

# PROPOSED RULEMAKING

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 58 ]

### Initiative to Review and Revise the Existing Low-Income Usage Reduction Program Regulations; Doc. No. L-2016-2557886

With this Secretarial Letter, the Pennsylvania Public Utility Commission (Commission) seeks stakeholder input on a number of important topics that will be instrumental in determining the scope of a future rulemaking to update the Commission's existing Low-Income Usage Reduction Program (LIURP) regulations in §§ 58.1—58.18 (relating to residential low income usage reduction programs).

Due to the advanced age of building stock in this Commonwealth, which is the second oldest in the Nation, and the increasing need for affordable housing, LIURP is an essential program in reducing energy consumption for low-income households. However, much has changed in the marketplace since the LIURP regulations were first promulgated in 1993,<sup>1</sup> and the Commission is interested in leveraging the knowledge and experience gained to-date by the utilities, consumers and other stakeholders to improve the operation of the various energy utility LIURPs, thereby maximizing ratepayer benefits.

Responses to this Secretarial Letter are due 30 days after notice of this Secretarial Letter is published in the *Pennsylvania Bulletin*. Reply responses are due 30 days thereafter. Parties may include proposed regulatory language with their responses and replies.

#### Background

The endeavors of the Commission and the various stakeholders to formally address low-income policies, practices and services began at least as early as 1984. See, for example, Recommendations for Dealing with Payment Troubled Customers, Docket No. M-840403. As a result of that proceeding, the energy utilities began considering how to better address arrearages for low-income customers.

The Commission's existing LIURP regulations apply to covered natural gas distribution companies (NGDC) and electric distribution companies (EDC).<sup>2</sup> These utilities are required to include a low-income weatherization program in their Universal Service and Energy Conservation Program (USECP) portfolios.<sup>3</sup> USECPs also include customer assistance programs (CAP),<sup>4</sup> hardship funds, and customer assistance referral and evaluation programs.<sup>5</sup>

Utility LIURPs are subject to revision, stakeholder comment and Commission review every 3 years as part of each utility's on-the-record triennial USECP review, which is overseen by the Commission's Bureau of Consumer Services. Additionally, the USECPs, including the

<sup>1</sup> Chapter 58 was effective January 16, 1993. See 23 Pa.B. 265. Sections 58.2, 58.3, 58.8 and 58.10 were amended effective January 3, 1998. See 28 Pa.B. 25.

<sup>2</sup> See § 58.2 (relating to definitions) for the definition of "covered utility."

<sup>3</sup> A low-income customer is one with household income at or below 150% of the Federal Poverty Income Guidelines (FPIG). A utility may spend up to 20% of its annual LIURP budget on customers having an arrearage and whose household income is at or below 200% of the FPIG. See §§ 58.1, 58.2 and 58.10.

<sup>4</sup> The CAP policy statement in §§ 69.261—69.267 (relating to policy statement on customer assistance programs) was adopted effective July 25, 1992, and amended effective May 8, 1999.

<sup>5</sup> See [http://www.puc.state.pa.us/consumer\\_info/electricity/energy\\_assistance\\_programs.aspx](http://www.puc.state.pa.us/consumer_info/electricity/energy_assistance_programs.aspx).

LIURPs, are subject to independent third-party analyses at least every 6 years<sup>6</sup> and may also be considered in a utility's base rate proceedings, rider proceedings, demand side management filings or other proceedings.

In January 2009, the Consumer Services Information System Project at Pennsylvania State University (CSIS PSU), under contract with the Commission, published a long-term study on the Commonwealth's LIURP, including recommendations.<sup>7</sup> To date, no formal Commission action has been taken on the CSIS PSU report. Instead, the Commission deferred its review of the LIURP regulations in deference to then-pending CAP and universal service rulemakings. CAP regulations, however, were not adopted,<sup>8</sup> and USECP reporting requirements also were not changed.<sup>9</sup>

In the interim, the Commission has been working with the Department of Community and Economic Development (DCED) on a Statewide weatherization initiative and interagency coordination effort regarding DCED's Weatherization Assistance Program (WAP) and LIURP. DCED and the Commission have agreed, pursuant to a memorandum of understanding, to share data and analyses of the two agencies' weatherization programs. This will allow for additional analysis in conjunction with the Commission's oversight of the EDCs' Act 129<sup>10</sup> low-income programs. This will allow CSIS PSU to compile data from these weatherization programs and perform analyses under its existing contract with the Commission.

