

COMMONWEALTH OF PENNSYLVANIA



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June 7, 2023

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

Re: 2023 Review of All Jurisdictional Fixed
Utilities' Universal Service Programs
Docket No. M-2023-3038944

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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Certificate of Service

*347323

CERTIFICATE OF SERVICE

2023 Review of All Jurisdictional Fixed : Docket No. M-2023-3038944
Utilities' Universal Service Programs :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 7th day of June 2023.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

2023 Review of All Jurisdictional Fixed : Docket No. M-2023-3038944
Utilities' Universal Service Programs :

COMMENTS
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I. INTRODUCTION

On March 27, 2023, the Pennsylvania Public Utility Commission (Commission) issued a Secretarial Letter requesting comments in response to fourteen (14) questions related to areas where jurisdictional fixed utilities' universal service programs may be improved. The Secretarial Letter provided that:

[t]he goal of these improvement considerations is to make enrollment and retainment in universal service as efficient as possible for the consumer and the utility while maintaining proper diligence and verification for eligibility. This could include, but may not be limited to, using one enrollment application to cover all of the consumer's utilities to eliminate, for example, the need for a consumer to provide the same basic information to each utility serving that particular consumer. This could make enrollment in multiple programs more convenient for consumers and streamline the intake process for each utility.

Secretarial Letter at 2. The Secretarial Letter was published in *Pennsylvania Bulletin* on April 8, 2023. The Commission requested that interested parties file Comments within sixty days of publication of the Secretarial Letter in the *Pennsylvania Bulletin*, or by June 7, 2023.

The Office of Consumer Advocate (OCA) agrees with and strongly supports the stated goal of improving customer participation and enrollment in universal service programs. Elimination of unnecessary barriers to enrollment and retention of low-income customers in universal services programs are vital to maintaining life-sustaining utility services for consumers and to the success of the programs. Despite the benefits of enrollment, only a small fraction of eligible confirmed low-income consumers are enrolled in the universal services programs. In 2021, the Bureau of Consumer Services Universal Services Report (BCS Report) identified that in Pennsylvania that there were approximately 595,818 confirmed low-income electric customers, but in 2021, approximately 302,126 participated in the electric CAP programs. In 2021, the BCS Report identifies that there were approximately 415,408 confirmed low-income natural gas customers, but

only 161,816 customers participated in CAP.¹ Moreover, the number of confirmed low-income customers are only a small portion of the total number of customers in Pennsylvania living in poverty. The estimated number of low-income customers in Pennsylvania in 2021 is 1,273,064 electric customers and 712,518 natural gas customers.² Hence, only approximately 23.7% of eligible electric customers participate in CAP and 22.7% of eligible natural customers participate in CAP.

The Customer Assistance Programs for natural gas and electric utilities have now existed for decades in Pennsylvania, but enrollment and retention appear to have stagnated. In order to improve enrollment and retention in the programs, the OCA shares the PUC's goal of exploring all available and appropriate strategies to provide low-income customers with improved access to the universal services programs. There are no statutorily required water, wastewater or stormwater³ programs in Pennsylvania, but Aqua of Pennsylvania (Aqua), Pittsburgh Water and Sewer authority (PWSA), Pennsylvania-American Water Company (PAWC), Community Utilities, and York Water Company (York) have developed assistance programs. As a part of the process of improvements, the Commission should consider, consistent with the further recommendations below, amending its CAP policy statement to include water, wastewater, and stormwater utilities by outlining consistent standards for these utilities as they continue to develop their nascent assistance programs. The Commission should also consider finalizing its dormant CAP rulemaking, and including water, wastewater, and stormwater utilities therein, so that these

¹ Bureau of Consumer Services Universal Service and Collections Performance 2021 Report (BCS Report) at 7-8. https://www.puc.pa.gov/media/2188/2021_universal_service_report_rev122722.pdf

² BCS Report at 9-10. The number of water and wastewater customers in poverty is not set forth in the BCS Report because the water and wastewater utilities are not required to report the same information as electric and natural gas utilities.

³ Generally referred herein as water and wastewater.

programs have the appropriate regulatory teeth that goes beyond a mere statement of policy. In addition to the further improvements outlined below, the Commission should consider that Limited English Proficiency may limit access to assistance programs, and for each of the questions below, the Commission should consider if an extension of language access may help to improve customer participation. As discussed below, the OCA appreciates the Commission's efforts to streamline the process of enrollment and retainment of participants in the universal service program. The OCA thanks the Commission for the opportunity to provide these Comments in response to questions.

II. RESPONSES TO COMMISSION QUESTIONS

The OCA appreciates the opportunity to provide input to the Commission on its questions.

1. What regulatory barriers are in place that would prevent utilities from having one utility do intake and then having that information provided to other utilities that provide service to that consumer for the purpose of universal service and CAP enrollment?

OCA Response:

The OCA strongly supports greater inter-utility coordination, including the coordination of programs, a uniform statewide application, and data sharing. The key regulatory barrier has been for the utilities to be able to freely share information due to customer privacy and customer information security concerns. Customer privacy and customer information security are of paramount importance but with informed consent by customers should not be a barrier to the sharing of information between utilities. The OCA respects the utilities' need to protect consumer information in a secure manner, but as long as appropriate customer consent has been received, the OCA believes that there is no reason why a utility cannot be required to rely on information collected by another utility for purposes of enrollment in an assistance program. It makes little sense to require an individual to provide the same information multiples times, in multiples ways, on different applications to enroll in similar programs. It makes far more administrative sense to

use a uniform application and share data across utilities. A uniform application will eliminate duplication of efforts by multiple utilities, reduce the costs processing applications with multiple utilities with the same information, and allow customers easier access to CAP.

