



Testimony of PECO

Proposed LIHEAP State Plan

Fiscal Year 2013 – 2014

Submitted by Patricia King
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2301 Market Street, N4-4
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July 9, 2013

Opening Remarks

Thank you for the opportunity to provide public comment on the proposed 2013-2014 LIHEAP State Plan. I appreciate the opportunity that you have provided for utility companies, advocates and the general public to make thoughtful comment on a program that assists so many low income individuals. Before I begin my public comment on proposals within the state plan, I would like to publically acknowledge several individuals that have been instrumental in helping PECO customers receive service through this program. I would like to personally recognize Sandra Byrd and the staff of the Philadelphia County Assistance Office. Under her leadership, a majority of PECO customers are assisted thru this program. Additionally, I would like to recognize the following individuals that have provided dedicated support in helping my staff and the many PECO customers that benefit from LIHEAP:

- In Bucks County, Cheryl Cole and Doree Munetz
- In Chester County, Erica Dixon and Eileen Haviland
- In Delaware County, Pat Weldon, Constance Ballard and Jane Richards
- In Montgomery County, Janel McGarry and Trina Dixon

Additionally, I would like to thank the responsible individuals that administer the program from a state level. I would like to thank Cathy Buhrig, Tom Brenner and Nicole Silks specifically. I would also like to thank the staff of the vendor helpline in Harrisburg who are always available with a friendly voice to help my staff.

All of these individuals are excellent representatives for DPW and we thank them for the expert service they provide.

As most in this room are aware, the largest concentration of low income households in Pennsylvania reside in PECO's service territory. As such, PECO Universal Services' programs serve the largest number of low income consumers of any Pennsylvania utility. PECO's Universal Service programs are designed for low-income, residential customers who demonstrate or express difficulty paying their monthly energy bill. PECO spends in excess of \$100M in services for low income residential customers a year.

The base programs that make up PECO's Universal Services' portfolio are:

- Customer Assistance Program
- Low Income Usage Reduction Program
- PECO's hardship fund, the Matching Energy Assistance Program
- PECO's Customer Assistance Referral and Evaluation Services
- Finally, PECO's Outreach & Education team

In addition to these core programs, PECO works with community partners to identify synergies in which customers may find assistance through non-traditional programs.

Summary of Position

A summary of PECO's position is as follows:

1. PECO continues to support the request that DPW open the LIHEAP Cash and traditional Crisis program at the same time. PECO recommends removing the Exceptional Crisis program entirely.
2. PECO recommends increasing the minimum Cash grant from the \$100.00 threshold back to the \$300.00 minimum that it was in previous years. Additionally, PECO supports DPW's recommendation to increase the Crisis grant to a maximum of \$500.00.
3. Implement a tracking report that will indicate the number of applications received each week to ensure any backlog issue can be detected early and resolved quickly.
4. Spend all allocated LIHEAP funds during the program year.
5. PECO supports maintaining income eligibility at 150% FPL because it enables auto-enrollment as well as auto-recertification in to our CAP Rate program.
6. PECO applauds the DPW continuing to allow LIHEAP grants to be directed to an applicant's secondary heating source.

1 - PECO continues to support the request that DPW open the LIHEAP Cash and traditional Crisis program at the same time. PECO recommends removing the Exceptional Crisis program.

- Since the beginning of the Crisis Exception program, PECO has not changed its position. LIHEAP Cash and Crisis programs should be open concurrently. Customers in danger of having their service terminated in November should not be penalized and should be allowed to apply for Crisis. Restricting the Crisis Exception Program to those without service for restoration purposes only has a detrimental effect on crisis customers in threat of termination
- Customers in danger of termination should be able to leverage both Cash and Crisis components at the same time. LIHEAP applicants should not be limited to just Cash grants to resolve a pending termination in November. They should not be forced to wait until January, which really means February for PECO customers, to apply for Crisis.
- We have all struggled with the Crisis Exception program for several years now. PECO customers are still confused by it. If LIHEAP grants are to help customers offset their heating expense in the winter, customers should be able take full advantage of the program.
- Having both programs open concurrently, DPW will also solve the problem that most people in this room will likely mention – spending all allocated dollars during the season.

2 – PECO supports increasing the maximum Crisis grant to \$500. PECO recommends increasing the minimum Cash grant back to \$300 from the \$100 minimum it was this past season.

- PECO appreciates DPW’s vision in increasing the “maximum” Crisis grant from \$400 to \$500. PECO sees many customers that apply for Crisis to have balances in excess of \$1,000. With this \$100 increase, many PECO customers can make a significant dent in their arrearage. With cuts to many other social programs both state sponsored as well as nonprofit organizations that have had to scale back on their services, it is nice to have an increase in services available.
- PECO recommends raising the minimum Cash grant amount from \$100 back to \$300 which is the level it was during the 2010-2011 season. Being in the southeastern PA heating region, PECO customers struggling to make ends meet and find themselves eligible for LIHEAP are less likely to apply with a \$100 grant pending as opposed to a \$300 grant to offset their heating. For PECO customers receiving our discounted, CAP rate, even a \$100 grant does not stretch thru the entire winter to assist with utility service. If the grant floor for Cash grants is raised back to \$300, DPW has a better chance of spending the money allocated to Pennsylvania and demonstrating to the federal government that the proposed \$2.79B budget is simply not enough to sustain this program.
- Additionally, a customer leveraging both Cash and Crisis would be able to have a significant impact on their energy expenses over a winter season.

3 - Implement a tracking report that will indicate the number of applications received by each county each week to ensure that any backlog issue can be detected and resolved quickly.

- LIHEAP is not a program that can survive applicants not being assisted in a timely manner. PECO understands the integration of LIHEAP into the computer system that provides the other DPW benefits but applicants waiting over 90 days for their application to be processed is unacceptable. For the last three months, DPW has been able to share a report with the LIHEAP Advisory Committee regarding the number of pending applications. This should be provided throughout the season. County Assistance Offices can better manage the flow of applications with this weekly report being public. DPW should and must do a better job of keeping the backlog to a minimum and work with its County Offices to ensure that a backlog of applications does not continue into June much less July. By keeping on top of pending applications, DPW will be able to effectively allocate resources where they are needed most and provide the exceptional service that DPW can provide to all.
- PECO saw first hand what happens when customers' applications are not completed in a timely fashion. Thousands of PECO customers would have been able to participate in the Utility File Transfer process which was designed to aid the customer without burden of applying for Crisis other than electronically. By not identifying the backlog issue earlier in the year, DPW took opportunity from these customers.
- Last year, PECO testified that with a strong plan, all in this room would agree that we cannot let this happen again. I reiterate that point again this summer. Many people can avoid unnecessary termination of services if their LIHEAP grant applications are processed more efficiently.

4 - Please spend all of the allocated LIHEAP funds during the program year.

- PECO applauds DPW's decision to keep LIHEAP open until April 26, 2013. It was a benefit to thousands of PECO customers that may have missed the cut off in previous years. Having opportunity to resolve heating bills that may have accumulated during the winter is an effective use of the LIHEAP funding.
- The need for energy assistance in the state of Pennsylvania has been well documented for years. Seeing reports from the Campaign for Home Energy Assistance demonstrates that LIHEAP does help those in need. However, it still does not reach everyone that needs the assistance. Ending the program with money still available sends the wrong message to federal legislators that help to craft the federal allocation of resources to this program. Underused funding does not support the need for additional funds. PECO along with others here today participate in the National Fuel Fund Network's LIHEAP Action Day. Having money left over is difficult to explain to Congressional Offices. As all are aware, Pennsylvania receives the second largest allocation of LIHEAP funding in the country. It only assists about one-quarter of those that are eligible. Without the State of Pennsylvania providing supplemental funding or the whole allocation

being spent, we cannot argue that more resources are needed. Funding MUST be used for the intent of the program and used when the program is open.

5 - PECO supports maintaining the income eligibility threshold at 150% FPL.

- PECO appreciates DPW's position of maintaining Income Eligibility at 150% FPL. By remaining at 150% FPL, DPW opens opportunities to other programs for customers. With state verification of income at or below, 150% FPL, PECO (*and other PA utilities*) can continue to auto-enroll customers in our CAP Rate program. We can also continue to auto-recertify them as well. Auto-enrollment and auto-recertification in CAP Rate allows PECO an opportunity to put and keep eligible customers on affordable rates. The recertification process assists customers that already benefit from CAP. At the 150% FPL, LIHEAP helps utility companies to ensure customers can get the discounted rate that they should avail themselves to.

6 – PECO applauds the DPW continuing to allow LIHEAP grants to be directed to an applicant's secondary heating source.

- PECO customers that receive electricity but not a primary fuel such as heating oil should be allowed to continue the practice of designating their LIHEAP grants to their electric company. Without electricity, heaters do not work. Thank you for continued inclusion of this benefit to LIHEAP recipients.

I appreciate this opportunity afforded me today and I appreciate the efforts of other low-income advocates in the room. DPW has addressed issues from its past regarding the administration of the program and together, we can make it an example for the nation.

Thank you again for your time and attention.

PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE
PROPOSED LIHEAP STATE PLAN – FY 2014

PUBLIC INPUT HEARING

Philadelphia

July 9, 2013

TESTIMONY OF BILL MONTGOMERY
PHILADELPHIA GAS WORKS

Good morning. My name is Bill Montgomery. I am the Manager of Universal Services for the Philadelphia Gas Works (PGW). Our department operates the assistance programs for PGW's low-income customers. I have worked for PGW for 5 years. Prior to my employment at PGW, I worked in neighborhood development and social services for 13 years. I am here this morning to offer comment on the Department of Public Welfare's Proposed Fiscal Year 2014 LIHEAP State Plan.

Before I begin, I want to acknowledge again this year the excellent work of Ms. Sandra Byrd and her staff at the Philadelphia County LIHEAP Office. Ms. Byrd has set a high standard for cooperation and follow through that should be emulated statewide. The communication between PGW and the LIHEAP Office has enabled quick and efficient resolution of client issues, particularly for clients in the most vulnerable situations.

The Importance of LIHEAP to PGW and its Customers

LIHEAP provides vital assistance for PGW's low-income customers. More than 1 in 3 PGW customers are eligible for LIHEAP and 1 in 5 LIHEAP-eligible households in the state is a PGW customer. Therefore, it is clear that PGW customers have much at stake in ensuring that the LIHEAP State Plan responds to the needs of Pennsylvania's low-income households.

We commend DPW for efforts made in recent years to increase the number of families who apply for assistance by implementing an early application period. We also commend the Plan's proposal to increase the maximum Crisis grant to \$500. Further, we believe the Plan's proposed treatment of LIHEAP grants received by CAP customers is fair. Such a change will be particularly beneficial for PGW's low-income customers who are not enrolled in our CAP.

We support the state's efforts to improve program integrity by cross-referencing data sources that allow the state to identify conflicting information about household composition and income. However, we are concerned that those same efforts, while well-intentioned, may have created a barrier for some households that are otherwise eligible, but are unable to document eligibility if they have had a recent change in composition, income or other relevant factor. To the extent that the cross-referencing

slows the processing of applications, already a serious problem, ways must be found to expedite that process and efforts must be made to determine whether the cross-referencing has produced results that justify the negative impact of the work.

We urge the Commonwealth to embrace the changes proposed in this testimony, because we believe they will create a more effective and efficient LIHEAP program.

Proposed Change 1: DPW should use its existing databases to pilot a paperless LIHEAP application process in Philadelphia County for eligible clients.

A backlog of applications in Philadelphia County this year and last year has caused much anxiety for LIHEAP applicants. DPW already uses means-tested, government-managed databases to verify household composition and income when necessary to document eligibility for LIHEAP applicants. Surely, these same databases can be scrubbed to identify eligible households. Those households would then merely need to consent to apply for LIHEAP - which the applicant can do by phone or online. The applicant must also verify heating responsibility, but that could also be done electronically, in collaboration with their designated vendor.

If a household already receives means-tested assistance that meets LIHEAP eligibility, it should not be necessary for that household to complete another application and re-submit documentation of household size and income, nor should it be necessary for DPW to verify household size and income. By adopting this proposed change, DPW could use its own databases to lower administrative costs, reduce fraud, direct more money toward grants, reduce the likelihood of a backlog, and serve more households. PGW would welcome the opportunity to collaborate on such an effort.

Proposed Change 2: Create a report of applications and their status

The Department of Public Welfare currently provides the weekly EASUM report, which tracks LIHEAP Cash and Crisis expenditures by household income, housing situation, race, age, disability, and fuel type on a county-by-county basis. This report offers some guidance to PGW in managing our outreach efforts.

In addition to the data provided by the EASUM report, PGW strongly recommends that DPW provide a weekly, county-by-county breakdown of the number of

Cash applications received, the number approved, the number rejected, and a percentage breakdown of the primary reasons for rejection. Such a report would give social service providers and PGW vital information that could be used to assess the effectiveness of outreach messages, identify areas in need of improvement, and allow us to moderate our outreach efforts so as not exacerbate problems created by a surge in applications. We believe that the data required for such reporting is already produced; it just needs to be shared so that outreach efforts can improve and more households can be served.

This year has been a disappointment for PGW in terms of the number of households served by LIHEAP. What is particularly troubling is that 1 in 3 eligible households in Pennsylvania were not served by LIHEAP, yet tens of millions of dollars remained unobligated at the program's end. Worse, every measure of poverty shows that poverty is increasing, not decreasing. We believe that working in a collaborative effort to utilize all available information will enable us to better serve families in need. This proposed reporting would be an important step in that effort, because it will help us discover problems early on, identify their cause, and prepare productive remedies.

Proposed Change 3: Eliminate the Crisis Exception Program and Open the Regular Crisis Program on November 4th.

When the LIHEAP program opens on November 4th, there will likely be thousands of LIHEAP-eligible households in Philadelphia who are at risk of losing utility service as the weather begins to get colder. Under the proposed Plan, these households must fend for themselves to resolve their crisis, unless their service is terminated. Only then will they become eligible for LIHEAP assistance through the Crisis Exception Program. Once service is terminated, customers must pay additional fees to restore service – fees that they can ill afford and that would not have been required if they were able to use the same grant to prevent termination. The policy change that created this program is unreasonable, illogical, and inconsistent with the Commonwealth's long-standing policy goal to reduce the number of households that lack utility service as winter begins. To deny a household financial assistance at a time

of extreme stress, particularly when federal assistance has been made available to the state, simply cannot be justified.

Based on the evidence, we do not believe that funds must be held in reserve to comply with federal requirements regarding having Crisis funds available up through March 15th. In each year since the Crisis Exception Program has been in effect, the Commonwealth has struggled to spend excess dollars remaining at the end of the program. Instead, DPW should provide assistance when the assistance is needed.

Proposed Change 4: Restrict LIHEAP Cash to the Primary Heating Source

In Pennsylvania, the fundamental purpose of LIHEAP is to help low-income households meet their home heating needs. It is clear that the objective of the program is best met when LIHEAP funds are allocated to the primary heating source, as that is where the bulk of heating costs are incurred. Allowing an applicant to use their LIHEAP grant to pay their electric bill when their primary fuel source is natural gas subsidizes their primary electricity costs, such as appliances and televisions. While it is true that electricity is required to run a gas heater, the electricity costs of running the heater are a mere fraction of the primary fuel costs. As a consequence, the primary fuel costs are then more likely to fall into arrears and become more difficult to resolve. This is not the intent of LIHEAP. LIHEAP cash grants should be used only for the primary source of heat.

Proposed Change 5: Eliminate the “Cash first” Policy.

PGW supports the use of Cash grants to help restore service, but only after a household has fully exhausted the maximum Crisis grant. The policy of using Cash before Crisis to resolve what is clearly a Crisis situation is at odds with Federal law, with the historical use of Cash and Crisis grants, and with DPW’s own definitions of Cash grants and Crisis grants. PGW respectfully asserts that this policy was a bad idea when it was implemented four years ago, and it remains a bad idea today. It is an inequitable way of treating customers whose service is off.

Proposed Change 6: Include a “Utility Termination Program”

The proposed plan does not permit a low-income household whose primary source of heat is from a regulated utility to receive a Crisis grant unless the Public Utility Commission has given the regulated utility specific permission to terminate their service. This policy places customers of regulated utilities in a potentially harmful situation and imposes an unfair burden upon them.

To remedy this, DPW should formally establish a “utility termination program” in the Plan for the time period after February 1st that allows applicants to obtain assistance in paying the accumulated high winter bills that have led them to fall behind in payments. Doing so would ensure that low-income households have the chance to avoid termination of service on April 1st or shortly thereafter.

Additional Comment: PGW Pledges Strong Outreach Campaign

PGW will continue its commitment to implementing a strong and thorough outreach campaign this coming season. We also will work with the Department, the City, and low-income advocates to improve coordination between the Cash and Crisis portions of the LIHEAP program and other assistance programs in Philadelphia. We are particularly interested in working with the Department on identifying opportunities to streamline the application process and reduce the need for hard copy documentation.

Conclusion

PGW and other regulated utilities are doing their part to assist low-income families struggling to keep their homes warm and safe. Collectively, customers of regulated utilities in Pennsylvania contributed \$447 million in 2011 to their CAP programs - programs created to assist low-income families by providing discounts on bills, arrearage forgiveness, and weatherization. PGW's non-CAP customers alone contributed more than \$103 million to help low-income families afford their gas bill.

Even with the affordability of our CAP and a discount for seniors, PGW customers still rely on LIHEAP and Crisis to help pay for heating costs and to resolve heating emergencies. Last year, tens of thousands of households who received these grants were able to restore service, avoid service termination, and pay their gas bill.

However, we know that not all customers who might have benefited from LIHEAP received a grant. Indeed, more work needs to be done.

PGW looks forward to working closely again this year with the Department and with the very capable staff at Philadelphia County's LIHEAP Office to facilitate the LIHEAP and Crisis application process.

This concludes my remarks. Thank you for giving me the opportunity to address you today.