#### Justification for Reviewing LIURP Regulations

It is important for the Commission to update the LIURP regulations to keep pace with the changing energy landscape and technology improvements, to ensure proper coordination among Commonwealth energy reduction programs and to ensure that these programs continue to meet the goals established. Nationally accepted benefit/cost models now measure results on a whole-job basis rather than a piecemeal basis as was the case when the LIURP regulations were first promulgated. Utilities have reported that an increasing number of low-income households, particularly those in rental properties, are being disqualified under the regulations from receiving weatherization services, yet these households are some of the highest energy consumers. Further, there are no work specifications, contractor certification requirements or quality control standards in the current LIURP regulations.

Thus, it is prudent and reasonable to revisit the LIURP regulations to ensure they are fostering fair, effective and efficient energy usage reduction programs.

The Commission is interested in leveraging the knowledge and experience of utilities, consumers, advocates and other stakeholders to consider improvements to the design and the cost-effective operation of LIURPs, thereby

<sup>6</sup> See § 54.76 (relating to evaluation reporting requirements) for EDCs and § 62.5 (relating to annual residential collection and universal service and energy conservation program reporting requirements) for NGDCs.

<sup>7</sup> See Shingler, J. (2009). "Long Term Study of Pennsylvania's Low Income Usage Reduction Program: Results of Analyses and Discussion." Penn State University Consumer Services Information System Project. <http://aese.psu.edu/research/centers/csis/publications> (retrieved August 24, 2016).

<sup>8</sup> See Final Investigatory Order on CAPs: Funding Levels and Cost Recovery Mechanisms, Docket No. M-00051923 (December 18, 2006). The matter was terminated without promulgating CAP regulations at Docket No. L-00060181 or amending the CAP policy statement at Docket No. M-00072036.

<sup>9</sup> On September 4, 2007, the Commission initiated a proposed rulemaking on USECP reporting requirements and CAPs at Docket No. L-00070186. That rulemaking was discontinued by Commission order entered on May 12, 2012, at that docket.

<sup>10</sup> See 66 Pa.C.S. § 2806.1 (relating to energy efficiency and conservation program). There are no corresponding requirements for NGDCs.

maximizing ratepayer benefits. Currently, there is little uniformity in terms of the various EDCs' and NGDCs' approaches to LIURPs and USECPs.

#### *Proposed LIURP Initiative*

The purpose of the LIURP regulations, as stated in § 58.1 (relating to purpose), is to require:

[C]overed utilities to establish fair, effective and efficient energy usage reduction programs for their low income customers. The programs are intended to assist low income customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs. The programs are also intended to reduce the residential demand for electricity and gas and the peak demand for electricity so as to reduce costs related to the purchase of fuel or of power and concomitantly reduce demand which could lead to the need to construct new generating capacity. The programs should also result in improved health, safety and comfort levels for program recipients.

In the Commission's review of the existing regulations and with the goal of ensuring effective and efficient use of ratepayer funds, the Commission poses the following questions relative to revising the LIURP regulations:

1. Are the existing regulations meeting the charge in 52 Pa. Code § 58.1? If not, what changes should be made?
2. How should LIURPs be structured to maximize coordination with other weatherization programs such as DCED's WAP and Act 129 programs?
3. How can utilities ensure that they are reaching all demographics of the eligible populations in their service territories?
4. What design would better assist/encourage all low-income customers<sup>11</sup> to conserve energy to reduce their residential energy bills and decrease the incidence and risk of payment delinquencies? How does energy education play a role in behavior change?
5. How can the utilities to use their LIURPs to better address costs associated with uncollectible accounts expense, collection costs, and arrearage carrying costs?
6. How can LIURPs best provide for increased health, safety, and comfort levels for participants?
7. How can LIURPs maximize participation and avoid disqualifications of households due to factors such housing stock conditions?
8. What is the appropriate percentage of federal poverty income level to determine eligibility for LIURP?
9. With the additional energy burdens associated with warm weather, what if any changes are necessary to place a greater emphasis on cooling needs?
10. What are options to better serve renters, encourage landlord participation, and reach residents of multifamily housing?
11. Should the requirements regarding a needs assessment in developing LIURP budgets, as outlined at 52 Pa. Code § 58.4(c), be updated to provide a calculation methodology uniform across all utilities? If so, provide possible methodologies.

<sup>11</sup> All income-qualifying, low-income customers are potentially eligible for LIURP, regardless of whether they participate in CAP programs.

12. Should the interplay between CAPs and LIURPs be addressed within the context of LIURP regulations? If so, how?

13. Are there specific "best practices" that would better serve the LIURP objectives which should be standardized across all the utilities? If so, what are they? For example, is there a more optimal and cost effective method(s) of procuring energy efficiency services so as to maximize energy savings at lower unit costs?