Sharing information across utilities will benefit CAP participants and the utilities alike. Data sharing will allow the utilities to streamline the application/recertification procedures to eliminate the need for CAP customers to verify information multiple times. This data sharing means that utilities will not need to duplicate efforts, and hence, duplicate costs in order to receive the same information from CAP participants. CAP participants will benefit from not having to provide the same information, sometimes to the same outside agency, multiple times, especially when mailing documents or submitting documents. Ease of enrollment and retention in the program will help to ensure that customers are able to maintain service.

The OCA does not believe that the regulatory barriers are insurmountable by any means. Utilities have previously engaged in data sharing agreements. For example, in Columbia's 2015-2018 USECP, the Commission approved the development of a data sharing agreement between Columbia and FirstEnergy to share income and data information. *Columbia USECP 2015-2018*, Docket No. M-2014-2424462, Order at 32-33 (July 8, 2015). In the Company's 2019-2021 plan, Columbia reported in a footnote that it used the FirstEnergy information only as a last check before removing a customer from CAP. *Columbia USECP 2019-2021*, Docket No. M-2018-2645401, Tentative Order at 16, fn. 21 (March 14, 2019) (*Columbia USECP 2019-2021*).

A more robust strategy of data sharing could be developed statewide by providing for the development of data sharing agreements amongst all of the utilities. Ideally, a customer's information should be able to help facilitate continued enrollment in CAP when a customer moves and to eliminate duplicative requirements for the submission of information. The procedure could

also potentially be extended to other public assistance programs including federal, state or utility programs to allow for data sharing. For example, the Department of Human Services (DHS), the agency in charge of administering LIHEAP as well as other social assistance programs is already planning to include the option for express consent on its LIHEAP application beginning in the 2024-2025 LIHEAP season.⁴ This planned improvement holds promise for data sharing between DHS and utilities and should be done in parallel with data sharing among utilities. Moreover, although there is currently no long term or sustained funding for water assistance,⁵ the PUC could leverage this sharing of information from DHS with energy utilities to assist with water, wastewater, and stormwater utility enrollment if it facilitated intra-utility sharing. That is, the original source of information could come via DHS to the energy company, but ultimately could be shared with the customer's water, wastewater, and stormwater utility to facilitate cross enrollment in those benefits.

The OCA not only supports the sharing of information between utilities but believes that, with customer consent, this sharing should be required statewide. The Commission should also consider more than federal, state or utility programs. The Commission should also consider how information could be shared with non-jurisdictional programs and local programs such as municipal water or wastewater utility programs like the Philadelphia Water Department's program or income tested property tax relief programs. The OCA submits that with appropriate customer

⁴ DHS was planning to implement this change for the 2023-2024 season but decided that it needed to prioritize other LIHEAP changes that required computer programming resources for the upcoming LIHEAP season.

⁵The Low Income Home Water Assistance Program (LIHWAP) was a temporary federal water, wastewater, and stormwater assistance grant program originally established through the American Rescue Plan Act and the Consolidated Appropriations Act of 2021. Pennsylvania's DHS expended all initially allocated funds for the program, and initial applications for the program closed on October 28, 2022. DHS announced on March 15, 2023 that it intended to reopen the program for FY 2023 because Pennsylvania received reallocated federal funding.

consent, data sharing can provide an important benefit to customers and the utilities alike. Customers will benefit from not having to submit their information multiple times, sometimes to the same agency, because the information is siloed. Utilities and ratepayers that pay the costs of the programs will benefit by not having to pay duplicate fees to process the same information. Moreover, while customers with data privacy concerns should be able to elect not to have their data shared, a utility should not be able to opt out of sharing data if a customer wants their information shared with all of their utilities.

2. What regulatory barriers or other obstacles exist if an outside provider does the intake on behalf of multiple utilities serving the consumer and what solutions exist to overcome any barriers?

OCA Response:

In Pennsylvania, many public utilities utilize third party providers, some of which are community based organizations, to perform intake for enrollment in customer assistance programs and for the operation of hardship funds. In some cases, the same outside provider serve multiple utility programs. As part of its intake, the outside provider is provided access to the utility's data and customer information. Mechanisms are in place in order to protect customer privacy and the integrity of the data. The protection of that customer data may mean that the information is siloed so that each individual utility's data is separately maintained. Although a customer may apply for or be enrolled in multiple utility assistance programs, the data for that application is individually held within each utility's database. While this is an important practice to maintain the security of information, it presents an unnecessary duplication of efforts by the utilities and the customer applying for the assistance programs.

In addition to data privacy concerns, there are different compensation models that utilities use when contracting with third parties. In some cases, utilities pay for a certain number of staff

members to staff calls, in some cases the third party is paid per application completed and processed, and in some cases, it is a combination of the two. This has the potential to create several inefficiencies because if call volume increases for one utility, but they do not have enough staffing on contract, there may not be the contract flexibility necessary to divert resources.

Both data privacy mechanisms and compensation models have presented obstacles to the sharing of information. The OCA believes that the regulatory barriers or other obstacles can be overcome if an outside provider does the intake on behalf of multiple utilities serving the consumers. It will be important to coordinate with the outside providers, and the outside providers should be a part of the conversation regarding how to achieve the goals but should not be allowed to dictate terms for utility programs. It has been the long-standing position of the OCA that the programs – including terms of enrollment are subject to Commission oversight and direction in both Universal Service and Energy Conservations Plans (USECPs), utility rate cases, and other docketed proceedings before the Commission. An appropriate data sharing agreement and affirmative customer consent as part of the application, however, should be able to overcome any privacy-related barriers that may arise. Moreover, the Commission should scrutinize contracts with any third-party implementation and enrollment partners to ensure that they do not create barriers to cross enrollment and coordination between public utilities. The OCA would encourage the Commission to develop a standard release form and to not impose additional barriers through the regulatory vendor agreement.