Comments

of

PHILADELPHIA CORPORATION FOR AGING

**642 North Broad Street
Philadelphia, PA 19130**

Low Income Home Energy Program Assistance Program Plan, FY2014

July 9, 2013

Submitted to:

**Commonwealth of Pennsylvania
Department of Public Welfare**

**Public Hearing
Philadelphia Workforce Development Corporation
1 Penn Center
1617 JFK Boulevard
10:00 am**

Delivered by:

**Rick Spector
Community Relations Director
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PCA LIHEAP Testimony
July 9, 2013

Good morning, I'm Rick Spector, Community Relations Director for Philadelphia Corporation for Aging (PCA). We thank DPW for the opportunity to offer input on the FY 2014 LIHEAP program plan.

PCA is the Area Agency on Aging for the city and county of Philadelphia. Our mission is to improve the life quality of the elderly and disabled by planning, funding and coordinating a network of community based services. However, PCA cannot provide services to meet all needs. That's why LIHEAP is so critical.

Philadelphia has the second highest proportion of elders among the nation's ten largest cities. More than 20% of them are living below the federal poverty level; nearly twice the rate of poverty experienced elsewhere in Pennsylvania and in the nation.

Adequate home heating is an absolute necessity for the elderly, for whom hypothermia is a serious risk. Seniors are prone to this life-threatening condition in which body temperature drops below the level needed for normal body function. Compounding this problem is the energy-inefficiency of Philadelphia's very old housing stock.

The following are PCA's comments and recommendations for improving the FY 2014 LIHEAP program:

DPW is to be commended for raising the maximum Crisis benefit to \$500. But, the minimum cash benefit of \$100 is too low- raise it to \$400. Raising the cash minimum to \$400 would help seniors to better afford 100 gallons of oil, the usual delivery minimum. Very importantly, a \$400 LIHEAP minimum grant would take some pressure off scarce private resources such as PCA's Emergency Fund. Last year, PCA's average price for oil paid was \$3.69 per gallon. The Emergency Fund last year spent \$198,000 on fuel/utilities, 79 % of all emergency funds spent.

The LIHEAP and Crisis programs need to be open longer, with the expanded schedule to be heavily promoted at the beginning. A poorly publicized press release about an extension at the tail end of the program is not an effective strategy. Open LIHEAP on October 1st rather than November 4th so applicants can receive benefits when the home heating need starts and before the winter utility moratoriums begin. Close the program on April 30 rather than April 4.

PCA LIHEAP Testimony
July 9, 2013

The Crisis and LIHEAP programs need to run concurrently, not consecutively so struggling consumers can receive more help in the beginning of the heating season. The CRISIS program needs one set of consistent guidelines for the entire program year, so eliminate the more restrictive "Crisis Exception" Program, again a source of great confusion.

The backlog for LIHEAP applications by February 2013 was 85,000. Customers who applied earlier in the winter should have all received their grants by February. DPW needs to address this continuing problem.

A state LIHEAP supplement is sorely needed. Pennsylvania must join with the majority of cold weather states who recognized a long time ago that federal dollars are simply not enough to maintain this critical program.

DPW should set aside funds for a summer LIHEAP program to benefit vulnerable populations including the elderly, disabled and very young. Many elderly are reluctant to use their air conditioners during the summer because of inability to pay their electric bills.

Finally, the utility companies, and underfunded private social service agencies and community groups bear almost all the burden regarding LIHEAP outreach. DPW needs to better publicize the program and to expand the number of community application sites beyond the one Sedgley Avenue location. PCA encourages DPW to join community service providers as full partners to promote this vital program.

Thank you for this opportunity to share our views.

Cc: Brian Duke, PA Secretary of Aging
Robert Casey, United States Senate, PA
Patrick Toomey, United States Senate, PA

Pennsylvania Department of Public Welfare
Public Input Hearing
LIHEAP 2014 Proposed State Plan
July 9, 2013 Philadelphia
Comments of Community Legal Services, Inc.

Community Legal Services, Inc. of Philadelphia (CLS) appreciates this opportunity to comment on the LIHEAP Proposed State Plan ("State Plan"). CLS provides free legal services to the low-income community of Philadelphia, representing thousands of clients a year who are faced with unaffordable energy bills and utility shutoffs, and who must access Department of Public Welfare (DPW) benefits in order to eat, access health care, and keep safe, warm shelter. Our work brings us into daily contact with the urgent issues of energy affordability and access to benefits faced by so many residents of Philadelphia. We submit these comments on behalf of our low-income client population.

Community Legal Services fully supports the revision to the State Plan allowing all renters who pay for heat as part of their rent to obtain LIHEAP benefits. In these Comments, CLS recommends that DPW make the following additional changes:

1. Make systems improvements to ensure timely processing of LIHEAP applications.

For the past two LIHEAP seasons, LIHEAP applicants have endured LIHEAP application processing backlogs. CLS clients have waited up to 6 months for decisions on their applications. More than 32,000 LIHEAP applicants were waiting more than 30 days for decisions on their LIHEAP applications at the close of this past LIHEAP season. These delays violate DPW's own rules requiring LIHEAP Cash applications to be processed in no more than 30 days¹ and federal law which requires DPW to make decisions on applications in a timely manner.²

¹ 55 Pa. Code § 601.22

² 42 U.S.C. § 8624(b)(5)

We urge DPW to make all needed improvements to ensure timely processing of LIHEAP applications and make the following recommendations:

- a. Increase the number of LIHEAP application processing personnel.
- b. Increase staffing of the LIHEAP hotlines.
- c. Ensure that staff are using all available electronic resources and information already in DPW records to verify applicant eligibility, eliminating the time-consuming process of requesting and processing paper verification.
- d. Implement categorical LIHEAP eligibility of Cash Assistance, SSI, and Food Stamps households. Categorical eligibility is permitted by the federal LIHEAP law and encouraged as a tool to improve administrative efficiency.³ Eighteen states, including our neighboring states of New Jersey and New York, allow for automatic or expedited eligibility of at least some recipients of other public benefits. This not only helps the state maintain compliance with the LIHEAP Act's mandate that the highest amount of benefits go to those with the greatest need, but also saves administrative costs of LIHEAP application processing and reduces application processing time.

2. Protect households who have experienced LIHEAP application processing delays.

There is great potential for harm to low-income households whenever LIHEAP grants are delayed. The most harmful effects of LIHEAP application delays are felt when a LIHEAP applicant is waiting for a LIHEAP Cash grant, is facing utility service termination or loss of fuel oil, and the LIHEAP Crisis grant is either inaccessible or is not enough to prevent the loss of heat. Under these circumstances, the backlog of LIHEAP applications places households at great risk of losing essential utility service or fuel oil. When utility companies terminate service to these households, they have to come up with additional funds to pay expensive utility reconnection fees or remain without utility service.

These situations occur far too frequently. During this past LIHEAP season, households who were waiting for LIHEAP Cash grants had great difficulty reaching the

³ 42 U.S.C. § 8624(b)(2)(A). See Senate Report No. 98-484, 18-19 (1984) for a discussion in support of states' making public benefits recipients automatically eligible for LIHEAP.

CAO to request a Crisis grant to prevent an imminent loss of heat. In Philadelphia, there is just one office equipped to handle in-person LIHEAP Crisis requests and the LIHEAP hotline was understaffed so callers were often unable to get through to request a Crisis grant. As a result, households that could not access LIHEAP Cash grants to prevent loss of heat because of administrative backlogs also could not access the LIHEAP Crisis program to prevent loss of heat. Similarly, in the weeks following the close of the LIHEAP season, utility companies were free to send termination notices to customers who were waiting for LIHEAP Cash grants. These customers could not access LIHEAP Cash grants to prevent utility termination because of administrative backlogs and could not access LIHEAP Crisis grants to prevent utility termination because the LIHEAP program had closed.

We urge the Department to take the following steps to protect LIHEAP applicants experiencing LIHEAP application processing delays.

a. Ensure that all households have full access the LIHEAP Crisis application process so that those with pending LIHEAP Cash applications can report an imminent loss of heat and receive a LIHEAP Crisis grant within 48 hours to prevent the loss of heat. Adequate staffing of the LIHEAP hotline and more offices equipped to handle in-person crisis requests are essential.

b. Allow households with LIHEAP applications pending at the close of the LIHEAP season to apply for LIHEAP Crisis at any point until their LIHEAP application is processed. This will work to avoid situations where households suffer loss of utility service or fuel oil while waiting for DPW to process their applications.

c. Require utility companies to suspend termination activity to any household with a pending LIHEAP application. Require utility companies to waive reconnection fees when a termination occurs to a household with a pending LIHEAP application.

d. Alert fuel vendors and utility companies whenever a household has a LIHEAP Cash application that has been pending more than 30 days. Alert fuel vendors and utility companies whenever a household has a LIHEAP Crisis application that has been pending more than 48 hours.

3. Run concurrent LIHEAP Cash and Crisis programs.

DPW has again proposed to separate the LIHEAP Cash and Crisis programs this LIHEAP season. This separation of LIHEAP Cash and LIHEAP Crisis creates confusion in the community and will deprive people of the opportunity to combine Cash and Crisis grants to prevent termination of utility service at one of the most crucial times of the LIHEAP season, the period before the Public Utility Commission's moratorium on utility terminations to low-income households. CLS strongly urges DPW to run both the LIHEAP Cash and Crisis programs throughout the entire LIHEAP season, as they did in every LIHEAP season prior to the 2008-09 season.

Crisis grants should be available throughout the LIHEAP season to help prevent the loss of heat in November and December, and avoid the costly and unsafe effects of utility service terminations. A utility customer who has been shut-off will be charged restoration fees to get service turned back on, will suffer lost time and wages to deal with the shut-off, will incur other costs in finding alternate sources of heating and power, and will likely resort to unsafe heat sources while in search of resources to restore service. LIHEAP applicants must have access to the full benefit of the LIHEAP program—both the Cash and Crisis components—at once in order to have the best opportunity to survive the winter without ever having to suffer in the cold without heat.

4. Require all utility companies to deduct the full LIHEAP Cash grant amount from the amount a LIHEAP recipient is asked to pay for utility service.

If lawful, section 601.45 of the State Plan allows some utility companies to use LIHEAP cash grants to pay the costs of the utility companies' Percentage of Income Payment Plan (PIPP) programs rather than deducting the LIHEAP grant amount from the recipient's utility bill. Section 601.45 is a complete departure from the rule in the 2010-11 State Plan which required all utility companies to apply LIHEAP cash grants directly to the amount each LIHEAP recipient was asked to pay. The new rule should be removed from the State Plan and the 2010-11 rule should remain for the following reasons:

a. Section 601.45 allows LIHEAP grants to be used in a way that brings no reduction to the energy burden of low-income Pennsylvania utility customers, in violation

of the federal LIHEAP statute. Other states have integrated LIHEAP with their utility discount programs in ways that bring significant reduction to energy burdens. Colorado, for example, has a maximum energy burden of 6% for low-income utility customers.⁴ There is a maximum energy burden in Pennsylvania of 17% of annual income.⁵ Section 601.45 will not provide PIPP customers in Pennsylvania with any relief from this tremendous energy burden and will subject PIPP customers to an increased risk of service termination, violating the purpose of the LIHEAP program and specific provisions in the federal LIHEAP Act. The federal LIHEAP statute specifically states that LIHEAP should be “furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income.”⁶ The purpose of this provision was to ensure that LIHEAP grants are used to reduce the amount those with the lowest incomes spend on energy.⁷ There is nothing in the State Plan to suggest that the use of LIHEAP grants to pay for PIPP programs will reduce the energy burdens of Pennsylvania CAP customers. Until Pennsylvania CAPs offer real affordability to low-income customers, LIHEAP funds should not be used to offset CAP credits and should be used to reduce the amount low-income customers are asked to pay, bringing their energy burdens closer to affordable levels.

⁴ 4 C.C.R. 723-3, 3412(h)(II)(B)(i); 4 C.C.R. 723-4, 4412(h)(II)(B)(i)

⁵ 52 Pa. Code §§ 69.261-69.267.

⁶ 42 U.S.C. § 8624(b)(5).

⁷ The section of the Act later codified at 42 U.S.C. § 8624(b)(5) was amended in 1994 to specify that LIHEAP benefits should be used to decrease the energy expenditures of those with the lowest incomes. The legislative history of the 1994 amendments makes it clear that LIHEAP is intended to reduce energy expenditures of those with the lowest incomes and recognizes that energy burdens of 15% of annual income are high and should be addressed:

This section also adds the concept of “highest home energy needs” to the current provision of the LIHEAP Act that **requires States to target their assistance in a way that provides varying levels of assistance for households depending on their incomes and energy burden (energy expenditures in relation to income).** For example, according to HHS, over 7 million eligible households have energy bills that exceed 15 percent of their annual income. **There is a need to focus on those households with the lowest incomes which are most drastically burdened and on those at highest health risk.**

* * * *

Looking at energy burden alone may not assure that LIHEAP assistance is truly targeted to households most in need. For example, two households may have energy burdens of 10 percent, but one household has an income of \$2,000 and the other has an income of \$10,000. **Clearly the household with the lowest income, as well as the 10 percent energy burden, will have the harder time meeting its immediate energy needs.**

S. Rep. No. 103-251, at 67 (1994) (emphasis added).

b. Section 601.45 will allow utility companies to take a PIPP customer's LIHEAP Cash grant and never apply it to the customer's bill, even when the customer needs the LIHEAP Cash grant to avoid termination of utility service. PIPP customers must be able to use their LIHEAP Cash grants to avoid the crisis of losing utility service necessary to keep their homes warm. DPW has had a sound policy of requiring utility companies to use LIHEAP Cash grants to resolve crisis situations before a LIHEAP Crisis grant is issued. Section 601.45 will reverse this policy and place PIPP customers at risk of losing utility service despite applying for and receiving a LIHEAP grant sufficient to settle their debts with the utility company.

c. Section 601.45 will treat some PIPP customer LIHEAP recipients adversely in comparison to non-PIPP customer LIHEAP recipients, in violation of the federal LIHEAP statute. PIPP customers will not be able to use their LIHEAP grant to reduce the amount they are asked to pay in order to bring their bills to an affordable level or to avoid a pending termination, while non-PIPP LIHEAP recipients will be able to use their LIHEAP grants to reduce the amount they are asked to pay, bringing their bills closer to affordable levels, or to avoid a service termination. This is a violation of the federal LIHEAP statute, which prohibits the adverse treatment of LIHEAP recipients whose LIHEAP grants are paid directly to an energy vendor.⁸ If PIPP customers were receiving affordable bills, similar to the low-income customers in Colorado who are required to pay no more than 6% of their annual income on home energy, then section 601.45 might provide a real benefit to PIPP customers. Unfortunately, PIPP programs in Pennsylvania do not provide anything close to the affordability offered in other states. With maximum energy burdens set in Pennsylvania at 17% of annual income, PIPP customers need full access to every dollar of their LIHEAP grants to be able to afford their utility bills and avoid service termination. Until PIPP programs offer low-income customers real affordability, section 601.45 will continue to result in adverse treatment of PIPP customers.

⁸ 42 U.S.C. § 8624(b)(7)(C).

5. If the rule in section 601.45 remains in the State Plan, clarify its terms to ensure that the rule is applied fairly and consistently by utility companies.

a. Section 601.45 should be amended to require all utility companies, regardless of whether they run PIPP or Rate Discount CAPs, to cancel termination notices or restore service for LIHEAP recipients whose LIHEAP Cash grant is equal to or more than the amount the utility company has requested to cancel the termination notice or restore service. No utility company should be allowed to collect a LIHEAP Cash grant that meets or exceeds a customer's debt and then terminate the customer's utility service or refuse to restore service for failure to pay the debt.

b. The rule in section 601.45 applies only to Percentage of Income Payment Plans and does not apply to Rate Discount Plans. The plan must give specific definitions of "Percentage of Income Payment Plan" and "Rate Discount Plan" in order to ensure that this new rule is applied accurately and consistently by utility companies across the state. While some utilities may provide what can be clearly considered a PIPP program or clearly a Rate Discount plan, other utilities have both PIPP and Rate Discount options, or have "Rate Discount" Plans that adjust discount levels to bring most customers' bills within targeted percentage of income energy burdens. How are these latter programs to be categorized? Implementation of this proposed policy change would be premature until these issues are clarified.

6. Remove the medical documentation requirement for expedited Crisis benefits.

Both federal law and DPW LIHEAP regulations make households in life-threatening situations eligible for expedited LIHEAP Crisis benefits.⁹ These expedited Crisis benefits must be delivered within 18 hours after an application for Crisis benefits is submitted. This year's proposed State Plan unlawfully and unreasonably restricts eligibility for expedited Crisis by requiring documentation of a medical emergency. This new requirement eliminates eligibility for households in non-medical life-threatening situations and adds unnecessary verification burdens for both applicants and the County

⁹ 42 USC § 8623(c)(2); 55 Pa. Code § 601.4(2)

Assistance Office. Documentation of a medical emergency was not required in the 2013 Plan, and should not be required now.

Life-threatening situations that require 18-hour Crisis assistance may include circumstances other than medical emergencies. For example, an individual's home may be in a damaged state that could be fixed with heat restoration or an individual may be trapped in his or her heatless home because of blizzard or other storm. Additionally, the burden of requiring documentation is too high, and will create an unfair barrier for individuals requiring assistance, while increasing the workload for caseworkers, as they collect and process more documentation. Particularly during a life-threatening situation, and in the midst of harsh winter weather, an individual cannot be expected to obtain medical documentation within 18 hours.

7. Remove the requirement that individuals must be eligible for LIHEAP Cash in order to get a Crisis Exception grant to restore their heat.

The LIHEAP Crisis Exception grant serves the LIHEAP program's most crucial purpose. It is meant to restore heat to homes that are cold. Because Crisis Exception grants are so vitally important, they should be at least as accessible to households as "regular" Crisis grants. DPW's proposed State Plan would make it harder for people to get a Crisis Exception grant to restore heat than it would be to get a "regular" Crisis grant to prevent the loss of heat. Under section 601.32 of the State Plan, Crisis Exception grants will only go to those who are also eligible for LIHEAP Cash. Under the traditional LIHEAP Crisis program, a household does not need to be eligible for a LIHEAP Cash grant in order to get a LIHEAP Crisis grant. There is no reason why Crisis Exception grants should only be available to those who are also eligible for LIHEAP Cash. This rule must change so that all households without heat can get a Crisis Exception grant to restore heat.