14. The Commission also welcomes stakeholder input on other LIURP issues or topics.

Parties are encouraged to submit proposed regulatory language with their responses and replies. Filings should adhere to this numbering format.

#### *CAP Implications*

While a LIURP rulemaking may touch on the relationship between LIURPs and CAPs, it is not the Commission's intention to enter into a CAP rulemaking or a revision of the CAP policy statement at this time. CAP participation is not a requirement for LIURP eligibility. High usage, arrears and income parameters are currently the primary eligibility requirements for LIURP services. See § 58.10 (relating to program announcement).

LIURP conservation and efficiency efforts do not always result in lower energy bills or usage for customers/households receiving LIURP services. CAP asked-to-pay (ATP) amounts do not necessarily change as a result of the household receiving LIURP services.

Effective individual LIURPs and CAPs, more often than not, do help to reduce the costs of a utility's uncollectible accounts and USECPs, but the two programs are most effective when working in tandem. Further, when CAP participation is coupled with LIURP participation, the impact may lower a utility's CAP shortfall<sup>12</sup> by reducing the differences between the actual cost of energy used and CAP ATP amount.<sup>13</sup>

While the Commission encourages utilities to continue to prioritize CAP participants for LIURP consideration, utilities must remember that non-CAP, higher-use, low-income customers are also eligible for LIURP services.

#### *Procedure*

Having set forth herein a number of questions upon which stakeholders may provide input, the Commission directs that the Secretary deposit a notice of this Secretarial Letter with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The Commission further directs that this Secretarial Letter be published on the Commission's web site. Parties may participate and provide input by filing responses to the Secretarial Letter or replies to other responses, or both, either of which may include proposed regulatory language.

Further, this Secretarial Letter shall be served on the covered EDCs and NGDCs/CNGDC, the Office of Consumer Advocate, the Office of the Small Business Advocate, the Commission's Bureau of Investigation and Enforcement, DCED, the Department of Human Services, the Department of Environmental Protection, the Energy Association of Pennsylvania, CSIS PSU, the Pennsylvania Utility Law Project, the Coalition for Affordable Utility

<sup>12</sup> The CAP shortfall (also known as the CAP Credit) is the difference between the actual tariff rate for jurisdictional residential energy service and the discounted amount that a CAP participant is expected/asked to pay for that service.

<sup>13</sup> The ATP amount for a CAP participant may only cover a portion of the tariff cost of energy that the customer uses. In some cases, the ATP is tied to usage, in other cases it might be based on a percent of income or other formula not based solely on usage. Thus, a CAP participant whose CAP ATP is not tied to household usage may have limited incentive to conserve energy.

Services and Energy Efficiency in Pennsylvania, the Tenants Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia, and Community Legal Services. Other interested persons are encouraged to participate. In addition, the Commission will consider holding a stakeholder meeting once it has reviewed the responses and replies filed at this docket.

Written responses are due 30 days after publication in the *Pennsylvania Bulletin* and must reference Docket No. L-2016-2557886. Written replies are due 30 days after the due date of responses. Responses and replies may be filed electronically through the Commission's e-filing system, in which case no paper copy needs to be filed with the Secretary provided that the filing is less than 250 pages.<sup>14</sup> Attachments may not exceed 3 megabytes. Alternatively, one original signed copy of responses and replies shall be filed with the Commission's Secretary at the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. A Microsoft Word-compatible formatted copy of filings including any proposed regula-

tory language shall be e-mailed to Sarah Dewey at [sdewey@pa.gov](mailto:sdewey@pa.gov) and Louise Fink Smith at [finksmith@pa.gov](mailto:finksmith@pa.gov).

The Commission will post copies of this Secretarial Letter, responses, replies and proposed regulatory language on its web site at the docket number and on the Energy Assistance Programs page under the LIURP heading.<sup>15</sup>

Individuals with questions regarding this Secretarial Letter should contact Sarah Dewey, (717) 705-4029, [sdewey@pa.gov](mailto:sdewey@pa.gov) regarding technical or operational issues or Louise Fink Smith, [finksmith@pa.gov](mailto:finksmith@pa.gov) regarding legal or procedural issues.

ROSEMARY CHIAVETTA,  
*Secretary*

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<sup>14</sup> See E-filing instructions at <http://www.puc.state.pa.us/efiling/default.aspx>.

<sup>15</sup> The docket number search page is [http://www.puc.state.pa.us/filing\\_resources.aspx](http://www.puc.state.pa.us/filing_resources.aspx). The Energy Assistance Program page is [http://www.puc.pa.gov/consumer\\_info/electricity/energy\\_assistance\\_programs.aspx](http://www.puc.pa.gov/consumer_info/electricity/energy_assistance_programs.aspx).