In the example discussed above regarding Columbia and FirstEnergy, both utilities used Dollar Energy Fund, and a data sharing agreement could be developed and approved by the Public Utility Commission to allow for the sharing of information. In Columbia's 2019-2021, Columbia reported in a footnote that it used the FirstEnergy information only as a last check before removing

a customer from CAP. *Columbia USECP 2019-2021 Tentative Order* at 16, fn. 21. It is important to protect the customer data, but concerns regarding the sharing of information may be lessened where the same administrator is maintaining both databases. It is possible, as in the case of FirstEnergy and Columbia, that the same outside provider may be collecting the same income information from the same set of customers for two different utilities. Practices can be put in place to allow the sharing of information without compromising the integrity of the data.

Moreover, the Commission should look to see if there are other examples of similar data sharing. The telephone Lifeline program has shared information across programs and provided categorical income approvals for assistance. The OCA encourages the Commission and stakeholders to think holistically beyond data sharing for energy and water programs to other similar programs directed towards income-qualified individuals.

3. How can consumer consent be built into the intake process that permits the utility doing the intake to provide the enrollment information to the other utilities serving the consumer?

OCA Response:

The OCA believes that customer consent can readily be built into the intake process. Upon application or recertification, the applicant or participant can be informed of the proposed sharing of such information about the ability to participate in and enroll in multiple programs at the same time. Simple, plain language can convey the request with a check box to participate. The OCA believes that where an outside provider is used that the outside agency can receive affirmative consent when enrolling the customer for the sharing of such information. To address the potential data privacy and security issues among utilities, the OCA recommends the development of a data sharing agreement, to the extent one does not already exist. The OCA also recommends that CAP participants be informed of the proposed sharing of such information upon application or

recertification for the program and that the third party receive affirmative consent from the CAP customer for the sharing of such information. As the OCA noted in response to question number 3, the OCA believes that it would be prudent for the Commission to develop a standard release form and to not impose additional barriers through the regulatory vendor agreement.

4. Is an automatic enrollment program feasible where any mechanism through which an electronic exchange of information between a utility and a state social service agency confirms the eligibility of public benefits whether or not the information is expressly authorized by the household? If express authorization is needed, rather than automatic enrollment, can that express authorization be provided one time in a uniform application rather than on a utility-by-utility basis using separate applications?

OCA Response:

The OCA supports automatic enrollment in a customer assistance/bill discount program based on receipt of LIHEAP or another means tested program with similar eligibility guidelines even where the income documentation requirements are not identical to those required by the Commission. The purpose of customer assistance/bill discount programs is to ensure that households with limited means have affordable bills that produce more regular payments. Avoiding the redundancy of applying for multiple programs and increasing enrollment in bill discount programs is worth the tradeoffs. To be sure, there are details that will need to be addressed and the Commission will have to clarify its position on several issues to ensure that this works as intended, but there are no legal barriers to it occurring, only policy barriers.

First, as the OCA understands the plan, DHS is intending to begin sharing LIHEAP household size and income information with utility vendors beginning with the 2024-2025 LIHEAP season. This information will be critical to ensuring that a household is placed in the proper discount tier based on their federal poverty income tier. However, even before this occurs, the utility could place all household who enroll through receipt of LIHEAP or another applicable assistance program into the highest income tier – meaning they would get the least/lowest discount

– until the household provides and needed supplemental information to place them in the proper tier. This will ensure that the household is not being provided with more subsidy than is necessary during the interim period.

Second, the PUC should require utilities to communicate with the household both electronically and in writing by mail. Electronically, if this is the means by which the customer has consented to receive information, and in writing by mail that they have been automatically enrolled in a bill discount program. The information should, explain the responsibilities of the program., If necessary, the information can request that the household provide any needed supplemental information if their proper discount cannot be provided, and also provide them with the opportunity to opt out of receiving the discount.

Third, the PUC should clarify that a household who is automatically enrolled in a program and disenrolls within a certain grace period – 90 to 120 days – will not forfeit any future use of the pre-program arrearage forgiveness and will still be allowed to request a payment agreement under 66 Pa. C.S. § 1405 notwithstanding the limitation imposed by section 1405(c).

Finally, because customers enrolled in energy CAP programs cannot shop for a competitive electric or natural gas supplier while participating in CAP, the Commission should clarify processes that would have an EDC or NGDC reject the auto-enrollment for any customer who is served by the EGS or NGS contract. For these customers, they should be sent a letter indicating that they are eligible for an energy CAP/bill discount program, explaining the program, its benefits, and encouraging the customer to call to enroll with the explanation that they would have to return to default service. Those customers would not be prohibited from being enrolled in a water and wastewater CAP.

If the Commission believes that affirmative consent is needed, the OCA believes that this consent should be obtained at the earliest possible time and developed in coordination with DHS on its LIHEAP application – and applications for other means tested benefits – so that a customer can be auto-enrolled. The consent should also be blanket – i.e., applicable to all public utilities for which the household is eligible and not be piecemeal. The affirmative consent can be as simple as a check-box on a LIHEAP or other means tested benefits’ applications that explains to customers in plain language the proposed sharing of the information and how the information will be used and protected. As noted above, the telephone Lifeline program been able to utilize data sharing and categorical income approvals for many years, and the Commission should consider exploring a similar approach with utility programs. When the customer enrolls with the social service agency, part of the enrollment could include the ability to provide information to the utilities. Once the consent is received, a process could be developed to permit automatic enrollment. The automatic enrollment could be feasible where an electronic exchange of information between a utility and a state social service agency confirms the eligibility of public benefits.