Households usually have both a main and secondary source of heat. For instance, households with gas heaters typically need electricity to keep those heaters running. For these households, gas is the main source of heat and electricity is the secondary source of heat. Only households that are responsible for their main source of heat are eligible for a LIHEAP Cash grant. Under the State Plan, only individuals who are eligible for LIHEAP

Cash will be eligible for the Crisis Exception grant. As a result of this proposed rule, households that only pay for their secondary source of heat will be ineligible for a Crisis Exception grant and will have to suffer the loss of heat until the regular Crisis program opens in January. For example, a mother with two kids who pays for the electricity that keeps the family's gas heater running, but whose landlord pays for the gas that is the main source of heat in the apartment, will be ineligible for a Crisis Exception grant. If her electricity is turned off on November 1, her heater will no longer work, but she will not be able to access the Crisis Exception program for help getting her family's heat restored.

In the event that the Crisis Exception program remains in the final State Plan, DPW must change the Crisis Exception eligibility rules so that all households without heat in November and December will have full access to the Crisis Exception program regardless of their eligibility for LIHEAP Cash.

8. Require utilities to restore service upon offer of a LIHEAP Crisis grant.

DPW should leverage the dispensing of millions of dollars in LIHEAP Crisis funds to require utilities to restore heat-related service when they are offered a Crisis grant. Currently, utilities have the discretion to refuse Crisis grants offered by applicants with balances greater than the grant. In practice, only a few utilities currently demand a "co-pay" in addition to the Crisis grant to restore or maintain service. These few utility companies sometimes ask for "co-pays" of hundreds of dollars. For uniformity, there should be a standard rule that all utility vendors must accept offers of Crisis grants for restoration of service or cancellation of shut off notices. The vendor contract should state that participation in the LIHEAP program requires vendors to restore heat related service to all applicants who assign a Crisis grant to the vendor and to stay any termination proceedings for 60 days from receipt of the Crisis grant or 60 days from April 1 (the end of the low income winter moratorium), whichever is later. Otherwise, applicants approved for Crisis grants could still suffer shut-offs or continued deprivation of heat in the winter, if utilities are allowed to refuse these grants that are meant to prevent shut-offs and restore essential heating-related utility service.

9. Remove the maximum \$1000 LIHEAP Cash grant to ensure that the greatest LIHEAP benefits go to those with the greatest need.

DPW's proposed \$1000 cap on LIHEAP Cash grants contradicts the federal Low Income Home Energy Assistance Act, which mandates that those with the lowest incomes and biggest energy burdens get the highest level of energy assistance.¹⁰ Under DPW's traditional Cash Grant formula, DPW attempts to satisfy federal law by giving the biggest LIHEAP Cash grants to those who live in the coldest areas of the state, have the highest fuel costs and the lowest household incomes. Only the most vulnerable households living in the most extreme poverty are eligible for LIHEAP Cash grants of more than \$1000. It is precisely these households who should not have their Cash grants reduced. Reducing the grant amounts to those with the greatest need for energy assistance will unfortunately, in some cases, precipitate the need for Crisis grants and act to place these most vulnerable households at even greater risk of losing heat in the winter. This is contrary to the purpose of the LIHEAP program and should be changed.

10. Make LIHEAP Crisis fully accessible to those too sick or disabled to leave their homes.

Disabled, sick, and elderly individuals are among those who have the most crucial need for LIHEAP Crisis benefits. They are more susceptible to illness or death when left in a cold house and are often unable to leave their homes to seek help or find warm shelter. Federal law recognizes the vulnerability of this population and requires that agencies administering LIHEAP crisis benefits accommodate disabled LIHEAP applicants and provide homebound applicants with a way to access LIHEAP benefits without leaving their homes.¹¹ Federal law also requires that LIHEAP Crisis applications be processed in 48 hours.¹² DPW currently provides no accommodations to disabled or physically infirm individuals so that they may be able submit a Crisis application and receive benefits in the same 48 hour time period as those who are physically able to leave their homes and apply in person at the LIHEAP administering agency. Currently, disabled applicants who are experiencing a home heating emergency and need Crisis

¹⁰ 42 U.S.C. § 8621(a); 42 U.S.C. § 8624 (b)(1)(A)

¹¹ 42 U.S.C. § 8623(c)(3)(B)

¹² 42 U.S.C. § 8623(c)(1)

benefits have the following inadequate options for applying for LIHEAP Crisis: 1) submit a paper or electronic application and wait for 30 days to get the application processed, 2) submit a paper or electronic application and then call the LIHEAP administering agency to report the home heating emergency, or 3) find a non-disabled person they can trust to walk into the LIHEAP administering agency's office to submit an application for them. None of these options works to consistently give disabled applicants equal access to the Crisis program. The following changes are needed:

a. Change the LIHEAP application so that an applicant can use it alone to get LIHEAP Cash and Crisis benefits. Currently, paper and internet LIHEAP applications provide no space for an applicant to indicate that they are experiencing a home heating emergency, so when the LIHEAP administering agency receives a disabled applicant's paper application in the mail, they have no information about whether the applicant is in need of Crisis benefits. The LIHEAP administering agency takes no steps to contact the applicant to determine if they are experiencing a home heating emergency and processes all paper and internet applications as applications for LIHEAP Cash. LIHEAP Cash applications are processed in 30 days. As a result, all paper and internet applications for disabled individuals with home heating emergencies are being processed in 30 days, not 48 hours. If the disabled applicant calls the LIHEAP administering agency to report the crisis, the application may be processed more quickly than 30 days, but it can only be processed once the agency receives the LIHEAP application, which will almost always take more than 48 hours.

b. Make home visits. Last year, when disabled and homebound individuals who had not yet submitted a LIHEAP application called the Philadelphia County Assistance Office and reported a need for LIHEAP benefits, the Philadelphia CAO referred those individuals to a number of social service agencies. These agencies were sometimes able to make home visits for LIHEAP applications. When the agency could not make the home visit, the entire burden was then placed on the disabled individual to find a way to get their application submitted. When DPW tells disabled applicants to find a trustworthy person who is able to travel to the LIHEAP administering agency to submit a Crisis application for them, DPW is providing no accommodation for the disabled applicant.

DPW must implement these changes to reach out to these vulnerable applicants in their own homes so that they are able to use the Crisis program just as all non-disabled applicants are able to utilize it.

11. Do not impose the unnecessary, costly, and time-consuming administrative burden of bench warrant searches and inquiries on LIHEAP application processing staff.

Section 601.31(2)(v) of the proposed State Plan will make individuals who have not been convicted of any crime ineligible for LIHEAP benefits if the Department determines, through some unknown process, that the individual is “fleeing prosecution” for a felony. This policy is not required by federal or state law governing LIHEAP benefits and will pose completely unnecessary administrative burdens on the County Assistance Offices, which will need to review each LIHEAP application to discover which individuals are actually and intentionally “fleeing” prosecution. The State Plan gives no direction to the County Assistance Offices on how to make these difficult determinations, risking inconsistent implementation of this rule across the state. The policy will also reduce LIHEAP grants for some households and could work to make some otherwise LIHEAP-eligible households ineligible for any amount of LIHEAP. As a result, this policy will directly contradict the federal LIHEAP Act, which requires states to make payments to households at certain levels of poverty and to give more LIHEAP to lower income households. CLS strongly recommends that DPW remove this rule from the State Plan.

12. Do not punish LIHEAP eligible individuals who live with ineligible LIHEAP individuals by giving them less than their fair share of a LIHEAP grant.

There are some households that include individuals who are eligible for LIHEAP as well as individuals who are ineligible for LIHEAP. Ineligible household members are excluded from household number but not household income. This penalizes the eligible members of the household by creating a smaller household with a larger income, falsely increasing the household’s percentage of poverty, unfairly decreasing the household’s chances of being LIHEAP eligible and reducing the size of the LIHEAP Cash grant the household may receive. If a LIHEAP household’s size is reduced by the number of

ineligible members who live in the household, the LIHEAP household's total countable income should also be reduced by the ineligible household member's share of the household's income. The resulting LIHEAP grant will be smaller than it would have been if the ineligible member was included fully, but the amount of the reduction would be fairly proportionate to the household's size and income.

The SNAP (food stamps) program does this. SNAP rules exclude ineligible household members from the household size and prorate the ineligible household members' income. So, if there are three people in a household and one person is ineligible, just 2/3 of the ineligible household member's income is counted as available to the two eligible household members. The ineligible household member's 1/3 share of the income is not counted because the ineligible household member is not counted as part of the household. Only the amount of income that can be fairly attributed to the two eligible household members is counted and SNAP benefits are issued for a household of two. The State Plan should be revised to exclude a prorated share of ineligible LIHEAP household members' income when determining a household's LIHEAP eligibility and grant amount. This rule will ensure that eligible members of the LIHEAP household will receive the LIHEAP they need. Using this SNAP rule in the LIHEAP program will also contribute to uniformity in CAO administration, reducing program errors.

13. Extend program start and end dates to ensure full access to LIHEAP benefits and proper administration of the LIHEAP program.

Many areas of Pennsylvania experience freezing temperatures long before November 1. To delay the start of the LIHEAP program until November 1 simply means that low income families will potentially fall behind on their utility bills even before the winter weather begins and before the Public Utility Commission's winter moratorium on low income utility terminations takes effect. This places low income families at risk of losing their utility service and heat for their homes even before the winter begins, placing in danger their physical health and the integrity of their property.

Cutting short the program at the end of the winter months adds to the risk that low income customers of regulated utilities will face termination of service at the conclusion of the winter moratorium. Given the startling increase in the number of service shut offs

by regulated utilities in the months immediately following the end of the LIHEAP program's closure, it is evident that there is a need in the community for the program's extension. Many utility shut-offs could have been prevented or reversed this past LIHEAP season if DPW had extended the LIHEAP season. Instead, the LIHEAP season closed with tens of millions of dollars that had not been spent.

Therefore, CLS recommends that DPW extend its dates for the 2013-14 LIHEAP program so that the Final State Plan includes a program start date of October 1, 2013 and a program close date of April 30, 2014.

14. Clarify that utility companies are required to establish or restore a household's service upon offer of a LIHEAP grant that covers at least 50% of the household's outstanding balance or their unpaid customer assistance program (CAP) bills, if less.

DPW's proposed section 601.31(2)(vii) of the State Plan allows utility companies to request 50% of a LIHEAP recipient's back balance from a previous address to establish service at a new address. This proposed section currently states as follows:

For customers whose service has been disconnected at their previous address and need services to be connected at their new address, DPW will allow a regulated utility to request 50 percent of the customer's back balance from the previous address and a reconnection fee in order to restore service. If a LIHEAP Cash grant is over 50 percent of the customer's back balance and reconnection fee, the regulated utility must apply the remainder of the Cash grant to a household's future bills. Utilities must also agree to keep service on through the moratorium and enroll the client in a CAP or budget program if the customer is eligible.

LIHEAP grants, to the greatest degree possible, should result in actual restoration or connection of utility service for eligible households. To accomplish this goal, this section should be expanded to apply to all customers seeking to turn on service and should be limited to 50% of the amounts the utility could actually charge or the sum of the household's unpaid customer assistance program bills.

In the situation in which a family is trying to establish service at a new address, service should be provided if the LIHEAP grant, together with any other available monies or assistance, is sufficient to cover 50% of the permissible balance which may be charged in such circumstances under Public Utility Commission regulations, plus connection fees.

Under regulations governing utility company collections, specifically 52 Pa. Code section 56.35, a public utility can only condition the establishment of service upon payment of an outstanding balance for which the applicant is legally responsible and which accrued in the preceding four years. This reasonable limitation should be provided for in the State Plan to ensure its consistency with other utility regulations, together with a clarification that only connection fees, not “reconnection fees,” can be charged since no reconnection fees are logical or permissible in establishing service at a new address.

Furthermore, Section 601.31(2)(vii) should be expanded to treat all LIHEAP families consistently, regardless of where they seek to establish service. Accordingly, this section should apply to customers who are seeking to restore service at the same address where service was terminated. For these customers, however, the right to catch up on unpaid Customer Assistance Program (CAP) bills should also be preserved and a utility should not be able to use LIHEAP funds to pay down a balance that could be forgiven under the utility’s CAP program. Accordingly, DPW should clarify that a vendor is **required** to restore service upon approval of LIHEAP benefits which, when combined with any other resources payable to the vendor to or on behalf of the eligible household equal or exceed the *lesser of* (a) 50% of the sum of the eligible household’s outstanding balance and reconnection fee, or (b) the sum of the household’s unpaid CAP bills (with any remaining balance placed into the applicable CAP program’s arrearage forgiveness account) and 50% of the utility reconnection fee.

For any household restored under this revised section, any portion of the LIHEAP benefits which remain following payment pursuant to State Plan section 601.31(2)(vii), should offset future bills, including any portion of the back balance that remains due or reconnection fee not satisfied at the time of connection or restoration of service. However, to ensure that such remaining LIHEAP benefits reduce actual heating expenses, the vendor should be required to offer, at a minimum, a 24-month payment agreement for such balance or, if more beneficial to the household, the most favorable payment agreement terms currently permitted under the vendor’s tariff, including CAP, arrearage forgiveness, or a budget plan. Absent such provisions, the State Plan would not guarantee restoration or connection of utility services for eligible households nor provide

them clear expectations regarding payment responsibility following the expiration of the winter moratorium.

Proposed Section 601.31(2)(vii) should therefore be modified to state:

DPW will require a vendor to establish or restore utility service to an eligible household upon approval of LIHEAP Cash benefits which, when combined with any other resources payable to the vendor to or on behalf of the eligible household, equal or exceed (1) 50% of the outstanding balance for which the applicant is legally responsible pursuant to 52 Pa. Code section 56.35 (in connection with establishment of service at a new address) or (2) the lesser of (a) 50% of the sum of the eligible household's outstanding balance and reconnection fee (in connection with restoration of service at the same address), or (b) the sum of the household's unpaid CAP bills (with any remaining balance placed into the applicable CAP program's arrearage forgiveness account) and 50% of the utility reconnection fee. No more than 50% of outstanding balance (plus 50% of the reconnection fees, if applicable) shall be recovered by the vendor from the LIHEAP Cash benefit in connection with the establishment or restoration of utility service to such household. Any portion of the LIHEAP Cash benefit which remains following payment pursuant to State Plan section 601.31(2)(vii), shall be applied to offset future bills. The vendor shall be required to offer a 24-month payment plan or, if more beneficial to the household, the most favorable payment agreement terms currently permitted under the vendor's tariff, including CAP, arrearage forgiveness, or a budget plan, to satisfy that portion of the outstanding balance (and reconnection fees, if applicable) remaining due from such household after crediting the LIHEAP Cash grant. Utilities must also agree to keep service on through the moratorium and enroll the client in a CAP or budget program if the customer is eligible.

15. Allow low-income small business owners to get the LIHEAP they need.

Section 601.31(2)(iv) of the proposed State Plan changes the eligibility guidelines under which low income small business owners are eligible for LIHEAP. These business owners, who are often eligible for other DPW benefits due to their low income, rely on the LIHEAP grant to assist in the often high costs associated with heating and cooling services to their homes. These same business owners are then rightfully able to deduct their utility expenses to help reimburse the costs they have expended in heating the portions of their homes that they use for their businesses.

One group of low-income small business owners that will be unintentionally, but detrimentally impacted by the proposed change is child care providers who provide child care services to children in their own homes. While the proposed change does not directly

address child care in its language, the change, in its breadth, could nevertheless have an unintended, detrimental impact upon child care providers. These owners have often recently come out of dire financial circumstances, and are attempting to create a business that can be both economically viable and fulfill an important communal need. Along with the several thousand dollars worth of expenses needed to start their businesses, providers also have to expend several thousand dollars throughout the year to maintain the costs of their business, with many providers experiencing shortfalls in income due to the high expenses associated with a child care business. Since their businesses are in their homes, the costs of upkeep overlap with home expenses, such as cooling and heating costs. DPW is now asking these providers to make the choice between deducting these expenses on their tax returns, or receiving assistance from LIHEAP to help cover these expenses. They should have both options available to allow them to recover the costs of providing a much-needed, but high-cost service to their communities. CLS strongly recommends that section 601.31(2)(iv) be removed from the State Plan to allow these low-income households access to the LIHEAP benefits they need to keep their homes warm.

16. Allow Households with Inoperable Furnaces Access to Crisis Interface Benefits.

DPW regulations make LIHEAP-eligible households eligible for Crisis Interface benefits for heater repair or replacement “if the household is without heat.” 55 Pa. Code 601.62(1). Section II of the Crisis Interface Component of the proposed State Plan states that if a furnace has been out of operation for two past heating seasons from the date of the application, the unit will be ineligible for Crisis services, because the furnace does not present an emergency. This provision contradicts the Pennsylvania Code, is unrealistic, unreasonable, and unfairly prioritizes certain individuals seeking assistance over others based on an arbitrary two-year timetable, and should be removed from the Plan.

The Crisis Interface program is very under-publicized. The most recent DPW LIHEAP flyers do not mention Crisis Interface. LIHEAP-eligible households are entitled to Crisis Interface benefits if needed to restore heat to the home, yet the LIHEAP application asks only if applicants are interested in a referral for weatherization services. It is very likely that there are many low-income households that have needed heater

repair and have not sought Crisis Interface benefits for two winters because they did not know the Crisis Interface program existed. Other households may have moved into the home of friends or family for the winter in prior years, but no longer can do so, or may have resorted to unsafe heating systems of candles or portable heating units, but now are too sick, immobile, or elderly to continue, and require furnace repairs. These circumstances in no way remove the emergency of a household's need for assistance with their furnace in the cold winter months, and individuals whose furnaces only recently became inoperable should not receive preferential treatment. All eligible individuals seeking Crisis assistance should receive aid, regardless of the length of time they may have suffered or coped with an inoperable furnace in the past.

17. Allow households to use their LIHEAP Crisis Interface grants to replace irreparable fuel oil heaters with natural gas heaters.

