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June 7, 2023

**VIA ELECTRONIC FILING**

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

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

Dear Secretary Chiavetta:

Enclosed for filing please find the Comments of Agway Energy Service, LLC with regard to the above-referenced matter.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Donald A. Soutar".

Donald A. Soutar

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

2023 Review of All Jurisdictional Fixed  
Utilities' Universal Service Programs

Docket No. M-2023-3038944

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**COMMENTS OF  
AGWAY ENERGY SERVICES, LLC**

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**Introduction**

Agway Energy Services, LLC (“Agway”) is a Pennsylvania-licensed Natural Gas Supplier (“NGS”) and Electric Generation Supplier (“EGS”). Agway submits the following comments in connection with the 2023 Review of All Jurisdictional Fixed Utilities' Universal Service Programs published in the *Pennsylvania Bulletin* on April 8, 2023, 53 Pa.B. 2022.

Consumers choose Agway not only for Agway’s competitive energy rates, but also for its proprietary EnergyGuard™ home warranty program, which is automatically included in Agway’s monthly bundled price. This provides Agway’s natural gas customers with zero-dollar-deductible annual coverage for repairs to their natural gas furnaces and boilers. There is no annual limit on coverage. Agway’s electricity customers receive zero-dollar-deductible annual coverage of up to \$1,000.00 in repairs to their central air conditioning and, separately, up to \$1,000.00 for in-wall wiring repairs. Agway’s customers are thus eligible for unlimited covered repairs to their heating equipment and \$2,000.00 annually in covered repairs to their air conditioning system and wiring.

EnergyGuard is particularly attractive to budget-sensitive consumers because it covers unexpected repairs for critical energy-related systems which, without coverage like EnergyGuard, could be life-altering to have to afford. The federal government has found that 37% of adults, when faced with a hypothetical unexpected expense of \$400.00, would not pay for it out of pocket,

resorting instead to borrowing or selling something in order to meet the expense. Board of Governors of the Federal Reserve System, ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2022 (May 2023), at 31.

As set forth in the comments below, Agway supports the policy goals underlying the Commission's proposed improvements to universal service programs, but raises concerns arising from the differing standards for and consequences of the Customer Assistance Program ("CAP") applicable to each utility. Of the 14 topics enumerated by the Commission, our comments below relate to the following:

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?
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?
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?
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?
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?
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?

11. What other additions or changes to the existing CAP Policy Statement should be made to increase eligibility, enrollment and maintenance of CAP benefits?
14. What changes are required to the Commission's existing policies or regulations to incorporate improvements?

### **Comments**

Agway believes that there may be potential benefits from implementing a single enrollment application or sharing of customer information among utilities for universal service and Customer Assistance Program ("CAP") enrollment. For energy suppliers like Agway, who operate throughout the Commonwealth, greater uniformity between utilities reduces administrative complexity. An important concern arises, however, about how these programs might inadvertently prevent consumers from exercising free choice with respect to their energy providers as a result of the interrelationship between CAPs and the availability of retail energy choices in the marketplace, as described below.

Pursuant to the Natural Gas Choice and Competition Act, 66 Pa. C.S. §§ 2201-2212, and the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §§ 2801-2815, there is a general legislative policy in favor of broad retail energy choice. *See* 66 Pa. C.S. §§ 2203, 2802 (benefits of the competitive retail market are intended for "all classes of customers"). The Commission has determined, however, that certain limitations to a consumer's choice of energy supplier may be implemented under certain utilities' pricing regimes to accommodate CAP programs. *See Retail Energy Supply Ass'n v. Pa. PUC*, 185 A.3d 1206 (Pa. Cmwlth. 2018) ("RESA"). For example, consumers within the service territory of PPL Electric Utilities Corporation ("PPL") who participate in PPL's CAP program are prohibited from enrolling for electricity service from EGSs unless the rate meets specified maximums. *Id.* This limitation precludes consumers from enrolling with Agway despite the additional value and financial security provided by EnergyGuard.

Not every utility in Pennsylvania, however, is required to maintain uniform CAP requirements. Although the Commission promulgated a CAP Policy Statement, 52 Pa. Code §§ 69.261-69.267, that policy permits substantial leeway for individual utilities to provide individualized and potentially conflicting CAP programs. First, the policy itself applies only to “Class A electric utilities and natural gas utilities with gross intrastate annual operating revenue in excess of \$40 million.” 52 Pa. Code § 69.261. And while those utilities “should” adopt the policy’s guidelines, they are permitted to provide alternative programs that differ from the Commission’s guidelines. 52 Pa. Code § 69.267.

With respect to the Commission’s proposals for either a single enrollment process or shared information between utilities, a danger arises due to the combination of (a) the lack of regulatory uniformity in CAP programs across utilities and (b) the prohibition under certain of those CAP programs against enrolling with NGSs and EGSs. Specifically, the process may erroneously result in prohibitions against consumer choice where the consumer’s enrollment with one utility or agency is applied to multiple utilities. The lack of a single standard between CAP programs means that a consumer qualified for one CAP program may not qualify for another. Also, one CAP program may not result in retail choice prohibitions negatively affecting the consumer, while others may. As a result, consumers may indeed wish to enroll with an NGS or EGS like Agway but find themselves unable to do so for reasons they do not understand.

Even under the current system, Agway has experienced challenges where consumers are unknowingly blocked from choosing Agway’s services and EnergyGuard. Oftentimes, consumers are required to complete the entire enrollment process before learning whether they are blocked (due to a CAP program or something else), and sometimes are not aware of the source of the issue. Due to the differences between energy utilities, the issue must be addressed on a utility-by-utility

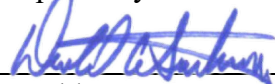
basis. Under a universal enrollment program without sufficient backstops against inadvertent, automatic unenrollment from EGSs and NEG, prohibitions against retail choice would become more mysterious and difficult to remedy for the consumer they were intended to benefit.

Accordingly, Agway suggests that the Commission carefully assess the feasibility and potential implications of a shared enrollment process and/or automatic enrollment with utilities. It is important to strike a balance between streamlining the enrollment process on the one hand and maintaining the integrity and accuracy of CAP enrollments on the other, to accurately meet the needs of the consumers seeking to enroll. For instance, if consumers who enroll in a water utility's CAP program are offered simultaneous enrollment with CAP programs for natural gas and electricity, the consumers should be required to "opt-in" to the additional enrollments with notice that doing so may preclude them from receiving service from their preferred NGSs and EGSs, along with the related benefits such as Agway's EnergyGuard.

### **Conclusion**

In summary, while there are potential benefits of a streamlined enrollment process, we encourage caution with respect to changes that could potentially cause erroneous enrollments due to differences in CAP rules among utilities. Careful consideration, standardization, and clear communication and exchange of data between utilities are necessary elements of any changes to enrollment processes.

Respectfully submitted,



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