Whether the Commission permits auto-enrollment for initial applications or not, it should certainly permit the receipt use of means tested public benefits programs to be all that is required for purpose of recertification of an already enrolled customer. The biggest loss of CAP customers is to recertification because of cumbersome processes that require re-documentation of eligibility. This can be streamlined significantly through categorical recertification meaning that if you receive a comparable public benefit within the prior 12 months you need not recertify, and you can keep your then-existing benefit level. Again, the utility should communicate with the customer that if they had a change in income or family size that should report this information so that their proper discount can be provided, but the household should not be penalized if they do not. The

receipt of the other means tested program is sufficient to demonstrate continued eligibility. In this regard, precision is less important than general, categorical eligibility so that the household does not lose an essential benefit.

Continued customer education is also important to this process. In particular, to the extent automatic enrollment is utilized customers should be explained the benefits of CAP including the discounted rate, the opportunity for arrearage forgiveness, and the opportunity for weatherization assistance for high use participants.

5. Should CAPs be administered statewide across all utility service territories rather than on a utility-by-utility basis? If so, what are the barriers to accomplishing this and what are the benefits and drawbacks to this approach? If not, what are the benefits and drawbacks of continuing to administer the programs on a utility-by-utility basis?

OCA Response:

The OCA believes that it would be beneficial to consider the potential to use statewide administrator across all utility service territories and to standardize CAP terms and conditions rather than have these established on a utility-by-utility basis. Some of the barriers to accomplishing this would be how the costs of the administrator would be paid for, how the programs would be funded, and how costs of the program would be allocated. The CAP Policy Statement also describes individual electric and natural gas universal services programs and would need to be amended in order to address conversion to a single statewide administered program. The OCA supports implementation of a statewide administered program and believes that an appropriate path forward is for the PUC to convene a working group with defined time frame to determine what specific steps need to be done for this to be implemented. This process should not delay implementation of the other changes envisioned here given the time that may be needed to transition to a statewide implementation model.

The benefits of a statewide administrator could be streamlining the processes for enrollment and recertification for customers. It would also allow for greater consistency in the plans for utility consumers. When the programs are administered on a utility-by-utility basis, there are often individual variations so a statewide administrator would help to provide greater consistency in the programs. There may be legal or legislative barriers that would need to be further explored, but the OCA does not believe that there are statutory barriers to such a program.

As the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Tenant Union Representative Network (TURN) (collectively Low-Income Advocates) jointly commented in the Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907, the individual plans as currently structured are not mandated by statute. *Review of Universal Service and Energy Conservation Programs*, Docket No. M-2017-2596907, Joint CAUSE-PA and TURN Comments at 62 (Aug. 8, 2017)(Joint CAUSE-PA and TURN Comments). As they discuss, neither the Electricity Choice and Competition Act (Electric Competition Act) nor the Natural Gas Choice and Competition Act (Gas Competition Act) appear to present any barriers to a statewide administration of a program. *Id.* at 62, citing 66 Pa. C.S. §§ 2804, 2203(8). The Competition Act only requires that the initial plan be filed by the utilities and not necessarily that the program continue to only be administered in this manner. *Id.*

The statewide administration of the CAPs could potentially enhance availability of the programs and improve the cost-effectiveness of the programs through administrative efficiencies. *Id.* at 62-66. A statewide program could streamline intake and recertification processes and eliminate duplicative efforts by both utilities and low-income customers. *Id.* at 65. It could also allow for streamlined outreach and messaging to potential customers. Such a streamlined approach

could potentially increase enrollment by eliminating the barriers presented by individualized programs. The OCA does not believe that any statewide program should be structured such that a certain category of participants, such as LIHEAP recipients, could only participate in CAP. The program should be designed to increase CAP enrollment, not limit CAP enrollment.

In their 2017 Comments, the Low-Income Advocates suggested that there are two basic models that could be explored: (1) that the Commission establish a bureau to administer and oversee the implementation of a universal service program or (1) contract with a third party to administer a consolidated statewide program. *Id.* at 67. The OCA agrees that these options should be explored, supports implementation of a statewide administered program and believes that an appropriate path forward is for the PUC to convene a working group with defined time frame to determine what specific steps need to be done for this to be implemented. This process should not delay implementation of the other changes envisioned here given the time that may be needed to transition to a statewide implementation model.

6. What changes would be required to EDCs' and NGDCs' existing, Commission-approved universal service and energy conservation programs to incorporate improvements and could changes be addressed in a streamlined fashion?

OCA Response:

One issue that impacts streamlining improvements is differences in the USECP regulations for electric distribution companies and natural gas distribution companies. Differences in the natural gas and electric distribution regulations were noted by several commenters in the Comment phase of the *Review of Universal Service and Energy Conservation Programs*, Docket No. M-2017-2596907. The regulations were enacted and developed at different times, so it appears that difference in timing impacted the consistency of the regulations. For example, the regulations differ in how a confirmed low-income customer is defined. The electric distribution universal

service regulations define a confirmed low-income customer as “[a]ccounts where the EDC has obtained information that would reasonably place the customer in a low-income designation.” 52 Pa. Code § 54.72. The natural gas regulations, however, define confirmed low-income customer differently and allow for self-certification. Confirmed low-income in the natural gas universal service regulations are defined as

Confirmed low-income residential account—Accounts where the NGDC has obtained information that would reasonably place the customer in a low-income designation. This information may include receipt of LIHEAP funds (Low-Income Home Energy Assistance Program), self-certification by the customer, income source or information obtained in § 56.97(b) (relating to procedures upon rate-payer or occupant contact prior to termination).

52 Pa. Code § 62.2. The definition of a confirmed low-income customer is critical to identifying potential participants, and EDCs and NGDCs do not use the same processes to designate customers. To the extent that there are differences in the areas of improvements to be made, the OCA submits that improvements are more likely to be possible where the regulations can be made consistent.