The 2013-14 State Plan should allow a Crisis Interface Program applicant to replace an irreparable furnace or boiler with the applicant's choice of either a gas or oil heater. Crisis Interface dollars are spent to replace irreparable heaters every year. Low income natural gas customers, unlike fuel oil customers, are protected by Pennsylvania law against service termination and are offered discounts through utility companies' Customer Assistance Programs. DPW should make the most use of Crisis Interface dollars by allowing households who need heater replacement to get these added benefits of natural gas heaters. At present, the Plan does not authorize conversions to a new heating source or delineate the factors that are to be considered when a Crisis Interface Program applicant requests a conversion. This has made it difficult for Crisis Interface applicants to have these requests approved. The State Plan should include a clear statement of DPW's policy in this area.

Funds made available to the Department of Community and Economic Development for operation of the Crisis Interface Program are currently administered under Department of Energy rules.¹³ The DOE rules provide for the changing or converting of

¹³ 2010-2011 DOE WAP State Plan, PA DCED, available at: <http://www.newpa.com/sites/default/files/uploads/Annual-DOE-State-Plan-2010---2011-Weatherization.pdf>

a furnace/appliance using one fuel source to another on a case by case basis¹⁴, but DCED has only granted a handful of requests in Philadelphia. DHHS, through DPW, can and should authorize conversion from one fuel source to another. A request to convert from one fuel source to another should automatically be approved when the applicant's furnace cannot be repaired, when the infrastructure for the conversion is present at the property, and when the applicant cannot afford to pay the high heating costs of remaining with the original fuel source because he or she is low income. When some or all of these factors are not present, a request to convert from one fuel source to another should be granted on a case by case basis. This analysis could include the comparative costs and benefits of converting, whether a conversion is necessary for the health of a household member, or consideration of other equities that would make fuel conversion a better choice for the household. Community Legal Services strongly recommends that DPW amend the State Plan to include this policy on heater replacement.

18. Administer the 2013-14 LIHEAP program with the intent to spend all 2013-14 LIHEAP funds.

DPW should clearly articulate that it does not intend to administer the program in a manner that will leave unexpended federal funds at the end of the 2014 Fiscal Year to be carried over into the following Fiscal Year:

There is clearly a present need for assistance that goes unmet when funds are left unspent. Many utility shut-offs could have been prevented or reversed this past LIHEAP season if DPW had spent the tens of millions of dollars that were still available at the close of the season. Additionally, DPW's failure to spend all of the Federal funds allotted to it in recent years undermines efforts to communicate to the Federal government the clear extent of the need in the Pennsylvania for more home energy assistance. Why should the Federal government sustain or increase funding levels if states like Pennsylvania do not spend the money allocated to them?

DPW claims it needs to carry over funds each year so it can maintain eligibility at 150% of the Federal Poverty Income Guidelines (FPIG) or higher at the beginning of the

¹⁴ 2009 DOE Weatherization Grant Guidance
Available at: <http://www1.eere.energy.gov/wip/guidance.html#wap>

next LIHEAP program year. We support the goal to maintain eligibility levels. However, DPW's policy assumes that carrying over Federal funds is the only way to achieve this goal. This is a false assumption. There are other, viable ways. One approach is for the Commonwealth to base its proposed State Plan on the more realistic assumption that LIHEAP will be funded at, a minimum, at last year's level through a Continuing Funding Resolution. Another option is to base its proposed State Plan on the expectation that Emergency Contingency Funding will be released during the program year as it has been released in the past. Finally, the Department and the Administration could call upon the General Assembly to provide a state supplemental fund dedicated to the administration of the program. This would enable DPW to spend all of the Federal funds for the purpose that they were intended: helping low income families deal with their immediate home heating needs during the present program year.

Given these reasons, CLS recommends that DPW include in the Final State Plan a clear directive that all of the Federal funds allocated for the 2013-14 program year will be spent by the end of the 2013-14 program year.

19. Request State Supplemental LIHEAP Funding.

Pennsylvania does not currently provide state supplemental funding for LIHEAP. It is one of the only Northeastern states that do not annually provide state supplemental funding to LIHEAP. State supplemental funding would stabilize the program from year to year by providing a consistent, controllable, and reliable funding stream not dependent on the political determinations of officials outside the Commonwealth. This kind of stability would improve the ability of DPW to administer the program and could enable longer program duration with higher benefit levels. CLS encourages DPW to formally and informally work with the Governor's Office and the General Assembly to secure at least \$20 million of state supplemental funding for the 2012-13 LIHEAP program.

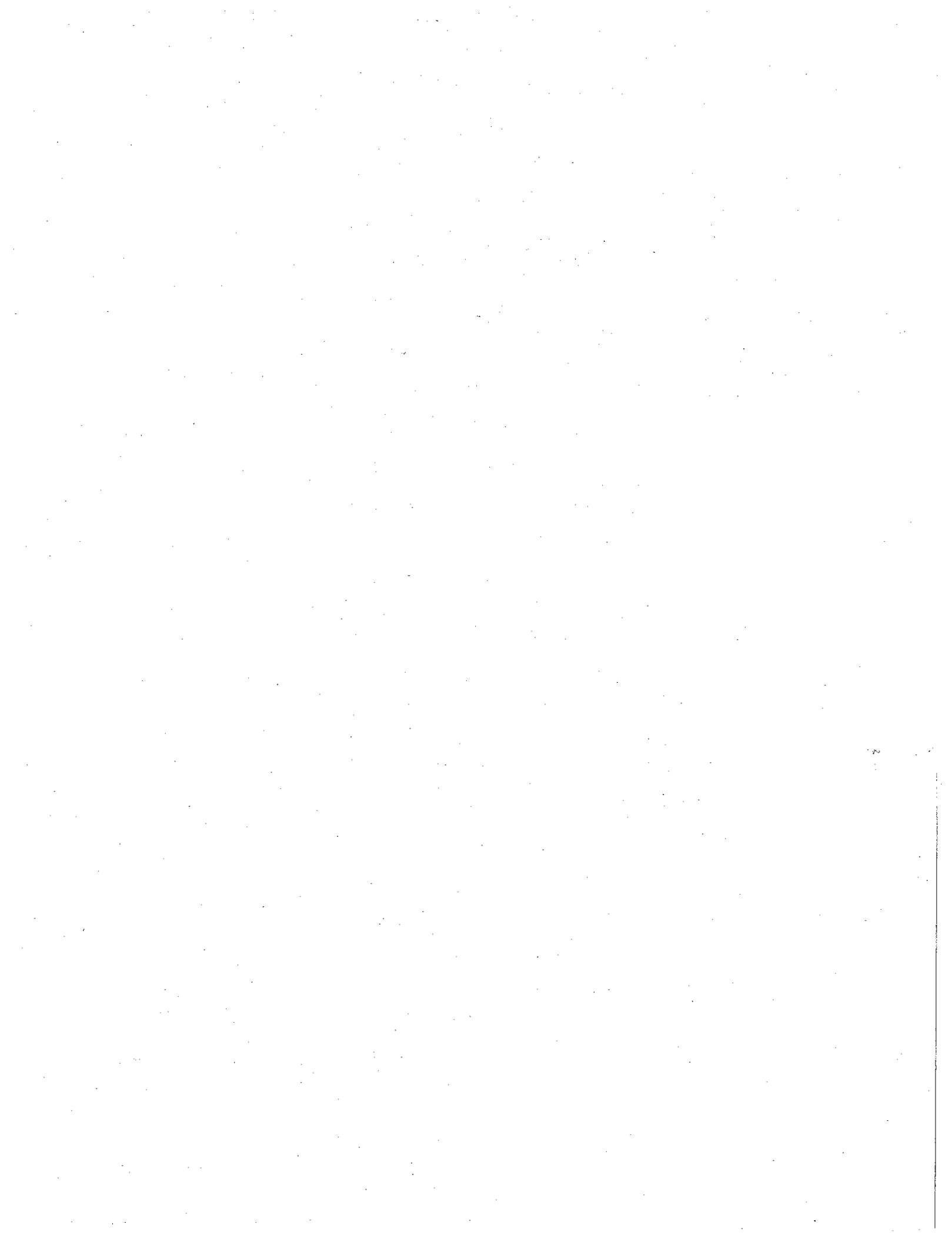
Thank you for the opportunity to provide these comments. CLS is available to discuss these points further with DPW.

Respectfully submitted,



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Testimony of Michael D'Amico

SEIU Local 668

July 9th 2013

Philadelphia, Pa.

I have worked for the Department of Public Welfare's LIHEAP program for 31 years. During my time in LIHEAP, I have never seen this program run as terribly and inefficiently as I did during the 2012-2013 season. What was the cause of all this inefficiency? The answer is DPW's idea of trying to integrate LIHEAP into a computer system along with cash assistance, medical and food stamps called Phase 4B.

When Phase 4B was implemented, DPW decided to give caseworkers, along with the regular energy assistance workers (EAW's) LIHEAP applications to process. The problem with caseworkers being assigned LIHEAP cases was that because they also have to do cash, medical and food stamps thousands of LIHEAP cases were not processed until several MONTHS after they were put into the computer system. In other words caseworkers were being overworked. In my humble opinion, DPW should not have put LIHEAP into Phase 4B because LIHEAP is currently not a year round function as are cash, medical and food stamps.

In order to avoid this backlog problem for the 2013-2014 LIHEAP season, DPW management, along with representatives from SEIU Local 668 need to find a solution to prevent this from ever occurring again. That should be the goal of DPW during the summer. It is not a good idea to delay the processing of LIHEAP applications, especially if recipients are out of oil or their utilities are either shut off or are being threatened with shut off. When people called our office regarding those emergencies and the EAW could not process the case because a caseworker has the application, it was a very frustrating situation for both EAW and client. Part of DPW's mission is to protect and serve Pennsylvania's most vulnerable citizens. It's time DPW backed up that mission and make improvements in the processing of LIHEAP cases.

Another issue I would like to address concerns the crisis program. I noticed that after a crisis case is processed that the crisis grant actually takes longer to get to the utility company than does the cash grant. This is another area that DPW needs to work on. It doesn't make any sense that a crisis takes longer to get to a utility company than cash grant. Ideally, it should be the other way around. After all, we are talking about a crisis situation where someone either needs service restored or are being threatened with service termination. Again, DPW needs to fulfill its mission to protect and serve Pennsylvania's most vulnerable citizens.

Another issue that I would like to address is LIHEAP funding. Some people have called our office asking why their cash grant was only \$100.00 instead of the \$300.00 it was a few years ago. Simply put, LIHEAP funding from Washington has been reduced the last few years causing these cutbacks in cash grant. With the sequester currently in place, there is the possibility that LIHEAP funding could once again be in jeopardy. That among other reasons is

why I call on the state legislature and Governor Corbett to come up with state funding for LIHEAP. Other states already have state funds supplementing federal funds for LIHEAP why can't Pennsylvania do likewise?

I believe that the only way to get state funding for LIHEAP is that there must be a statewide effort from all concerned citizens, groups and organizations to lobby the legislative and Gov. Corbett. They will most likely say that there is not enough money for LIHEAP, but I disagree. If Gov. Corbett and his friends in the legislative would start taxing corporations that don't pay any taxes at all, just maybe there would be funding available for LIHEAP among other things. With the possibility of the sequester affecting LIHEAP funds, we can't afford to sit around and do nothing, we all should take action ASAP!

Lastly, DPW officials should be ashamed that there is a backlog of 14,000 LIHEAP cases as of the end of the program on April 26, 2013. That is 14,000 families in danger of losing their basic necessities of heat, power and hot water especially for those with children and those with disabilities. For the 2013-2014 LIHEAP season, DPW must do a better job than was done in the prior program. They can do a better job by not only getting out crisis payments faster than last season, but also by assigning more LIHEAP cases to the EAPs and fewer cases to the overworked caseworkers. Now is the time for DPW to step up to the plate and fulfill its mission to protect and serve Pennsylvania's most vulnerable citizens. They deserve it!

Thank you

**Testimony of
Noel Duffy
Commission on Economic Opportunity**

**Low Income Home Energy Assistance Program
Fiscal Year 2014
Proposed State Plan**

July 9, 2013

Good Morning. My name is Noel Duffy. I am the Director of Special Projects for the Commission on Economic Opportunity. The Commission is both the LIHEAP Crisis and Weatherization provider for Luzerne and Wyoming Counties, and has been since the inception of the program. Thank you for the opportunity to provide comments on the LIHEAP Proposed State Plan for Fiscal Year 2014.

The Commission fully supports the proposed transfer of the full 15% of available LIHEAP funds to the Department of Community and Economic Development to support the Weatherization and Crisis Interface programs. While the LIHEAP Cash and Crisis components are vital in helping vulnerable Pennsylvania families pay for home heating costs, Weatherization has always been a long term solution to helping those vulnerable families deal with rising energy costs. Weatherization makes homes more energy efficient and also increases the health & safety and comfort level of residents' homes.

We would support the income limits at 165% of the federal poverty income guidelines so as to include the working poor. We are in favor of increasing the maximum crisis fuel benefit to \$500, which would enable minimum delivery quantities set by deliverable fuel vendors.

LIHEAP Crisis should operate from November 1st to April 30th at a minimum. The confusion over the start date of the Crisis Interface Program puts many families at risk. While the "exception program" may resolve some issues for crisis fuel payments, it causes confusion when applied to the Crisis Interface Program, or weather related emergencies. We recommend that there be no distinction in how the Crisis Interface Program operates from November 1st until January 2nd.

CEO does not have a discretionary fund available to assist clients that will apply for heating system repairs nights, weekends or holidays, if the Crisis Interface program does not begin until January. The local CAO does not provide on-call Crisis Interface intake after-hours for the first two months of the exception program.

Thank you again for the opportunity to present these comments. I am hopeful that they are considered in the establishment of the Final Plan.

**Commonwealth of Pennsylvania
Proposed Low Income Home Energy Assistance Program
Fiscal Year 2014
Department of Public Welfare**

**Public Hearing
July 17, 2013, 9:05 AM
Allegheny County Court House
Gold Room, Fourth Floor
436 Grant Street
Pittsburgh, PA 15219**

**Testimony of Sadie John Kroeck
Director, Customer Relations
Peoples Natural Gas Company LLC/Peoples TWP
375 North Shore Drive, Suite 600
Pittsburgh, PA 15212
(412)208-6556
Sadie.J.Kroeck@peoples-gas.com**

Good morning. Thank you for conducting today's hearing and for providing us with the opportunity to submit testimony regarding the proposed Low Income Home Energy Assistance Program (LIHEAP Plan) for Fiscal Year 2014. My name is Sadie John Kroeck and I am Director, Customer Relations, Peoples Natural Gas and Peoples TWP. I have worked for Peoples for 28 years. Peoples Gas/Peoples TWP serve approximately 410,000 customers in eighteen southwestern Pennsylvania counties. Our Department administers the companies' Universal Services Programs including LIHEAP which is an integral part of the Programs. We continue to collaborate with Columbia and Equitable Gas Companies to encourage eligible customers to apply for LIHEAP since it serves an essential role in providing assistance to our neediest customers.

We commend the Department of Public Welfare and the County Assistance Offices for all of their efforts in assisting those in need. You have a difficult task in balancing a multitude of priorities with limited and often uncertain funding.

Our comments today focus on the following areas:

- 2012-2013 Program Administration**
- 2013-2014 Proposed Program**
 - Crisis Exception Program**
 - DCED Weatherization Transfer**
 - Program Carryover Funds/Supplemental Grants**

- **Application of Benefits/Customer Assistance Programs (CAP)**

2012-2013 LIHEAP Program

In 2012, Peoples developed and implemented web portal access to facilitate the grant approval process for County Assistance Offices (CAOs). Several training sessions were held to review the process and a reference guide was sent to the Offices. Most CAOs used the portal and some used it quite frequently. There were 38 users from ten counties and the state who conducted almost 6,000 searches. We hope to expand usage for the next heating season.

We recently sent a survey to the County Assistance Offices regarding the use of the web portal and we encourage the agencies to complete the survey to assist us in planning for next year.

A meeting will be scheduled in early fall to conduct training and solicit input. Some agencies did not utilize the portal frequently and some of the employees were not aware of its existence. We encourage the CAO supervisors to share this information with their staff and to contact us for training or assistance. We welcome your input and suggestions on how to make this portal more effective for your needs.

No Wrong Door Policy

On October 18, 2012, DPW conducted a meeting to review its procedures for the 2012-2013 heating season. We were advised that consumers had a number of options to apply for LIHEAP including visiting an office, applying on line, by mail or fax. Further, if a customer visited an office that did not serve them, the application would still be processed. This was called the "No Wrong Door" policy. Unfortunately, we do not believe that this system worked as expected. We have had several instances where customers did, indeed, apply at another office and did not receive assistance in a timely manner. One customer applied in person at a County Assistance Office in December. This customer has two young children and did not have heat. The County Assistance Office did not contact the customer until the Company called the CAO. At that time, we were advised that they had submitted their application to the wrong office. This customer and several others did not have their applications processed until we intervened.

We are also concerned about the options to apply on line or by fax. There are many customers who do not have the means to use a computer or do not have access to a fax machine. There are times when the telephone lines are busy or are not answered. We would encourage DPW to review this procedure and provide better telephone accessibility to vulnerable populations.

In addition, Allegheny County modified its process in administering the LIHEAP Crisis program and there were some bumps in the road. Open lines of communication and ongoing training are essential components for a successful program. We understand that any new process takes time to implement. However, there were many elderly and vulnerable customers who did not receive assistance in a timely manner and there was much confusion on the program dimensions. There were instances during the last heating season where emergency situations were not resolved within the required 48 hours and we were asked to continue to defer termination of service.

For example, some customers were advised that they were required to submit a red tag for furnace repairs.

Another example that I would like to share involves an elderly customer with a broken furnace that was not repaired for three weeks, and only after we intervened.

Supplemental Grants

We were advised at the LIHEAP Advisory Committee in May, 2013 that there would be supplemental grants and that a decision would be forthcoming. As of today, we have not received any information about the supplemental grants.

Note that these were some of our observations from the last heating season and we look forward to continued dialogue to improve service on both sides.

2013-2014 Proposed LIHEAP Program Comments and Recommendations

➤ Policy Clarifications and Alignments

- We appreciate the clarification on eligibility for Crisis based on receipt of a cash grant as long as the customer has no change in household members or residence. We commend DPW for reviewing and addressing this issue.

➤ Opening and Closing Dates

We recommend that both LIHEAP and LIHEAP Crisis open on November 4, 2013 and if funds are available, continue the program until April 15, 2014.

