PA-CLEEC recommended that requests for proposals (“RFPs”) for selecting Energy Service Providers (“ESPs”) include “confidential feedback from the utility to an unsuccessful

²³ CAUSE-PA Comments, p. 86.

²⁴ OCA Comments, p. 64.

²⁵ CAUSE-PA Comments, p. 88.

bidder, up front clarity on how bids would be evaluated, and dispute resolution when RFPs include criteria that would unnecessarily limit who could be an eligible bidder.”²⁶ PA-CLEEC further recommended the submission of a draft RFP for Commission approval and justification by the utility of changes made to prior RFPs.²⁷

PECO opposes these recommendations as unduly interfering with utility managerial discretion. PECO already utilizes a competitive process to select ESPs and the Commission has further proposed certain minimum third party ESP qualifications. The Commission should not additionally require a utility to provide RFP documents for Commission approval, justify RFP changes, or engage in certain forms of bidder communications or dispute resolution. As explained in the Company’s initial comments, PECO has a robust sourcing process in place to identify well qualified, local, and diverse-owned suppliers for the benefit of our customers and our community. PECO, and other utilities, should have the discretion to implement their own competitive sourcing processes for the selection of qualified ESPs.

²⁶ PA-CLEEC Comments, p. 4.

²⁷ PA-CLEEC Comments, pp. 4, 9-10.

III. CONCLUSION

PECO appreciates the opportunity the Commission has provided to offer these Reply Comments on the proposed LIURP regulations and looks forward to working with the Commission and interested stakeholders on this initiative.

Respectfully submitted,



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