The OCA notes that another area that could impact enrollment is language and technological access. Language and technological access differ across utilities. Some utilities offer multiple languages, and others do not. Translations should not be limited to a certain number of people in a geographic service territory. That disadvantages enrollment and recertification processes for a customer who has Limited English Proficiency in a particular service territory. Commonality of applications with the development of a statewide program and statewide application could help to address this issue across all utilities and presumably provide for a bigger “library” of translations available. Another area that may differ is different technological access. Problems can arise with the need to submit documents by mail. For example, a consumer may mail the documents in, but the information is incomplete, and the person is then notified by mail about

the incomplete information. The responsive information is then mailed back. This process may take many weeks whereas if an electronic process existed, the problem with the incomplete information could have been resolved much more quickly. Some utilities allow for on-line applications and texting for applications and/or recertification and others may not.

Furthermore, as outlined more fully in response to question 8, below, the Commission should require that utilities provide pre-filled out recertification forms to expedite, in recertifications, so that only the information that needs to be updated or has changed needs to be filled in. The utility has access to all of the information that was previously provided by the household, there is no reason to require a household to provide it again at recertification rather than for the household to verify that the information remains accurate and provide updated information if necessary.

7. What additional consumer education and outreach could be undertaken to make more low-income consumers aware of the benefits that may be available to them?

OCA Response:

Customer education and outreach is vital to the success of universal service programs. In the Commission's *Final CAP Policy Statement Order*, the Commission emphasized the importance of education and outreach and required utilities to develop a Customer Education and Outreach Plan. In its *Final CAP Policy Statement Order*, the Commission stated explicitly that:

While utilities have flexibility as to the contents of their plans, the plans should reflect focused consumer education and outreach efforts, tailored to the demographics of their individual service territories, spanning the duration of the universal service plan period. *In particular, these plans should identify efforts to educate and enroll eligible and interested customers at or below 50% of the FPIG.*

2019 Amendments to Policy Statement on Customer Assistance Programs, 52 Pa. Code §§ 69.261-267, Docket No. M-2019-3012599, Order at 79 (Nov. 5, 2019)(Final CAP Policy Statement Order). Thus, utilities should be under a continuing obligation to ensure that its customer outreach programs adequately identify and solicit those who may need help the most.

As the Commission stated in a recent Order, constant attention and development must be provided to these outreach programs:

Upon review, we agree with the recommendation of the ALJ that there is no need to change Columbia's outreach initiatives at this time.

However, we do want to reconfirm that [Columbia Gas of Pennsylvania, Inc. (Columbia)] is developing and implementing all reasonable strategies to both increase its customer outreach efforts and CAP participation levels in order to reduce arrearage levels as recommended in the [Columbia's] most recent Management Audit. We take notice of Columbia's statements in this matter that it has already put into practice all of the OCA's recommendations to increase outreach and expand CAP enrollment and commend [Columbia] for these efforts. But in acknowledging these efforts, consistent with the Management Audit recommendations, we expect [Columbia] to continue working with its USAC on its Outreach Strategy and Communication Plan going forward. These continuing efforts should include examining current outreach strategies for effectiveness and developing new outreach efforts to improve CAP participation levels even more, which, in turn, will likely reduce future arrearage levels. Further, [Columbia] needs to determine whether it has exhausted all grassroots community-based avenues to identify new low-income customers. For example, besides the community-based organizations Columbia already is working with, are there other local organizations it can partner with, such as food banks, schools, Head Start or other preschool programs to implement more fully its outreach strategies?⁶

⁶ *Pa. Pub. Util. Comm'n v. Columbia Gas of Pennsylvania, Inc., et al.*, Docket Nos. R-2020-3018835, et al., Opinion and Order at 172-73 (entered Feb. 19, 2021) (*Columbia*).

The utilities need to re-evaluate their current outreach efforts targeted to those at 50 percent Federal Poverty Level and below to increase the participation rate of this customer group because these customers are most likely to have electricity bills that represent a high percentage of income and, thus, are more likely to have payment troubles.

In previous rate cases, OCA witness, Roger Colton, has recommended that utilities conduct certain outreach efforts to improve its participation rate. For example, Mr. Colton testified in Columbia's recent base rate case that a utility should (1) use the community as a means of identifying such customers rather than rely on call center contacts; (2) focus on relationship-building; (3) go to where the customers, live, work, shop, play, and pray rather than rely on the customers initiating contacts; and (4) rely on grassroots "trusted messengers" from within the community.⁷ Mr. Colton, in that same testimony, recommended that outreach could be built into the Company's collections process by offering customers a chance to enroll in CAP when a confirmed low-income customer seeks to enter into a payment arrangement, is about to be terminated for non-payment, is disconnected for non-payment, and/or is contacted by the Company and found to either be using a potentially unsafe heating source or is without service. *Id.* at 163. The Commission should carefully examine how information relating to confirmed low-income customers is used and the reasons why a confirmed low-income customer has service disconnected for nonpayment without being enrolled in CAP, is identified as payment-troubled without being enrolled in CAP, or is identified as being without service in the Cold Weather Survey without being enrolled in CAP.

⁷ *Columbia* at 162-63.

Similarly, in UGI Utilities Inc. – Electric Division’s (UGI Electric) 2021 base rate proceeding, Mr. Colton recommended that the Company develop a Public Partnership Outreach Plan (PPOP) that would consist of the following three steps:

- Identification of public assistance programs which have income-eligibility guidelines at or below the income-eligibility guidelines for being deemed a confirmed low-income customer; being income-eligible for CAP; or being income-eligible for winter shutoff protections.
- Contact by UGI Electric with the administrators of each program requesting that enrollment in each program include a specific and explicit request at the time of program application with respect to which a program applicant shall designate whether they wish UGI Electric to be informed of their income eligibility for various customer service protections propounded by the Pennsylvania PUC. Each household answering in the affirmative shall be identified by UGI Electric as either (or both) a Confirmed Low-Income customer and/or a customer eligible for winter shutoff protections;
- Affirmative outreach shall be directed to each customer identified in this fashion informing the customer of the availability of CAP, and explaining both the reduced bill aspects, and arrearage forgiveness aspects, of the CAP, along with corollary program responsibilities.