Please consider extending the LIHEAP Program closing date to April 15, 2014 in order to allow consumers who are faced with termination of service to receive assistance.

➤ Maximum Crisis Grant of \$500

- We agree with this recommendation and believe it will provide much needed assistance for many low income households faced with heating-related emergencies.

➤ **Crisis Exception Program**

We strongly recommend eliminating the Crisis Exception Program and reinstating the Crisis Program with an opening date of November 4. For the past several years, DPW has implemented a Crisis Exception Program where customers with heating related emergencies may use their LIHEAP Cash Grant to alleviate the emergency. The purpose of the Crisis program is to mitigate emergency situations and the LIHEAP Cash Grant program is designed to provide assistance with winter heating bills. Both grants should be used accordingly rather than using the Cash grant for emergency situations. The Crisis Exception Program is very confusing to customers who are faced with both high winter heating bills and emergency situations.

Further, we are in agreement with other utilities and the Energy Association of PA's testimony and we firmly believe that a termination notice does, indeed, represent a Crisis and should be criteria for Crisis, any time of year.

➤ **Income Guidelines**

We agree with the Department's proposal of an income limit of 150% of the Federal Poverty Level (FPL) as those guidelines are consistent with other low income programs. In an ideal world, the income level would be increased to serve all at risk populations but DPW has a monumental task in trying to

balance the needs of low income customers with limited and uncertain funding. This proposal takes into consideration those factors.

➤ **Communication/Training**

Communication is essential to conducting a program that is in concert with federal guidelines while providing the assistance to our most vulnerable populations. It is quite an undertaking to try to develop a program each year with uncertain funding. We believe that an open dialogue with DPW, LIHEAP Advisory Council (LAC) and other stakeholders prior to the submission of the proposed State LIHEAP Plan can be beneficial for all parties. We would be willing to participate in a pre-planning meeting with LAC when DPW is developing the proposed state plan.

As noted earlier, in order to implement the program the way it was designed, additional training is necessary. We appreciate the open dialogue with DPW including the ongoing updates on the backlog and the information that is available on the Agency's website.

I would like to reiterate another area of concern: telephone accessibility in Allegheny County. Has consideration been given to providing one telephone number for Allegheny County? It was very confusing last year—some numbers were not activated, many customers were unable to reach an employee, and calls were not returned in a timely manner. Telephone

inaccessibility is a barrier to the application process for both clients and the vendors.

➤ **Weatherization Transfer**

In the State Plan, DPW proposes to allocate up to fifteen percent (15%) of Pennsylvania's LIHEAP block grant to the Department of Community and Economic Development (DCED) for weatherization services. Peoples is a strong supporter of weatherization programs and has increased its budget to assist additional customers. We suggest that the LIHEAP funds would be better utilized to assist households in maintaining their heating service.

➤ **Program Carryover Funds**

For the past several years, there have been excessive carryover funds. Some of the suggestions made today may be implemented to reduce that carryover. We understand the necessity of maintaining funding for the following heating season; however, we are concerned that continual carryover sends the wrong message to the federal government. PA does have a need for these funds and many more customers could be served by finding better ways to utilize funding during the time period when the program is available.

➤ **Application of Benefits**

The Department has done a very good job with researching a proposal for application of the LIHEAP grant for customers who participate in regulated utilities' Customer Assistance Programs. We commend the Department for developing a recommendation to allow LIHEAP grants to post to customers' CAP credits. While the proposal was included in last year's State Plan, no further discussions were held and the program has not been implemented to date. We would very much appreciate the opportunity to discuss the proposals for the application of LIHEAP grants to CAP accounts so that any changes can be implemented in a timely manner. The proposed plan will require extensive IT system programming for both Peoples and Peoples TWP. While we will make every effort to modify our IT systems accordingly, both Peoples and Peoples TWP have new billing systems and these modifications must be built into them. We would appreciate the opportunity to meet with DPW to discuss the options for successful implementation.

CONCLUSION

We recognize that there are numerous challenges in administering a program that has many variables including an inconsistent federal funding allocation and we commend you for your efforts in

administering LIHEAP. It is very difficult to balance the needs of many divergent groups. We also believe that it is important to provide essential service to our neediest and most vulnerable populations and commend the Department for balancing all of these factors. As always, we encourage the State to review methods to supplement the federal allocation for the LIHEAP program through state funds.

Regulated utility companies support LIHEAP and provide leveraging dollars through all of the programs that they administer. We continue to support the development of programs to assist customers and reiterate our recommendation that the state consider adopting a state program to assist customers with their heating bills.

As mentioned earlier, we would like to stress the importance of maintaining open lines of communication and support continued dialogue especially as it pertains to the implementation of programs that affect our most vulnerable populations.

As a member of the Energy Association Pennsylvania (EAP), we fully support the comments that were submitted on July 11, 2013 and request that serious consideration be given to their recommendations.

I would be happy to respond to any questions. Thank you for your time today.



Testimony

of

Duquesne Light Company

411 7th Avenue

Pittsburgh, PA 15219-1905

on the

Commonwealth of Pennsylvania

Low-Income Home Energy Assistance Program

Fiscal Year 2014

Proposed State Plan

Public Hearing

Allegheny County Courthouse

July 17, 2013

Presented by

Colleen Mackin

Manager, Credit & Collections and Universal Services

Department of Public Welfare

LIHEAP Testimony

Good Morning. I am Colleen Mackin, Manager of Credit & Collections and Universal Services at Duquesne Light Company. Our Department operates the low-income assistance programs for Duquesne Light customers. I would like to take this opportunity to thank you for allowing me to speak on the Low Income Home Energy Assistance Program. I would also like to thank you for allowing our Company to testify on these important issues. Like other organizations you will hear from today, we share the same common objective which is to assist low-income customers in gaining access to energy assistance funding that is available to them.

As you may know, Duquesne Light provides electric service to approximately 526,000 residential customers in both Allegheny and Beaver Counties in Southwest Pennsylvania. According to 2010 Census data, there are approximately 127,000 verified low-income customers who would qualify for LIHEAP benefits within Beaver and Allegheny County. During the 2012-2013 program year, Duquesne Light received over 13,400 LIHEAP grants with the average household receiving approximately \$250.00 per grant.

Duquesne's testimony will focus on the following topics:

- Changing the allocation of remaining program funding to LIHEAP Cash rather than providing weatherization services;
- Combining both Crisis and Crisis Exception programs into one program for customer clarity as well as opening LIHEAP Cash and Crisis programs on October 1st;

- Changing the Application form to allow customers to split LIHEAP Cash payments between utilities;
- Modifying the requirements of the Crisis benefits for energy supply shortage emergencies to include delinquent balances as a danger to being without heat;
- Eliminating requirement in 601.31 to only allow the utility to request 50 percent of the customer's back balance from the previous address and reconnection fee in order to restore service. If a LIHEAP Cash grant is over 50 percent of the customer's back balance and reconnection fee, we are requesting the remainder be applied to the back balance rather than future bills;
- Modifying 601.61 to reduce the termination hold upon receipt of a Crisis grant to 30 days following the resolution of the crisis.

Remaining program funding should be allocated to LIHEAP Cash as opposed to standard weatherization

The LIHEAP proposed State Plan references funds not expended on designated programs have been or will be used to provide standard weatherization. Duquesne suggests this funding be allocated to LIHEAP Cash or LIHEAP Crisis to better serve customers immediate need to assist in bill payment and their home energy needs. According to the 2011 Universal Service Programs and Collections Performance Report, Pennsylvania utilities spent over \$40 million dollars on LIURP programs and were projected to spend over \$44 million in 2012. In addition to the funding as part of Universal Services, PA electric utilities now have weatherization programs for low income customers as part of Act 129. In addition to those programs, the Department of Energy has funded the Weatherization Assistance Program (WAP) available to low

income customers across the United States to provide additional weatherization to this customer segment. Due to the large amount of funding available and already allocated to weatherization, Duquesne believes any unspent funding could better serve customers in crisis or to maintain utility service.

Combining both Crisis and Crisis Exception programs into one program and opening LIHEAP on October 1st

Duquesne suggests combining the Crisis Exception program and Crisis program into one program. Customers are often confused by the two separate program eligibility and requirement rules and when they qualify and can apply for the funding available. One program would provide clarity and allow customers in threat of termination to apply for assistance prior to service termination. It would also allow customers to access funding at the time of the crisis when they are unable to pay their bill rather than when several bills could have accumulated causing them to wait until the threat of termination. Customers could also access this funding earlier to help stay termination, continue to heat their home and maintain bill affordability throughout the winter period. This change would also aid in the Commonwealth's policy to reduce the number of customers without utility service prior to the cold weather season.

Opening LIHEAP October 1st would allow more time for customers to make arrangements and file applications. If there is a processing delay, opening in October would allow DPW more time to review the applications and might also help customers attain funding before the onset of colder temperatures. Duquesne would also suggest the programs open October 1st to coincide with the opening of utilities' hardship funds. By implementing these plans to coincide with each other, it would achieve the maximum benefits available to the customer and possibly reduce confusion among customers and utilities.

Changing the LIHEAP Application form to allow customers to split LIHEAP Cash payments between energy sources

DPW already permits customers to split Crisis payments between utilities. Duquesne recommends adding an additional section to the LIHEAP Cash grant application that would allow a customer to appropriate a percentage of the approved grant to separate utility services. This designation would allow for the grant to possibly satisfy a customer's immediate need for home energy assistance to maintain services for oil, gas and electric and bring all utility bills current rather than being appropriated to only future bills for one specific utility. This could leave the customer still in need of assistance to satisfy other energy needs.

Modify the requirements of the Crisis benefits for energy supply shortage emergencies to include delinquent balances as a danger to being without heat

Duquesne suggests considering a delinquent balance as a danger for being without heat. Termination notices are sent at the discretion of the utility. Customers could be delinquent and in need of assistance prior to the receipt of a termination notice. Providing the customer the ability to apply for this funding earlier may allow for the crisis to be minimized by reducing a possible shortened time period they may have had to apply for Crisis prior to the end of the program year. For example, the customer may have a delinquent balance as of January but the utility may not send them a termination notice until February or March before the moratorium ends. The customer could have applied in January when funding for Crisis was still available. Receiving the termination notice in March does not provide the customer ample time to apply as the program typically closes in early April. Delinquent balances ultimately lead to the threat

of termination and signify a danger at the point of accumulation. Duquesne Light suggests this be considered the starting point of the crisis for the customer and treated as such.

Eliminating requirement in 601.31 to only allow the utility to request 50 percent of the customer's back balance from the previous address and reconnection fee in order to restore service and only allowing 50% of the LIHEAP grant to be applied with the remainder being dedicated to future bills

Duquesne Light suggests DPW amend its current rules outlined in 601.31 to allow utilities to apply the entire LIHEAP Cash grant to the customer's arrears, then future charges. When a LIHEAP Cash grant is over 50 percent of the customer's back balance and reconnection fee, Duquesne is requesting the remainder be applied to the back balance rather than future bills. The delinquent balance would transfer to the new account and be due by the customer in the next billing period upon receiving service. By not allowing this funding to be applied to back balances, customers need to find other methods to make payment in full to stop the termination process for the outstanding balance. Allowing the grant to apply to the back balance and reconnection fee would provide the greatest benefit to the customer. If funding is left remaining after that point, Duquesne would agree to apply the grant to future bills.

Modify 601.61 to reduce the termination hold upon receipt of a Crisis grant to 30 days following the resolution of the crisis

Low income customers are already afforded protections from termination under Chapter 56 of the PA Utility Code during the winter heating season lasting between December 1st and March 31st. Duquesne agrees and supports holding action for 30 days

to remove the imminent threat of loss of service. Duquesne suggests changing the requirement of holding termination 30 days or to May 1st whichever is later. To coincide with other regulations, Duquesne suggests changing the date from May 1st to April 1st. If the customer is still struggling with home energy needs, changing the date to April 1st allows the customer time to apply for other assistance funding prior to the closing of assistance programs or depletion of funds.

CONCLUSION

Duquesne acknowledges that the Low Income Home Energy Assistance Program has made great strides in assisting customers. In order for this Program to continue to be successful, adaptation to changing needs must be made. One way this can be achieved is to consider the testimony that I have presented here today as well as the testimony provided by other concerned utilities striving to achieve the common goal of helping our customers. I would like to again thank both the Department of Public Welfare and the LIHEAP Advisory Committee for their ongoing effort to develop and improve the LIHEAP Program and for giving me the opportunity to speak in this forum.

Thank you

Testimony of

Columbia Gas of Pennsylvania, Inc.

On the

**Proposed Pennsylvania State Plan
Fiscal Year 2014**

For the

**Low-Income Home Energy Assistance Program
(LIHEAP)**

July 17, 2013

**Presented by: Elizabeth A. Focer-Repman
Columbia Gas of Pennsylvania, Inc.
121 Champion Way
Canonsburg, PA 15317
(724) 770-1711**

Good morning and thank you for the opportunity to provide remarks on Pennsylvania's proposed State Plan (Plan) for the Low Income Home Energy Assistance Program (LIHEAP) for fiscal year 2014.

My name is Elizabeth Focer-Repman; I work in the Universal Service department at Columbia Gas of Pennsylvania, a NiSource company. I am here today on behalf of Columbia – and the more than 383,000 residential customers that we serve across 26 counties -- to specifically address Pennsylvania's proposed Plan and discuss portions of the Plan that Columbia believes require revision. These remarks are a collaboration of the extended Columbia team, my own twenty-seven plus years of experience, and feedback from countless other groups and organizations dedicated to assisting low-income customers.

The primary objective of LIHEAP is to ensure all Pennsylvania families are safe and warm in their homes when they need heat. Some of the policies continue to create barriers to achieving this goal. For instance, the Department made a policy interpretation to use CASH grants, first, to reconnect utility service in the fall. Only then, if necessary, CRISIS grants were awarded. This precluded utility customers from accessing their potential, full energy assistance (CASH and CRISIS) benefit. In addition it created a situation where the CASH grant is used to resolve a crisis situation leaving no funding to cover their current usage, the real intent of the CASH program.

We support the Department's proposal to raise the maximum CRISIS grant to \$500.00. Likewise, we recommend raising the minimum CASH grant from \$100.00 to \$300.00 to ensure at least one month's winter heating bill is covered.

While the federal LIHEAP funding is still pending, it is important for Pennsylvania to plan for both a worst- and best-case scenario. A contingency plan needs to be in place to efficiently utilize the funds at the time of their arrival, not after-the-fact. For the past three heating seasons, supplemental checks have been issued.

Though easy to administer, they do not consider the energy needs of the customer. Grants should be used for winter bills, when lack of heat is life threatening; not over the warm days of summer.

Columbia Gas wants to partner with the Department to improve operational efficiencies and to ensure those that need the service know when and how to apply for LIHEAP. Inconsistent processes and policy interpretations, by county assistance offices (CAO), has led to, in some areas exceptional customer service and in other areas long lines, impatient workers, slow application response time and, ultimately customers not being served without third-party intervention.

One policy interpretation is the understanding by some CAO's to require proof of a crisis situation, rather than the policy of expecting documentation as part of the Promise System entry. As a result, Columbia Gas must send proof to the CAO and follow up with the same proof to the Harrisburg administrative offices before the customer receives a CRISIS grant.

Because Columbia Gas works with 26 county assistance offices, an adoption of a consistent method for verifying information and approving customer grants throughout the state would help to insure no customers fall through the cracks and receive the assistance they need in a timely fashion.

There was a time when utility representatives were invited to a CAO LIHEAP director meeting/training to discuss policy and procedures before the program started. This was very valuable in ensuring that all involved are aware of any changes, policy interpretations and provided an opportunity to share information between vendors and CAO's. Columbia Gas would be willing to sponsor a similar event before this heating season.

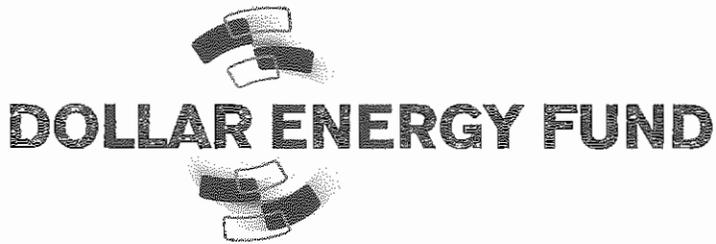
The department's emphasis on using COMPASS, though more efficient, has the potential to create risk to its most vulnerable recipients. Columbia is aware of

some customers who applied by mail and could not receive a CRISIS application until the application was found and processed, resulting in more than a week without service. A back up plan, for all CAO's, needs to be formalized and communicated.

Columbia Gas respectfully suggests that you hold Webinars for community agency workers to better serve our low income customers when using compass. Specifically, all applicants need to be aware of the importance of correctly identifying their current service status. As an example, an application will not be processed in a timely manner unless it indicates service is "off".

As we have stated in prior years, Columbia Gas welcomes the opportunity to partner with the Department to improve operational efficiencies, create productive communications and increase awareness of LIHEAP.

Thank you for allowing us to comment on the proposed Plan we welcome the opportunity to meet with you to discuss these recommendations in detail.



Proposed
LIHEAP
State
Plan

Fiscal Year

2014

Dollar Energy Fund Testimony on Pennsylvania's Proposed LIHEAP
State Plan for Fiscal Year 2014

Delivered:
July 17, 2013

My name is Mary Sally and as the Director of Programs for Dollar Energy Fund, I appreciate the opportunity to comment on the 2014 proposed State Plan. Dollar Energy Fund is the largest fuel fund in Pennsylvania and each year we assist thousands of low-income utility customers with their utility bills.

Dollar Energy fund has been providing utility assistance to low-income Pennsylvania households since 1983 and during that time we have provided nearly \$100 million in utility assistance grants. As a non-profit organization providing energy assistance grants to customers, we see first-hand the need to combine resources where and when it is possible to maximize the benefits available to households and ensure that they have safe, adequate utility service.

Although Dollar Energy Fund and LIHEAP are administered separately, by jointly considering the regulations impacting low-income households and establishing program parameters that deliver the greatest impact, we can eliminate crisis situations for more low-income households than either could do independently.

After reviewing the 2014 proposed LIHEAP State Plan, I would like to submit the following comments and recommendations.