Pa. Pub. Util. Comm’n v. UGI Utilities Inc. – Electric Division, Docket No. R-2021-3023618, OCA Statement No. 4: Direct Testimony of Roger D. Colton at 60 (entered Jun. 29, 2021). Such measures are important because improving participation in CAP can improve payment patterns for participating low-income customers and ensure that fewer are disconnected for non-payment. In other words, improving enrollment in CAP will help decrease utility expenses and improve revenues.

For these reasons, the utilities should be directed to provide a detailed plan addressing how they intend expand CAP outreach to increase the CAP participation rate for customers with annual

income less than 50% of FPL. Customers at 0-50% of the Federal Poverty Level have the greatest need for low-income programs but many are not enrolling in those programs. Consistent with the Commission's decision in *Columbia*, cited above, such a plan should include not only a discussion of the activities that the Company intends to take, but also include quantitative outcomes by which the success (or lack thereof) can be measured.

8. Can recertification periods in the existing CAP Policy Statement at Section 69.265(8)(viii) be extended so that otherwise eligible consumers do not lose benefits solely due to the fact that they timely failed to recertify their eligibility?

OCA Response:

Yes, in addition to the recertification changes that could be made by establishing categorical recertification based on the receipt of LIHEAP or other means tested benefit programs, the OCA believes that the recertification periods in the existing CAP Policy Statement can be extended so that otherwise eligible customers do not lose benefits solely due to the fact that they timely failed to recertify their eligibility. Section 69.265(8)(viii) provides that:

(viii) Recertification.

(A) A utility should recertify a participant's eligibility for CAP benefits within the following time frames:

(I) A household reporting no income should recertify at least every 6 months.

(II) A household with income that participates in LIHEAP annually should recertify at least once every 3 years.

(III) A household whose primary source of income is Social Security, Supplemental Security Income, or pensions should recertify at least once every 3 years.

(IV) All other CAP households should recertify at least once every 2 years.

(B) A utility should identify and implement more effective ways of communicating its recertification practices and procedures to CAP participants and

improve its methods of collecting appropriate income information from customers in order to minimize disruption in CAP participation.

52 Pa. Code § 69.265(8)(viii). The changes to the CAP Policy Statement made strides in improving recertification periods for eligible customers, but the OCA believes that additional improvements can be made. A key place where enrollment in CAP falls off is during the recertification timeframe and modifications to the timeframes and procedures for recertification could be implemented to benefit CAP participants, utilities, and ratepayers alike.

The OCA submits that the utilities should utilize the existing resources to maintain customers within CAP. In particular, the Commission should reconsider the need to recertify every three years for customers that receive LIHEAP on an annual basis or have fixed incomes that are unlikely to change in the future. The Commission should consider what is the net benefit for recertification of these customers that are unlikely to have significant changes in income. The Commission should also consider how the utilities may best utilize the data to be received as a result of the data sharing agreement with the Department of Human Services. The Commission should consider whether the data sharing agreement may eliminate the need for some categories of low-income customer income to avoid recertification.

In addition to changing the recertification timelines, the OCA submits that the Commission should be clear in its CAP Policy Statement that the recertification of CAP participants only involves a recertification and reverification of *income eligibility* information. For example, it is not appropriate to impose a requirement that, at the time of recertification, a CAP participant must bring his or her payments toward bills for current service as a recertification prerequisite. *See* 2016 PPL Electric Utilities Stratified Management Audit at 381.8.

Moreover, not all recertification issues with the CAP programs lend themselves to resolution through changes to the CAP Policy Statement. One such problem involves the extent to

which utilities lose a substantial number of CAP participants through “voluntary” exits attributable to the failure to recertify. The OCA submits that many utilities have difficult recertification processes that present substantive barriers to the process of recertification. Some of the barriers raised include significant paperwork, mandatory personal appearances to recertify, unreasonably short recertification periods, and other similar requirements. Such requirements discourage rather than encourage recertification. The OCA posits that rather than attempting to comprehensively respond to the high percentage of “voluntary” exits due to a failure to recertify through changes in the CAP Policy Statement, the process of recertification should be the subject of collaborative discussions to identify best practices in recertification.

To the extent that recertification must be maintained, the Commission should also consider establishing requirements that the utilities expand the options and opportunities to recertify. As an initial matter, all utilities should provide a customer with the list of information that the utility already has – the income and household size, names of household members, etc., and ask that the customer confirm that it remains accurate. If the customer confirms that it remains accurate then they should remain enrolled at the then-current discount rate. Again, precision here is less important than confirmation of overall continued eligibility. The customer should not have to “prove again” or document each piece of information. A simple attestation at the time of recertification that the information is accurate – by mail, phone call, text, or email – should be sufficient. In addition, each of the utilities should offer customers the option to recertify via traditional paper methods, but also via text message reminders and recertification as well as email. If additional documentation is needed – because the household composition or income has changed, then the household should have the ability to use photos for income documentation, and on-line applications. Customers are relying less and less on paper and mail for their daily business

needs, and while it is still important to maintain the traditional methods of communication, it is also important to meet customers where they are. In particular, texting reminders, chat functions, and other yes/no questions via automated texting for filling out forms is becoming a standard way of life for consumers, and low-income programs should utilize the technology that is already used by everyone from dentist and doctor's offices to banking institutions. The concern is twofold: (1) ease of communication between the customer and the utility and (2) ease of submission of the completed forms and documentation.

Another important consideration is to develop procedures to allow customers to maintain CAP enrollment when moves, at a minimum, between affiliated companies, and when someone moves within the state. If a utility can establish creditworthiness for the need to apply a security deposit by looking at whether a customer paid or did not pay the utility bill at a prior utility, then it should also be a possibility for the customer to carry the CAP participant status with them as well.

9. Can the default provisions in the existing CAP Policy Statement at Section 69.265(9) be modified to reduce the changes that otherwise eligible consumers do not lose benefits solely due to the failure to comply with one of the articulated default provisions?

OCA Response:

Yes, the default provisions can and should be modified to address changes so that consumers do not lose benefits solely due to the failure to comply with one of the default provisions. The default provisions are identified in Section 69.265(9) of the Commission's regulations. Section 69.265(9) provides that:

(9) *Default provisions.* The failure of a participant to comply with one of the following should result in dismissal from CAP participation:

- (i) Failure to abide by established consumption limits.

- (ii) Failure to allow access or to provide customer meter readings in 4 consecutive months.
- (iii) Failure to report changes in income or household size.
- (iv) Failure to accept budget counseling, weatherization/usage reduction or consumer education services.
- (v) Failure to recertify eligibility.

52 Pa. Code § 69.265 (9).

Primacy should be placed upon maintaining customers in CAP. The OCA supports measures designed to create more cost-effective universal service programs, but the OCA does not agree that dismissal from CAP for failure to maintain consumption limits, failure to report changes in income or household size, failure to accept weatherization measures, or failure to recertify achieves that goal. Instead, it penalizes customers. The OCA notes that with the evolution towards smart meters, failure to allow access to a meter may no longer be an issue and may be an outdated provision. Removal from CAP should not be the response to any of these provisions. If a customer fails to make payments towards their CAP, the appropriate response is to place that customer into the collection cycle, if and when appropriate. If the customer is eligible for CAP, the customer should not be removed from CAP and charged the standard residential rate.

Regarding the default provisions relating to a customer's failure to report changes in income or household size or failure to recertify, the recertification provisions should be designed to address this issue. 52 Pa. Code §69.265(9)(iii), (v). As discussed in the response to question number 8, modifications can be made to the recertification process to eliminate the need or mitigate the need for the default provisions relating to recertification of income and household size. Furthermore, once enrolled in CAP, the utility should accept self-attestation of income, household size and composition rather than requiring re-verification and documentation of each. Technology should be used in order to help facilitate recertification processes.

There may be factors beyond the customer's control contributing to the increase in consumption. CAP participants who exceed the maximum consumption limits should be provided counseling and education about their usage and not removed from CAP. Rather than being removed from CAP, customers should be referred to LIURP for evaluation. The customer should be evaluated to determine whether they meet any of the exemption factors identified in the CAP Policy Statement and appropriate CARES referrals made if the customer is unable to control their usage.

LIURP participation should be *strongly encouraged* but CAP participants should not be removed from CAP for failure to participate. There may be many reasons why a customer does not participate in LIURP, and the utilities should evaluate those reasons as a part of the encouragement to participate in LIURP. Removal from CAP as a result of failure to participate in LIURP is a draconian approach and will only serve to compound affordability challenges for a low-income customer.

The OCA submits that the default provisions can and should be modified to address changes so that consumers do not lose benefits solely due to the failure to comply with one of the default provisions. The programs should focus on retaining CAP participants and not removing CAP customers. A CAP customer who cannot otherwise control their usage or may apply their LIHEAP grant to another utility or not apply due to other administrative barriers should not be penalized with an unaffordable bill for essential utility service.

10. Should utilities be required to develop and use standardized CAP forms and CAP procedures? What are the barriers, if any, of establishing a common application?

OCA Response:

Yes, utilities should be required to develop and use standardized CAP forms and CAP procedures. A common application would help to streamline the application process and to eliminate variations in the information that needs to be produced by the consumer. The consumer could more easily apply to and recertify for multiple utility programs at the same time without the unnecessary duplication of efforts. It is particularly troublesome that applicants would be required to provide very similar materials to the same outside vendor, but in slightly different manners in order to comply with slightly different applications from different utilities.

As a part of the practice of developing a common application, the Commission should also consider making the applications available in multiple languages to provide greater language access. Through Settlements in rate proceedings, PECO and PGW have developed materials including applications in additional languages. As a part of the process of improvements, the Commission should consider how Limited English Proficiency may limit access to assistance programs.

Some of the potential barriers to a common application may be individual utility practices due to either historic practice, differences in the service territory or the use of different vendors for intake. However, inertia from past practices should not prevent improvements from being made. The Commission could develop a list of common elements that need to be included in the application and take stakeholder feedback on the application. Then, the OCA recommends that the Commission issue a final CAP application and recertification application in plain language and additional languages.

11. What other additions or changes to the existing CAP Policy Statement should be made to increase eligibility, enrollment and maintenance of CAP benefits?

In addition to the changes identified in the previous responses to questions, the Commission should also consider the extent to which LIHEAP recipients do not also participate

in CAP. The new data sharing to be provided by DHS will offer utilities more granular data to allow for more automatic enrollment of customers in CAP. Consideration for the impact of the Chapter 14 obligations regarding customers entering CAP must be given, but education may be possible to address those issues. The OCA urges the Commission to articulate those circumstances under which auto-enrollment of LIHEAP recipients would be appropriate, what steps must go into such auto-enrollment, and what conditions would apply.

12. Should the CAP Policy Statement be amended to include jurisdictional water public utilities, and, if so, what barriers if any exist to doing so and how can those barriers be overcome?