FY 2014 Program

Proposed Program Parameters

DPW proposes opening both the cash component and the Crisis exception program on November 4, 2013.

Dollar Energy Fund recommends eliminating the Crisis exception program and opening LIHEAP cash and regular Crisis on October 1, 2013 to coincide with the opening of Dollar Energy Fund's 2013-2014 Program Year.

By continuing to operate a Crisis exception program until January 1st, DPW is making it impossible for customers of regulated utility companies to receive help to stop the termination of their utility service prior to the start of the winter heating season. By opening the regular Crisis program on October 1st, DPW would make it possible for customers of regulated utility companies to combine their Crisis benefit with a grant from Dollar Energy Fund to maintain utility service going into the winter heating season.

Last year, between October 1st and November 30th, Dollar Energy Fund processed 2,092 applications for customers whose gas or electric service was in threat of termination. During that same time period, 235 customer's applications were denied because they needed more than Dollar Energy Fund was able to grant to stop their termination. By opening regular Crisis on October 1st, those customers needing additional resources could combine their Crisis grant with their Dollar Energy Fund grant to maintain their gas or electric service.

DPW proposes opening regular Crisis on January 1, 2014, and closing the program on April 4, 2014. Section 601.108, Proof of Energy Crisis, states "termination notices issued by regulated utility companies from December 1 through March 31 are not proof of a home heating emergency".

During the 2013 fiscal year, DPW began accepting termination notices on February 1st. Dollar Energy Fund is recommending that the 2014 State Plan clearly state that the regular Crisis program will open to customers with termination notices on February 1, 2014. This will enable gas and electric utility customers with termination notices to again combine the resources of Dollar Energy Fund with their Crisis grant and maintain their gas or electric service.

If DPW does not begin accepting termination notices as proof of a home heating emergency prior to March 31st, they will have limited the ability of gas and electric utility customers to apply for a Crisis grant to a 4 day window of time.

Between February 1, 2013, and March 31, 2013, Dollar Energy Fund received 1,677 applications for assistance from customers of gas and electric utility companies who had received termination notices. During that time period, 256 customers had their application for assistance denied because they needed an additional payment to maintain their gas or electric service. Opening the Crisis program to termination notices on February 1st would enable these customers to combine the resources available through Crisis and Dollar Energy and maintain utility service.

We would also recommend that the Crisis Program be extended until April 30th to enable households whose utility service has been shut off sufficient time to apply for a Crisis grant. If the Crisis program is not extended beyond April 4th, customers who have their gas or electric service shut off would have at most 4 days in which to apply for a Crisis grant.

Our final recommendation would be to increase the minimum LIHEAP grant from \$100 to \$200. In today's economy, \$100 does not provide sufficient assistance to low-income households struggling to meet their basic living needs.

In conclusion, we would like to say that during a time when we are seeing more applications for assistance than in prior years, we find it unacceptable to continue to carry-over the substantial amounts of money that we have seen recently with LIHEAP. Eliminating the Crisis exception program, accepting termination notices on February 1st, extending the Crisis program until April 30th and increasing the minimum cash grant to \$200 should provide assistance to those in need and reduce the amount of funds that would be carried over.

I would like to close by thanking LIHEAP, its staff and administrators for their commitment to the low income families and individuals throughout Pennsylvania. The services and funding LIHEAP provides is a lifeline for these families.

We also appreciate the opportunity to express our views and share our comments. Please feel free to contact Dollar Energy Fund if additional comments are necessary.

Thank you.

Testimony

on the

Commonwealth of Pennsylvania
Low-Income Home Energy Assistance Program
Fiscal Year 2014
Proposed State Plan

Public Hearing
Allegheny County Courthouse
July 17, 2013

Equitable Gas

reliable by nature

225 North Shore Drive
Pittsburgh, PA 15212

Submitted by:
Sandra L. Gagorik, Manager
Universal Service & Community Outreach

Good morning. My name is Sandra Gagorik. I am the manager of the Universal Service & Community Outreach Department for Equitable Gas Company, LLC (“Equitable Gas” or “Company”).

Equitable Gas provides natural gas service to approximately 260,000 customers in 10 counties in southwestern Pennsylvania. About 18 percent of our residential customers are at or below 150 percent of the Federal Poverty Level. Identifying, educating and assisting our low-income consumers in obtaining all available financial assistance is an essential function of the Universal Service & Community Outreach Department and a priority for our Company.

I would like to thank DPW for the opportunity to submit comments on the proposed 2014 LIHEAP State Plan. My testimony today will focus on the following areas:

- Crisis Exception Program
- Resolve Crisis Situations in 48 Hours
- Minimize Carryover Dollars
- Increase Grant Amounts
- Set Aside Funds for the Spring Crisis Program
- Improve Crisis Processing Efficiency
- Weatherization Transfer
- LIHEAP and CAP Integration

Crisis Exception Program

The LIHEAP State Plan defines the two components of LIHEAP as (1) a cash component to assist with home heating and (2) a crisis component to resolve weather-related, supply-

shortage and other home-heating emergencies¹. The Plan further states that a crisis includes a household that is in imminent danger of being without heat².

By contrast, the definition of Crisis Exception Benefits³ states households may qualify if their main or secondary heating source has been completely shut off or the household has almost run out of its supply of main heating fuel prior to the opening of the regular crisis program. Equitable Gas questions why there is a disparity between how regulated utility and heating fuel consumers are treated. A regulated utility consumer with a shut off notice in November is in danger of losing their heating source in the same way as a deliverable fuel consumer who has almost run out of fuel.

The Crisis Exception Program does not serve the Commonwealth's vulnerable households in the manner outlined in the Department's mission. Not only is it confusing to consumers, but it creates an inequity between regulated consumers and those using deliverable fuels during a period when both may be in danger of losing their heating source.

Should you decide to forego the comments of those opposed to the Crisis Exception Program, Equitable strongly suggests that you publicize the program externally as "Crisis" to avoid confusion by the general public. There were multiple incidents in 2012 of consumers and agencies not understanding help was available from Crisis prior to January 2, 2013. We also suggest more emphasis on staff training in Allegheny County related to assisting with heating repairs. There were several incidents of misunderstandings that resulted in delayed response to those needing assistance with broken heating equipment. Some clients were told to provide three bids for the repair of the inoperable equipment. Others were instructed to provide the red tag and at least one client was informed Crisis could not help with the repair of gas lines. Let me

¹ §601.4

² §601.32 Regular Crisis Benefits

³ §601.32 Crisis Exception Benefits

emphasize the staff in Allegheny County was very courteous and as helpful as they could be, but there appeared to be confusion regarding policies and procedures.

Resolve Crisis Situations in 48 Hours

In order to effectively resolve a Crisis within 48 hours, DPW staff must be aware of the situation. There are no instructions to add a comment that utility service is off or the heating system is not operable for those completing electronic applications through Compass. For consumers attempting to complete, or deliver, a LIHEAP application in person at a county assistance office, there was not always someone to accept the application or signage designating a separate area to place the application if the household was without service or in need of heating repairs. Nor were there any instructions on the applications or a sign instructing the applicant to note at the top of the application the specific crisis.

As a result, clients in need of crisis assistance may not have received timely response without the intervention of others. As those in the Allegheny County LIHEAP office are aware, there were several calls from my staff and other utility companies to check on the status of a customer needing repair assistance. In some cases when the application was located, we were informed there was no notation of a crisis on the application. Those who are familiar with Crisis understand how it operates; however, without instructions, the average consumer may simply assume that someone will contact them. Last year, Equitable Gas requested DPW add a check box on the application to indicate utility service off, fuel supply depleted or repairs needed. Although it was probably too late at that point to change the application, I am hopeful that the suggestion was considered for this year.

Minimize Carryover Dollars

DPW has substantial unspent funds and is again contemplating the issuance of supplemental grants. Last year, Equitable Gas suggested DPW and the LIHEAP Advisory Council (LAC) enter into discussions to establish alternative plans that can be efficiently implemented. In February, DPW shared a budget based on projected participation showing \$19.7 million would be remaining after the program closed. In May, the projected unspent dollars increased to \$25.4 million. Now, it is probably closer to \$31 million.

We recognize the difficulty in designing a plan prior to Congress finalizing the federal LIHEAP allocation and then dealing with funding changes that often occur throughout the LIHEAP season. Equitable Gas is also concerned that substantial unspent funds on an annual basis sends the wrong message to Congress and makes it very difficult for our elected officials to advocate for higher LIHEAP funding levels. We understand there is a delicate balance between providing heating assistance to those in need and depleting funds before the end of the heating season. Developing a budget based on what is often a moving target is not an easy task. However, waiting until the end of the season and then distributing what is left is not a viable solution. Consumers need the grant during the heating season to offset heating costs. So, again, we strongly suggest developing alternative plans before LIHEAP opens to deal with funding changes.

Increase Grant Amounts

Equitable Gas applauds DPW's proposal to raise the maximum Crisis grant from \$400 to \$500 for the 2013-2014 program. This is a welcome change. The Company, however, believes the \$100 minimum LIHEAP cash grant is insufficient to offset home heating costs and should also be increased. According to the LIHEAP benefit table for FY2013 (for Allegheny County

homes heating with natural gas), all eligible households with annual incomes exceeding \$14,000 would have received the minimum \$100 LIHEAP grant. This grant barely provided assistance with a **one month** heating bill during last winter. The most recent statewide data report shows there were 145,045 households that would have received the minimum \$100 LIHEAP grant. Increasing the minimum grant to \$200 would have lowered the carryover by \$14.5 million and provided a more reasonable grant to offset winter heating bills. Equitable Gas urges DPW to consider raising the minimum grant to \$200 to avoid large carryover dollars and provide a more adequate level of assistance when it is most needed.

Set Aside Funding for Spring Crisis Program

Equitable Gas recommends DPW establish a budget that includes a percentage of the available dollars for regulated utility consumers who receive shut off notices after February 1, 2014. This approach is consistent with Pennsylvania Statute 66 Pa. C.S. §1406(g) which states “A notice of termination to a customer of a public utility shall be sufficient proof of a crisis for a customer...” who is income eligible. In prior years, DPW budgeted between nine percent and 18 percent of the projected grant dollars for those receiving shut off notices.

Improve Crisis Processing Efficiency

With the opening of regular Crisis in January of this year, Equitable Gas again requested DPW to provide Excel files listing those applying for Crisis. Instead, we received phone calls from the staff requesting the amount needed to stop the term or reconnect utility service. We were told the application would be passed on to next level for evaluation and determination of a grant. We then received a follow-up call to see if we would accept the Crisis amount. Equitable documented all phone calls from LIHEAP staff verbally approving Crisis. However, in four

cases we inquired why we have not received the grant and were told by DPW that there was no record of the application.

An Excel file listing those eligible for Crisis would enable the utility to identify required information, electronically send it back timely and expedite grant processing. This is much more efficient than the time-consuming process of having two people engaging in a phone conversation and looking up information to respond to the other's questions. This process also would provide documentation to ensure the receipt of funds for approved grants.

On October 16, 2012, DPW staff, from Harrisburg and Allegheny County, held a meeting with utilities to discuss changes being implemented to improve processing efficiency in Allegheny County. Those in attendance were advised that, although DPW encourages clients to apply online, all Allegheny County Assistance Offices will have staff available to answer questions and take applications. It was also mentioned that the policy of using Excel files was acceptable, benefiting both the client and vendor. It was emphasized that regardless of how the client requests a crisis grant, the policy is to resolve the crisis within 48 hours. Most importantly, DPW staff stated there is "no wrong door for LIHEAP." Trained staff would be at all six district offices and would take applications or help clients in completing applications.

Unfortunately, the reality was not as promised. Equitable Gas stresses the need for changes in Allegheny County to prevent the problems experienced by clients last season.

Weatherization Transfer

Regarding the weatherization transfer made by DPW to the Department of Community and Economic Development (DCED), Equitable suggests DCED be required to provide a written budget vs. actual spending report quarterly. This year's transfer amount was \$27.8 million, a

significant expenditure, and DPW should be receiving written reports detailing how the dollars are being spent which can be shared at LAC meetings.

LIHEAP and CAP Integration

In an effort to improve CAP and LIHEAP integration, Equitable Gas recommends DPW insert a check box on the LIHEAP application indicating the applicant's permission to share information with utility CAP program administrators for the purpose of enrolling and re-certifying CAP eligibility. This type of coordination is permitted by the State Plan as long as the client consents and would help reduce fraud, extend additional assistance to low-income households and eliminate, in some cases, the necessity of the household completing multiple applications. Similar information sharing occurs in other states such as Colorado.

Conclusion

I would like to thank the DPW for the opportunity to share input from Equitable Gas Company on the LIHEAP 2014 Proposed State Plan. Equitable Gas looks forward to working with DPW on all aspects of LIHEAP in order to ensure the maximum number of low-income households receive assistance.

Pennsylvania Department of Public Welfare

PROPOSED LIHEAP STATE PLAN – FY 2014

PUBLIC INPUT HEARING

Pittsburgh, PA

July 17, 2013

Testimony of Patrice Mitchell

National Fuel Gas Distribution Corporation

Patrice Mitchell
Manager II, Consumer Business
E-Mail: mitchellp@natfuel.com

LIHEAP TESTIMONY 2013-2014

Good Morning. My name is Patrice Mitchell and I am here representing National Fuel Distribution Corporation (National Fuel). Twenty-five years ago, I was charged with creating and developing a program to address the issue of the "payment troubled" customer. This proactive initiative has created, developed and modified programs to address the needs of the low income, vulnerable and payment troubled customers. National Fuel provides heat to homes in many of the coldest parts of Pennsylvania, as well as, to some of the oldest consumers. Based on these conditions we provide gas service to some of the most vulnerable customers in the state. National Fuel's continuous goal is to provide reliable affordable gas service to all its' customers, always mindful of the "payment troubled customer" and customers with special needs. Consequently today, I wish to offer testimony on their behalf.

The LIHEAP Plan should be finalized earlier in an effort to better promote the program and its' benefits. National Fuel continues community outreach and welcomes any suggestions that the Department has to continue "to get the word out". LIHEAP Program benefits can be maximized with improved cooperation and coordination. We support the goal to maintain the same eligibility levels at 150% of poverty. The continued use of this eligibility guideline provides for program continuity while minimizing applicant confusion. We are pleased that the Crisis benefit for 2014 has been increased to a maximum of \$500.00.

National Fuel recommends that the LIHEAP Crisis Exception component be eliminated. The LIHEAP Cash and Crisis programs should run concurrently. We urge the Department to operate both the LIHEAP Cash and Crisis programs from October 1 to April 30, at a minimum. Different program dates for LIHEAP Cash and Crisis create confusion. The LIHEAP Cash and Crisis programs need to be open longer, starting with an aggressively promoted expanded schedule. Extending the program start and end dates alleviates confusion and minimizes potential danger related to loss of heat, most specifically in relation to vulnerable customers in Northwest Pennsylvania's extreme cold weather. Extending the schedule will provide a means for applicants to receive benefits when the home heating season starts and before the winter utility moratorium begins. Cutting the program short in March, adds to the risk that low income regulated utility customers will face service termination at the conclusion of the winter moratorium. Additionally, the Cash and the Crisis components need be clearly defined and allocated accordingly.

National Fuel is a strong supporter of weatherization and energy conservation education for low-income households. The Company, in cooperation with community-based partners, has been providing low-income weatherization services for the past 25 years. During this period, National Fuel has expended over \$24.7 million to provide weatherization services to 4,968 households. The Company appreciates the value and long-term benefits of effectively delivered weatherization programs. Most of the regulated utilities already have extensively utilized weatherization programs. Therefore, in an environment of reduced and limited funding, National Fuel believes that it is critical to address households that have had their service terminated or need funds to continue heating their homes. Consequently, we recommend the allocation for weatherization be reduced and that only the CRISIS interface be funded. This would assist households who have an immediate heat related emergency to obtain furnace repairs or replacement. The reallocation of the remainder of DCED funds would better address primary heating needs for eligible households.

Now, more than ever, Pennsylvania should provide for state supplemental funding. It is time to call upon the General Assembly to provide a state supplemental fund dedicated to the administration of LIHEAP Cash and Crisis. This would enable the Department to spend all of the Federal funds for the purpose that they were intended- helping low income families deal with their immediate home heating needs. Pennsylvania should join with the majority of other cold weather states and recognize that federal dollars are not enough to maintain this critical program. State supplemental funding would stabilize the program from year to year by providing a consistent, controllable, and reliable funding stream. The annual Federal allocation of LIHEAP and Crisis funds should be spent in its' entirety and State funding for program administration would accomplish this. Spending all of the federal LIHEAP allocation will demonstrate a significant need and a compelling case for continued funding.

The recent integration of LIHEAP Cash and Crisis with other Department benefit programs decreased application processing time, increased the program's efficiency, and reduced discrepancies improving the integrity of the LIHEAP program. Now, applicants who receive Cash Assistance, SSI, and Food Stamps recipients are categorically eligible for LIHEAP. Categorical eligibility is permitted by the federal LIHEAP Act and encouraged as a tool to improve administrative efficiency. The use of the Client Information System (CIS) to verify LIHEAP applicant eligibility has also been successful in reducing the time needed to process an application. The talk of gaining future access to available data bases like unemployment compensation is encouraging. Again, this would be another means to verify LIHEAP Cash and Crisis eligibility in an efficient and a timely manner. These advances are a credit to the Commonwealth and the employees who have assisted in creating these effective changes. National Fuel supports the automatic enrollment of LIHEAP based on information already available from participation in Department programs.

On behalf of NFG, I appreciate this opportunity to offer testimony on the 2014 LIHEAP Program and continue to work towards improving LIHEAP outreach and assistance to Pennsylvania customers. Thank you.

**Testimony of
Joe Calore
Commission on Economic Opportunity**

**Low Income Home Energy Assistance Program
Fiscal Year 2014
Proposed State Plan**

July 17, 2013

Good Morning. My name is Joe Calore. I am the Weatherization Director for the Commission on Economic Opportunity (CEO) and I also manage the Crisis Weatherization component during the winter months. The Commission is both the LIHEAP Crisis and Weatherization provider for Luzerne and Wyoming Counties, and has been since the inception of the program. Thank you for the opportunity to provide comments on the LIHEAP Proposed State Plan for Fiscal Year 2014.