OCA Response:

The OCA strongly supports the development of jurisdictional water and wastewater affordability programs. The COVID-19 pandemic certainly highlighted the importance and need to maintain water and wastewater services, and low-income programs help to maintain that access. Moreover, the success of the Low Income Home Water Assistance Program (LIHWAP) demonstrated the need in Pennsylvania for assistance with water and wastewater bills. Each of the larger water and wastewater jurisdictional utilities (Pennsylvania-American Water Company, Aqua of Pennsylvania, Pittsburgh Water and Sewer Authority, York Water) have programs, and those programs have been successful in helping many low-income customers to maintain access to water and wastewater services. Currently, there are no specific statutory requirements for the development of jurisdictional water or wastewater low-income customer programs. However, the OCA submits that the Commission's broad authority under Sections 1301 and 1501 of the Public Utility Code, 66 Pa. C.S. §§1301, 1501, provide sufficient authority to implement bill discount programs, arrearage forgiveness programs, and usage reduction programs for water and

wastewater customers. The programs in existence have evolved through utility filings, settlements, and litigation in base rate proceedings.

The OCA supports the modification of the CAP Policy Statement to encompass water and wastewater utilities.⁸ While these modifications may be focused on certain areas of the CAP Policy Statement, such as definitions, establishment of water and wastewater burdens, the general framework of the CAP Policy Statement is a reasonable starting point. The OCA believes that some of the modifications, such as proposed water and wastewater burdens can be worked through as they have been to do date—through a combination of collaborative and regulatory processes that are designed to achieve the goal of improving and retaining access for low-income customers to water and wastewater services.

13. If a coordinated enrollment process could be achieved with respect to CAP, could that same process be applied to identify eligibility for a utility’s Low Income Usage Reduction Program (LIURP) or eligibility for receipt of hardship fund grants?

OCA Response:

Yes, the OCA agrees that a coordinated enrollment process should be developed to identify eligibility for a utility’s Low Income Usage Reduction Programs (LIURP)⁹ and eligibility for receipt of hardship funds. A similar information sharing agreement would be needed and affirmative consent should be obtained from customers. Coordination of LIURP would allow natural gas and electric utilities to more effectively address the population of eligible customers. Such coordination also has the potential to assist in customers allowing access to properties. Many times the same vendors are providing services to multiple utilities and could easily coordinate the program eligibility and services. The OCA notes that the Commission should also consider

⁸ The Commission may want to consider applying the CAP Policy Statement to the Class A water and wastewater utilities, while recognizing that smaller water and wastewater utilities may want to voluntarily establish programs too.

⁹ The OCA notes that the OCA does not believe that LIURP participation should be required.

incorporating water and wastewater utility conservation programs into the coordination as well. This will allow all three utilities to be addressed in a more coordinated and efficient process.

Similarly, hardship funds eligibility should also be coordinated to allow for greater access to assistance. Different utilities have different qualifications for the assistance programs. An eligible customer who is having challenges paying their natural gas bill, their electric bill, and their water and wastewater bill. Sometimes, that hardship fund is administered by the exact same vendor. A consistent approach and common application would allow a customer to be able to maximize the efficiency of their application. It does not make much sense for a customer to have to reapply three times in order to get assistance with their natural gas bill one week and then several weeks later have to reapply with the same information to get assistance with their electric bill and then a few further weeks later need assistance with their water and wastewater bill. With customer consent, efficiencies would permit a vendor or the utility to utilize the other utility's information in order to maximize the benefits for the customer.

14. What changes are required to the Commission's existing policies or regulations to incorporate improvements?

OCA Response:

The Commission should also consider finalizing its dormant CAP rulemaking, and including water, wastewater, and stormwater utilities therein, so that these programs have the appropriate regulatory teeth that goes beyond a mere statement of policy. As a part of those efforts, a consistent approach should be developed regarding requirements for CAP eligibility and for recertification. For example, some utilities in the past have required a Social Security number for application to the program or have indicated that the outside vendor requires access to a Social Security number. Any inconsistency in the approach may impact the ability to streamline eligibility and recertification processes.

The OCA notes that it does not believe that a Social Security number (SSN) should be required, and the consistent approach that should be implemented should exclude a requirement to provide an SSN. The OCA has privacy concerns about utilities maintaining records of customer SSNs. The OCA also questions the legality, under federal law, of whether a public benefit (such as CAP) can be made contingent upon a customer providing his or her SSN. The OCA notes that many income-eligible Pennsylvania customers may not have SSNs and use alternate forms of identification in lieu of Social Security numbers.

The OCA urges the Commission to incorporate its SSN policy into the CAP Policy Statement to ensure that the policy is generally applicable to all utility programs. There are many potential issues that are raised by requiring a customer to provide a Social Security number: (1) potential security issues with maintaining Social Security numbers and how the Company will protect this information; (2) issues regarding the disposal of the SSN, if the customer leaves the service territory; (3) the implications if the requester does not have a Social Security number; (4) the potential unwillingness of a customer to provide the Social Security number; and (5) an evaluation of the costs of implementing such a requirement against the benefits of having this information.

The OCA submits that a utility should not require a customer to provide his or her SSNs as prerequisite to program participation and that requirement should be made consistent across all utilities and across all vendors used by the utilities. Moreover, while the utilities may request such SSNs, before doing so, utilities should notify and educate consumers that the request is not, and may not be, mandatory. The OCA submits that the utilities should adopt alternatives to the provision of SSNs for those not likely to have SSNs. Finally, utilities should not provide access to SSNs to anyone not requiring access to determine program eligibility and should not maintain records of the SSN beyond the time required to use the SSN to determine program eligibility.

III. CONCLUSION

The Office of Consumer Advocate appreciates the opportunity to provide Comments in response to the questions. The OCA looks forward to continued discussions on these important issues.

Respectfully Submitted,

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