The Commission fully supports the proposed transfer of the full 15% of available LIHEAP funds to the Department of Community and Economic Development to support the Weatherization and Crisis Interface programs. While the LIHEAP Cash and Crisis components are vital in helping vulnerable Pennsylvania families pay for home heating costs, Weatherization has always been a long term solution to helping those vulnerable families deal with rising energy costs. Our staff are in the homes of hundreds of families each year and can attest to both the need for and the impact of the Weatherization Assistance Program. Weatherization makes homes more energy efficient as well as increases the health & safety and comfort level of residents' homes.

We would support the income limits at 200% of the federal poverty income guidelines so as to include the working poor. We are in favor of increasing the maximum crisis fuel benefit to \$500, which would enable minimum delivery quantities set by deliverable fuel vendors.

LIHEAP Crisis should operate from November 1st to April 30th at a minimum. The confusion over the start date of the Crisis Interface Program puts many families at risk. While the "exception program" may resolve some issues for crisis fuel payments, it causes confusion when applied to the Crisis Interface Program, or weather related emergencies. We recommend that there be no distinction in how the Crisis Interface Program operates from November 1st until January 2nd.

CEO does not have a discretionary fund available to assist clients that will apply for heating system repairs nights, weekends or holidays, if the Crisis Interface program does not begin until January. The local CAO does not provide on-call Crisis Interface intake after-hours for the first two months of the exception program.

Thank you again for the opportunity to present these comments. I am hopeful that they are considered in the establishment of the Final Plan.

**BEFORE THE
PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE**

**Comments on Behalf of
PPL Electric Utilities Corporation
Timothy R. Dahl**

**Regarding
Low-Income Home Energy Assistance Program
Fiscal Year 2014 Proposed State Plan**

**Harrisburg, PA
July 11, 2013**

LIHEAP Proposed State Plan Fiscal Year 2014

I. Introduction

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) appreciates this opportunity to provide the Pennsylvania Department of Public Welfare (“DPW” or the “Department”) with comments regarding the fiscal year 2014 proposed State Plan for the Low-Income Home Energy Assistance Program (“LIHEAP”). LIHEAP is an important program for many low-income families in the state who need help in paying their energy bills. PPL Electric has a long history of encouraging Congress to provide adequate funding for LIHEAP, working collaboratively with DPW, and implementing outreach efforts to inform customers about the availability of the program.

The Department has the difficult assignment of developing a pragmatic and comprehensive program without the benefit of knowing in advance the specific level and timing of federal funding. The Company thanks the Department for its willingness to consider actions to improve the effectiveness of LIHEAP. PPL Electric’s comments regarding the proposed LIHEAP State Plan address the following areas:

- Opening/Closing Dates
- Crisis Exception
- Benefit Amounts
- Eligibility Guidelines
- Spring Crisis Program
- Application of Benefits
- Verification and Documentation
- Funding Carryover
- Backlog of Applications

II. Summary of Recommendations and Comments

Regarding the above-reference topic areas, PPL Electric recommends the following actions for DPW's consideration:

1. Start both program components (cash and crisis) on November 4, 2013 and close them on April 4, 2014; eliminate the Crisis Exception program; and increase the minimum crisis grant from \$25 to \$100;
2. Maintain 150 percent of the federal poverty guidelines for program eligibility;
3. Implement a spring crisis program for customers of regulated utilities if LIHEAP funding is available;
4. Obtain clarification from the U. S. Department of Health and Human Services ("HHS") regarding CAP and LIHEAP;
5. Implement efforts (i.e., serve more households and/or increase benefit levels) to reduce the amount of carryover funding; and
6. Conduct a "lessons learned" review to mitigate the build-up of a large backlog of applications.

III. Opening/Closing Dates, Crisis Exception and Benefit Amounts

PPL Electric recommends that the opening and closing dates be identical for both the cash and crisis components. The Company suggests an opening date of November 4, 2013 and a closing date of April 4, 2014 for both components. DPW could shorten or lengthen either program component based on the availability of funding and the demand for energy assistance. PPL Electric also recommends that the Department eliminate the Crisis Exception program, which the Company believes creates confusion for customers and adds unnecessary complexity to the administration of LIHEAP. If the

purpose of the program is help reconnect service for households before the onset of winter, the normal crisis program can fulfill the same purpose. This change would streamline processes without jeopardizing the intent of reconnecting utility service. PPL Electric believes that the Crisis Exception program contributes to the ongoing issue of unspent LIHEAP funding at the end of each program year. As a result, DPW must implement additional steps to administer a supplemental program during the summer.

With respect to the minimum and maximum amounts for cash (\$100 and \$1,000) and crisis (\$25 and \$500), PPL Electric believes that increasing the maximum crisis grant from \$300 to \$500 is a positive step. However, the Company recommends increasing the minimum crisis grant to \$100. A crisis grant of \$25 seems awfully low and does not provide enough incentive to LIHEAP vendors to accept the minimum amount. The Company believes that a \$100 minimum is more appropriate and gives regulated utilities flexibility in working with low-income customers who have lower overdue balances. It also matches the minimum amount of a cash grant. A \$100 minimum crisis grant would allow utilities to work with lower-balance customers either to avoid termination of service or to reconnect their service. Providing continuous service benefits both households and utilities.

IV. Eligibility Guidelines

Given the current federal budget projections for LIHEAP in fiscal year 2014, PPL Electric agrees with the Department's decision to maintain the household income limit at 150 percent of the federal poverty level. The Company would not like to see a lower percentage for income eligibility. If adequate funding were available, PPL Electric believes that 200 percent of poverty is the appropriate limit on household income for

LIHEAP. This eligibility percentage aligns with the income guidelines used by many of the Pennsylvania hardship funds, utility weatherization programs and the state Weatherization Assistance Program. Harmonizing household income guidelines would promote a more efficient delivery of benefits and help to reduce confusion among eligible households.

V. Spring Crisis Program

If LIHEAP funding is available, PPL Electric recommends that DPW implement a spring crisis program for regulated utilities. This initiative, when implemented, has been very successful because of the effective coordination among utilities, DPW staff and the Department's County Assistance Offices ("CAOs"). This type of effort reduces terminations, restores service more quickly, promotes public safety, and reduces costs. It also contributes toward the expenditure of the annual LIHEAP allocation. PPL Electric believes that DPW should strive for a minimum carryover from program year to program year. Maximizing the number of households receiving LIHEAP benefits in a timely fashion should be a key underlying principle for the Department.

VI. Application of Benefits

Under § 601.45 of the proposed State Plan for fiscal year 2014, DPW, after receiving approval from HHS, may, at its discretion, allow public utilities operating Percent of Income Payment Plans to apply LIHEAP cash component benefits to the customer's CAP Credit amount. The proposed State Plan provides guidelines (e.g., utility determines the customer's affordable annual bill) for the application of cash grants to the CAP Credit amount. PPL Electric encourages DPW to obtain final clarification

from HHS regarding this provision. The Company is confident that DPW would agree that the clarification process has drug on far too long.

In a workshop at a recent national low-income energy conference in San Diego, CA, a representative from HHS indicated that applying a LIHEAP grant to CAP Credits was acceptable in Colorado because every CAP participant also received a LIHEAP cash grant. A definitive answer from HHS would allow Pennsylvania's utilities to evaluate and determine if they would implement this feature of the State Plan.

VII. Verification and Documentation

In § 601.103 of the State Plan, an applicant who indicates that the household has minimal or no income must produce satisfactory evidence explaining how the household members are meeting their financial obligations and basic living needs. PPL Electric agrees with this provision. For customers to participate in the Company's CAP, they must have income to pay their monthly CAP bill.

VIII. Funding Carryover

DPW ended the normal program year with tens of millions of unused LIHEAP funds. The remaining amount was an improvement compared with fiscal year 2012, but DPW should strive to expend all but the minimum of funding amounts. The Department has plans to implement a supplemental program this summer to assist LIHEAP households, which is commendable. However, to avoid significant carryovers of funding in the future, PPL Electric urges DPW to initiate actions to expend more funds during the program year, either by serving more households, increasing benefit amounts or implementing both initiatives.

This level of carryover year after year in Pennsylvania creates several concerns. First, if expended more timely during the normal program year, this funding could have prevented utility shut-offs for customers. Terminations of service put households at risk and result in additional costs for utilities' customers. Second, ending every program year with a large carryover sends the wrong message to Congress. Federal budget concerns have already made it much more challenging to maintain existing funding levels for LIHEAP, which most utilities, consumer advocates, etc., agree is inadequate for the need. Third, implementing a supplemental program is an efficient means of distributing funds to households that have already received LIHEAP grants. However, this approach, may not address the need. For some customers, a relatively small supplemental grant may be too little, too late.

If, in the future, there are summer supplemental grant programs for LIHEAP, the Company recommends that DPW consider different grant amounts for electric utilities versus gas utilities. Most gas usage occurs during winter, whereas for utilities like PPL Electric, residential customers may use high amounts of electricity both in the winter for heating and in the summer for cooling. The growth for electricity usage has been in the area of air conditioning. Given that electricity usage and bills can increase during the summer, it may be appropriate to provide a higher LIHEAP supplemental grant amount for electric bills.

PPL Electric would like to see an amount of LIHEAP expenditures during the course of the normal program year that would eliminate the need for a supplemental program during the summer. A supplemental program may be appropriate if the Administration or Congress were to approve and release additional LIHEAP funding to

the states during the late spring or early summer. However, a supplemental program in Pennsylvania should be the exception rather than the rule.

IX. Backlog of Applications

For various reasons, DPW still seems to struggle with the timely processing of applications in some areas of the state. A large backlog creates confusion and concern among applicants, CAOs and utilities. Although DPW made improvements in addressing backlog issues from fiscal year 2012, the process still requires work. A delay in processing applications creates the potential for customers to have their service terminated. Similarly, failing to process applications could have delayed reconnection of service for customers. PPL Electric, like DPW, has concerns about exposing low-income households to unnecessary risk.

If it has not already, PPL Electric recommends that the Department, as a best practice, conduct a “lessons learned” review for the purposes of: 1) understanding the root causes of the backlog; 2) developing an action plan to mitigate a repeat performance during the 2013-2014 program year; and 3) communicating the “lessons learned” results with the appropriate internal audiences.

X. Conclusion

PPL Electric understands the challenges confronting the Department of Public Welfare regarding the implementation of LIHEAP. DPW has to balance a variety of competing needs and perspectives, as well as the uncertainty associated with not only funding levels but the timely release of funds. The Company is willing to work collaboratively with the Department in ensuring that the maximum number of low-

income households receives assistance. LIHEAP is an important program that helps vulnerable households to address their energy hardships.

Thank you for considering PPL Electric's suggestions and concerns regarding the proposed State Plan for fiscal year 2014.

TESTIMONY

ON THE

**LOW INCOME HOME ENERGY
ASSISTANCE PROGRAM (LIHEAP)**

**Fiscal Year 2014
Proposed State Plan**

Energy Association of Pennsylvania
800 N. 3rd Street
Harrisburg, PA 71102
Telephone: (717) 901-0600

July 11, 2013

Donna M. J. Clark
Vice President and General Counsel
E-Mail: dclark@energypa.org

INTRODUCTION

Good morning. My name is Donna M. J. Clark. I am Vice President and General Counsel of the Energy Association of Pennsylvania (“EAP” or “Association”). EAP is a trade organization representing the major electric and natural gas distribution utilities in Pennsylvania¹, each of which is an approved LIHEAP program vendor. Our member utilities play a crucial role in providing energy assistance to their low-income customers. This is accomplished through a variety of methods, which include utility Universal Service Programs², partnering with other utilities and agencies such as Dollar Energy and Salvation Army, helping customers locate and access publicly- and privately-funded energy assistance dollars and referring customers for additional services for which they qualify. In addition, EAP’s member utilities often hold special forums and fairs in local communities to help educate customers about the various programs and assist them in understanding and completing the required paperwork.

I’d like to begin my testimony this morning by commending staff for continuing the practice of assessing each LIHEAP program following its close to recommend practical program improvements such as increasing the maximum crisis grant to \$500. Like other entities appearing before you during this hearing process, we appreciate the opportunity to provide input for your consideration. EAP and its members strive to work together with all LIHEAP partners to maximize available energy assistance for Pennsylvania’s low-income customers.

¹ Citizens’ Electric Company; Columbia Gas of PA; Duquesne Light Company; Equitable Gas Company, LLC; Metropolitan Edison Company; National Fuel Gas Distribution Corporation; PECO Energy Company; Peoples Natural Gas Company; Peoples TWP LLC; Pennsylvania Electric Company; Pennsylvania Power Company; Philadelphia Gas Works; Pike County Light & Power Company; PPL Electric Utilities Corporation; UGI Central Penn Gas; UGI Penn Natural Gas; UGI Utilities, Inc. (Electric and Gas); Valley Energy Company; Wellsboro Electric Company and West Penn Power Company.

² In 2011 alone, \$450 million was expended by electric and gas utilities for Universal Service Programs to assist Pennsylvania’s low-income utility customers.

In addition, I'd like to recognize the difficulty faced by Department staff each year in trying to develop a balanced statewide energy assistance plan without knowing the amount of funding the state will have to work with, when the funds will be received, how many applications will be submitted or the price of the various fuel commodities. Recurring uncertainties associated with the federal LIHEAP grants underscore the need for a permanent source of state energy assistance funding for its low-income households. The reality is that poverty exists and it continues to be a societal issue. In order for Pennsylvania to establish a stable LIHEAP program with components that remain unchanged from year to year and where the most vulnerable low-income households can be assured that funds will be available when the need is the greatest, state funds are needed. EAP recommends that DPW consider convening a stakeholder working group with its energy partners to explore possible options for a permanent source of supplemental state funding and to assure that private and public funds are matched in a way that effectively and equitably provides maximum benefit.

Lastly, while EAP supports the Commonwealth's ongoing dedication to protect/improve the integrity of its human services programs and resources, we observe that the added efforts to verify and cross-reference client data between programs have contributed to extensive processing delays for the LIHEAP program. This was particularly evident in Philadelphia and Allegheny Counties during the FY 2013 program where some of the delays spanned multiple months, subjecting vulnerable, low-income families to ongoing uncertainty regarding the receipt of benefits. Efforts to detect fraud must be continually balanced against the real and immediate needs of a majority of program recipients.

EAP recommends that the Department review its existing staffing/work processes and consider making changes prior to the start of the FY 2014 program that will expedite timely

processing of LIHEAP applications -- possibly employing some of the strategies suggested by individual EAP members in their LIHEAP State Plan testimony. Action is necessary to avoid another situation where large numbers of applications await processing because there has been a change in the client's information (i.e., address or income) included in the application.

I. SUMMARY OF POSITION

EAP's testimony addresses areas of the proposed FY 2014 LIHEAP State Plan which we believe are fundamental to administering the program as effectively as possible. Most have been the subject of prior comments from the Association. EAP believes that changes in the following key areas will result in a LIHEAP program that consistently assists the greatest number of families with their heating needs at a time when assistance is most crucial:

- A. Open and operate the cash and regular crisis components of LIHEAP concurrently;
- B. Adhere to State Law, 66 Pa.C.S. §1406(g), which states that "*A notice of termination to a customer of a public utility shall be sufficient proof of a crisis for a customer with the requisite income level to receive a LIHEAP Crisis Grant from the Department of Public Welfare or its designee.*";
- C. Promote communication and dialogue surrounding the Department's policy for the manner in which Cash benefits are applied to CAP customer accounts;
- D. Establish a provision for a "set-aside" of funding earmarked for customers of regulated utilities who receive termination notices after Feb 1 and face termination in the spring following the end of the statutory "winter moratorium" period; and,
- E. Improve communication to LIHEAP Advisory Committee members and LIHEAP vendors.

II. EXPLANATION OF POSITION

A. Open and Operate the Cash and Regular Crisis Components of LIHEAP Concurrently.

Again this year, DPW proposes opening the FY 2014 LIHEAP program with a cash and “Crisis Exception” component, rather than the traditional crisis program. For the reasons elaborated in the May 15, 2013 recommendation to DPW by Supporting LAC Members, EAP again recommends that the Department return to a traditional program where both “regular” program components, cash and crisis, open and operate concurrently. Opening LIHEAP with the Cash and Crisis components together early in the heating season provides the greatest level of assistance to PA’s low-income households by coordinating the application process for both benefit types (reducing administrative time) and allows families to restore utility service, lower their monthly bill during the heating season, leverage the numerous programs provided by utilities and others, and reduce the risk of springtime termination.

We understand the Department’s concern about the instability of federal funding for PA’s LIHEAP program, but this limited option for the pre-January 1 period is too narrow. The program is very confusing, assists only those clients whose heating source is completely shut-off or who have run out of (or almost depleted) heating fuel and sets rigid requirements for qualification tied to the client’s receipt and use of the cash grant. While this change certainly worked to preserve funds until later in the program year, it modified the use of the Cash grant in a manner which arguably conflicts with the intent of the LIHEAP program by using Cash grants for crisis situations rather than for the dedicated stated purpose of assisting low-income clients with current winter heating bills and by failing to use Crisis grants to intervene in a timely and cost effective manner.

The Crisis exception component creates unnecessary hardships for customers of regulated utilities who receive a termination notice in the fall by rendering them ineligible for crisis assistance – directly conflicting with regulations and statutory law in Pennsylvania. It is not until service is actually terminated that these customers become eligible for assistance – after which the situation has worsened and the customer now likely faces additional reconnection and security deposit requirements. Families who need more than the Cash grant amount to prevent service termination have no access to the Crisis grants, which places them at great risk of service termination at one of the most crucial times of the year.

Also troubling is the fact that in each of the years in which the Crisis Exception component was used, a substantial “excess” of unspent funds has accrued. DPW has then implemented various contingency plans to spend down the “excess” and maintain a lawful carry-over balance for start-up costs for the following LIHEAP year. These “excess” funds were distributed to certain categories of LIHEAP-eligible recipients (e.g., households with elderly, disabled persons or young children) rather than to individual clients based on their immediate need. Access to available energy assistance dollars at the time of immediate need is vital to assure maximum health and safety protections for Pennsylvania’s most vulnerable households.

Additionally, having a high level of “excess” LIHEAP funds year after year might send our elected officials in Washington, DC a message that Pennsylvania no longer needs its full funding and EAP strongly believes that not to be the case. EAP recommends that the Department return to a traditional program where both “regular” program components, cash and crisis, open and operate concurrently.

B. Adherence to State Law, 66 Pa. C.S. §1406(g)

Pennsylvania state law at 66 Pa. C.S. §1406(g) directs that:

“A notice of termination to a customer of a public utility shall be sufficient proof of a crisis for a customer with the requisite income level to receive a LIHEAP Crisis Grant from the Department of Public Welfare or its designee.”

The Department cannot ignore statute as implied in its proposed LIHEAP State Plan under §601.62 (2) (ii) (A) on page B-14, that states:

“For utilities regulated by a government body such as the Public Utility Commission (PUC), winter termination procedures prevent the termination of service without the governing body’s approval from December 1 through March 31.”

The Department reasons that *“the household is ineligible for crisis benefits if the utility has not been granted approval to terminate service”* since regulations prevent those utilities from acting on a notice to terminate service for low-income households and concludes, therefore, that proof of a home heating emergency does not exist.

Utilities can enforce termination notices up to 60 days from the issuance date and, therefore, may terminate service on April 1 for a notice on February 1. DPW contends that its non-compliance with 66 Pa. C.S.A. §1406(g) is proper because federal law precludes recognition of a crisis when, due to PUC regulation, utilities are precluded from terminating customers in the winter. DPW has stated that it believes a notice of intent to terminate or disconnect cannot qualify for crisis grants because of the federal statute. Yet, as with other areas of the LIHEAP program, the states possess the discretion to establish when a crisis exists, and the Pennsylvania General Assembly has defined a crisis to include a termination notice. EAP offers that whenever possible, a state agency should endeavor to read federal and state statutes in concert with one another. Accordingly, a notice of termination should qualify the customer for a crisis grant. Absent that grant, each April, thousands of low-income families will find themselves without

utility service, many for the entire summer – some, even longer. The current practice elevates form over substance and is not pragmatic in its application.

C. Promote Communication and Dialogue Surrounding the Department’s Policy for the Manner in which Cash Benefits are Applied to CAP Customer Accounts.

Utilities that operate Customer Assistance Programs (“CAP”) based on a percentage-of-income program (“PIPP”) design continue to remain in a holding pattern awaiting DPW’s interpretation/implementation of the policy change at §601.45 of the LIHEAP State Plan regarding the application of LIHEAP cash grants to CAP accounts.

EAP along with the Public Utility Commission, Office of Consumer Advocate and regulated utility vendors offered extensive input and testimony surrounding the previous policy that required cash grants to be applied only to the CAP customer’s “asked-to-pay” amount of the utility bill, citing that this did not provide the most beneficial plan design for vulnerable CAP customers and would likely result in unintended consequences. Stakeholders urged DPW to review and consider alternate options and best practices being employed by other states. In summer of 2012, DPW revised §601.45 of the LIHEAP State Plan for FY 201-13 to recognize an optional method for applying the cash grant to CAP-PIPP accounts. EAP understands that the language memorializing this policy change was approved by HHS. However, the new policy was never implemented and little or no explanation for that failure was communicated to stakeholders. Because the necessary IT changes at a utility to implement the policy change have cost ramifications, utilities were reluctant to spend those dollars where the Department was not clear on implementation of revised §601.45. Consequently, even with HHS approval of the FY 2013 LIHEAP State Plan language, utility vendors continued to await direction from DPW on

whether vendors were authorized to proceed with implementation of the new policy, or whether additional steps or approvals were needed in order to move forward.

Now, one year later, stakeholders are again commenting on the same language at §601.45 of the LIHEAP State Plan, with no new information. Clear and timely communication from staff is needed for utilities to initiate extensive and costly system programming which is necessary for implementation of the new policy because once it is completed, it cannot easily be reversed without additional costs to ratepayers. Further, at this late date, considering that it will take utilities several months to design, schedule, test and complete the IT work associated with implementation, the time has passed for any changes again this year. Looking forward, EAP respectfully suggests that this matter can likely be resolved if approached sooner rather than later through a timely collaborative discussion. It is more important than ever that Pennsylvania's energy assistance programs work together to develop policies that maximize assistance and benefits for the Commonwealth's most vulnerable families regardless of the source.

D. Provision for a "Set-Aside" of Funding Earmarked for Customers of Regulated Utilities who Receive Termination Notices after Feb 1 and Face Termination in the Spring Following the Statutory "Winter Moratorium" Period.

The Association urges the Department to return to its practice of setting aside a dedicated reserve of funding earmarked for regulated utility customers who receive termination notices dated February 1 or later. By not doing so, customers of regulated utilities (who are subject to the "winter protections") do not have the same access to energy assistance dollars as do customers using deliverable fuels who have access to crisis funding throughout the winter months. This policy appears to treat customers of regulated utilities inequitably. For many of these low-income customers, the lack of dollars in the spring to prevent termination means that they will continue to face a cyclical pattern of spring termination, followed by no service during

the summer months and the daunting reality of entering the winter season without heat. Until recent years, DPW recognized this need and included a set-aside provision in its LIHEAP budget. While available funds may not be apparent during this proposed State Plan process, EAP encourages DPW staff to reconsider this set-aside and amend the proposed FY 2013 plan to include a provision funding for eligible customers facing termination following the winter moratorium should Pennsylvania receive adequate funding from the Federal government.

E. Improving Communication to LIHEAP Advisory Committee Members and LIHEAP Vendors.

EAP again recommends that Department staff maintain regular communication with its LIHEAP Advisory Committee (“LAC”) members and vendors. New information on program changes and funding, policy clarifications, and personnel changes would significantly improve the program overall. Utility vendors and LAC members often learn of important LIHEAP-related information only through happenstance. In today’s world of electronic communication, it is easy and effective to distribute information and/or announcements in a matter of minutes to a designated contact group. Informing LAC members (who can then communicate with their respective constituencies) of pertinent LIHEAP program developments and changes can only enhance coordination and performance. Receiving notice of supplemental grant distributions or program extensions will go far in helping vendors prepare for unexpected staffing needs which, in turn, provides better and more timely assistance to the LIHEAP client. Further, providing a quick notice when significant LIHEAP program initiatives are proposed by the Federal government or others (e.g., the recent ACF-proposed Information Collection of Additional Performance Measure Data) could provide vendors time to prepare public comments to help

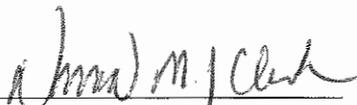
ameliorate significant program changes which provide little benefit to the recipients and create unnecessary expense.

Finally, each year the proposed State Plan references notices surrounding its availability and of the Department's public hearing schedule that appear "in several Pennsylvania newspapers." EAP's experience is that aside from notice in the *Pennsylvania Bulletin* (which is tailored specifically to the state governmental audience) general notification in major PA newspapers is not made, limiting potential review and input by interested public parties. EAP suggests that the Department provide greater public notice in major newspapers as a means of providing ample opportunities for non-vendor, non-governmental comments as part of the process.

III. CONCLUSION

The Energy Association of Pennsylvania appreciates the opportunity to provide these comments on the proposed LIHEAP State Plan for FY 2014 and asks the Department to thoughtfully consider the input and suggestions contained herein when finalizing the Commonwealth's FY 2014 LIHEAP State Plan. Thank you.

Respectfully Submitted,


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Vice President & General Counsel
dclark@energypa.org

Energy Association of Pennsylvania
800 North Third Street, Suite 205
Harrisburg, PA 17102

Date: July 11, 2013

**Testimony of
Jennifer Warabak
Commission on Economic Opportunity**

**Low Income Home Energy Assistance Program
Fiscal Year 2014
Proposed State Plan**

July 11, 2013

Good Morning. My name is Jennifer Warabak. I am the coordinator for the Crisis component of the Low-Income Home Energy Assistance Program at the Commission on Economic Opportunity of Luzerne County. The Commission is the LIHEAP Crisis and Weatherization provider for Luzerne and Wyoming Counties, and has been since the inception of the program. In addition, our organization is the administering agency for utility hardship funds, church funds for fuel assistance and the lead agency for the Emergency Food & Shelter Program.

LIHEAP Crisis is the largest energy grant program administered by the Commission. We are grateful for the opportunity to present our views on the LIHEAP Proposed State Plan for Fiscal Year 2014.

The Commission supports the proposed full 15% of available LIHEAP funds go to the Department of Community and Economic Development to support the Weatherization Assistance Program. Giving families the opportunity to reduce their energy usage is the most efficient way to reduce energy costs.

The Commission would support establishing the income guideline at 200% of the FPIG as to not exclude the working poor from such a vital program

We are in favor of increasing the maximum crisis benefit to \$500.00. Increasing the crisis benefit will allow deliverable fuel customers to receive the minimum delivery of fuel most companies require. During last season's program we saw many households that we unable to receive a crisis benefit because the maximum crisis benefit was not enough for a minimum delivery and the household could not pay the difference for the delivery.

LIHEAP Crisis should operate from November 1st to April 30th at minimum. Consistency of these dates from year to year will help to eliminate the confusion of when resources will be available. The proposed dates do not encompass the full season of heat related emergencies.

CEO does not have discretionary funds available to assist clients that will apply for heating system repair after hours if the crisis program does not begin until January. Unfortunately heating system repair emergencies do not only occur during business hours. If the local county assistance offices are going to handle interface referrals during November and December they should be required to take calls after business hours, on weekends and holidays. Because of previous experience

we have learned that if a family's heating system broke down on a Friday evening during November and December they would could not speak to someone from the county assistance office until the following Monday morning. So in these cases they would have to go without heat for a minimum of three days.

We appreciate the opportunity to present our views on the proposed State Plan and hope our suggestions are taken into consideration in developing the Final Plan.

**Pennsylvania Department of Public Welfare
Fiscal Year 2014 LIHEAP Proposed State Plan**

**Comments of
Metropolitan Edison Company, Pennsylvania Electric Company,
Pennsylvania Power Company, and West Penn Power Company**

July 24, 2013

Introduction

In June 2013, the Pennsylvania Department of Public Welfare (“DPW”) issued its Low-Income Home Energy Assistance Program (“LIHEAP”) Fiscal Year 2014 Proposed State Plan (“2014 Plan”) for public review and comment. LIHEAP is administered by DPW and consists of three components: 1) cash benefits to help eligible low income households pay for their home-heating fuel; 2) crisis payments to resolve weather-related, supply shortage and other household energy-related emergencies; and 3) energy conservation and weatherization measures to address long-range solutions to the home-heating problems of low income households.

Comments

Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”) (collectively, “the Companies”) appreciate the opportunity to respond to the 2014 Plan and file these comments for DPW’s consideration. These comments are presented to illustrate various concerns that the Companies believe should be considered as DPW finalizes the 2014 Plan. The Companies’ intent in these comments is only to address primary areas of concern and their decision not to specifically address a proposal included in the 2014 Plan within these comments does not represent support for, or acquiescence to, such proposal or change.

A. Budget

The Fiscal Year 2013 State Plan (“2013 Plan”) is expected to conclude with a budget surplus in excess of \$32 million. As in recent years, it appears there may be a distribution in supplemental grants as the final component of the 2013 Plan and DPW anticipates carrying forward some funds into the 2014 Plan budget. Pennsylvania’s low income population would be better served by structuring the LIHEAP program parameters to more fully exhaust the LIHEAP budget via the Cash and (regular) Crisis components, rather than leaving a significant excess in remaining budget funds at the conclusion of each year. Doing so would most likely help maintain Pennsylvania’s federal allocation going forward,

while promoting a more equitable distribution of funds. The Companies also continue to encourage DPW to aggressively advocate for a permanent source of state energy assistance dollars in order to help stabilize the budget in light of fluctuating federal funding levels.

B. Contingency Plan

The 2014 Plan should establish a contingency plan for distributing any budget surplus at the end of the Plan year. The Companies strongly suggest that this contingency plan consist of:

1. Extending the Cash component until April 30, 2014;
2. Increasing the maximum Cash component benefit to \$1,500; and
3. Extending the (regular) Crisis component program year until all funds are exhausted.

The establishment of a contingency plan for increased funding is crucial for the well-being of low income households. Unlike the (regular) Crisis component, the automatic issuance of supplemental grants to designated Cash component recipients does not take client need into consideration; therefore, the extension of the (regular) Crisis component would allow the 2014 Plan to exhaust its budget while directing funds to those households in greatest need.

C. Highest Benefits to Neediest Households

The 2014 Plan states that, "in accordance with Pub. L. 97-35, Section 2605(B)(5), as amended, Pennsylvania will provide, in a timely manner, that the highest level of assistance will be furnished to those households that have the lowest income and the highest energy costs in relation to income, taking into account household size, fuel type, and heating region"; however, DPW's reluctance to coordinate LIHEAP benefits and data with utility vendor universal service programs does not support the spirit of this statement.

For years, Met-Ed, Penelec, Penn Power and DPW shared client information via electronic data exchanges for purposes of Customer Assistance Plan ("CAP") re-certification. This data exchange effectively streamlined CAP re-certification to the point of saving millions of dollars in CAP administrative costs, which are borne by all Pennsylvania residential customers. During the 2011 plan year, DPW stopped all data communications with LIHEAP utility vendors. From all outward appearances, DPW does not actively support the Pennsylvania Public Utility Commission ("PaPUC") Universal Service Coordination Work Group's recommendation for the establishment of statewide data sharing among all providers of universal service programs, including LIHEAP. Further, DPW's

regulated utility vendor requirements since the 2011 plan year do not facilitate the coordination of benefits between LIHEAP and CAP, as contemplated by the PaPUC.¹

The 2014 Plan specifically states that “all information about a LIHEAP applicant or recipient is confidential and may be disclosed only for purposes of investigating or prosecuting suspected fraud or abuse, or cooperating with authorities regarding LIHEAP audits or investigations, or, *with the consent of the applicant, for purposes of providing assistance related to home heating*” (emphasis added). Such a statement clearly implies that an applicant’s data should be permitted to be shared where it will help that applicant qualify for additional assistance. The Companies firmly believe that Pennsylvania’s low income households and utility ratepayers would be better served by a cooperative and holistic approach in the delivery of universal service programs, including LIHEAP.

D. Utility Service Reconnection

Whether the head of a low income household is a ratepayer trying to re-establish service at the same premise or an applicant trying to establish service at a new premise, it is the same unpaid bill for which payment is required to establish active service. DPW’s policy requirements are inconsistent with Chapter 14 of the Public Utility Code.² For purposes of using LIHEAP grant dollars to obtain service following involuntary disconnection of service, the Companies strongly suggest that DPW ensure there are no requirements differences between the reconnection of service at the same address, or establishment of service at a new address.

E. Method of Applying Cash Benefits to CAP Accounts

The Companies support the proposed method of applying LIHEAP benefits to accounts enrolled in their CAP programs, which are based on the Percent of Income Payment Plan model. Implementation of this method will help manage CAP program costs. However, due to the system programming changes necessary to implement this change, the Companies may require approximately one year to complete implementation of any required changes.

¹ 52 Pa. Code § 69.265(9).

² 66 Pa.C.S. §§ 1401-1418. Specifically, § 1407, entitled “Reconnection of service,” provides that:

[a] public utility may require: (i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment agreements.

F. Crisis Exception Component

Past distribution performance of the Crisis Exception Program clearly illustrates that many low income households facing service termination are not being sufficiently assisted, as Pennsylvania's LIHEAP program concluded with millions of unspent dollars. If the (regular) Crisis component opened on November 1, these households could avoid service termination and the threat of entering the heating season without utility service. The health and safety of these household members is paramount in prioritizing between offering Crisis Exception or Crisis benefits. Low income households in crisis (service terminated or pending service termination) that are served by regulated utilities would be better served by the simultaneous opening of the Cash component and a historical (regular) Crisis component on November 1, rather than offering the Cash component with a Crisis Exception Program.

G. Program Parameters

The Companies respectfully offer the following program parameters for consideration by the DPW for the 2014 Plan, which incorporates those suggested modifications iterated above:

Cash Component

- Opening Date of 11/04/13;
- Closing Date of 04/30/14; and
- Minimum Benefit Amount of \$100; and
- Maximum Benefit Amount of \$1,000 (\$1,500 with increased federal funding).

Crisis Component

- Regular Crisis Opening Date of 11/04/13;
- Regular Crisis Closing Date of 04/30/14, or until all 2014 Plan LIHEAP Funds are exhausted;
- Minimum Benefit Amount of \$25;
- Maximum Benefit Amount of \$500; and
- Grants used to prevent service termination or reconnect service at any premise.

H. Verification of Heating Appliance Installation

Page 36, Appendix B-7 (vi) of the Plan, which includes the heating appliance policy statement, provides that "a household will be ineligible for a LIHEAP grant, Cash or Crisis, if the heating appliance isn't installed and operating based on the manufacturer's specifications or current code requirements, whichever is more stringent, and isn't following all applicable building and fire codes." It is unclear as to how the DPW intends to enforce or verify compliance with this policy; however,

the Companies and other LIHEAP vendors should not be tasked with the liability or responsibility for enforcing or verifying the requirements of this policy statement.

I. Intake and Claim Processes

The Companies recognize the improvements implemented in 2013 and respectfully request that DPW continue to review the LIHEAP Intake and Claim Processes to identify areas for performance improvement. For instance:

- **PROMISE Claim Process Revisions Needed**

The claim process remains quite burdensome for utility company vendors. Since proof of termination or denial of service is mandatory when applying at DPW intake sites, forwarding the documentation to DPW in Harrisburg should be part of *that* intake process. It should *not* be part of the PROMISE claim process used by vendors.

Conclusion

DPW's three stated LIHEAP goals are to: 1) comply with federal regulations; 2) realize the most value of LIHEAP dollars globally; and 3) maximize LIHEAP dollars for individual households. The Companies applaud these goals, but posit that several of the components contained within the 2014 Plan may be in direct conflict with the achievement of those goals, most specifically the second and third, for the following reasons:

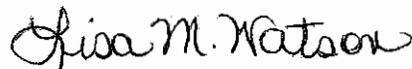
- **The 2014 Plan is not global in nature.** The proposed opening and closing dates for both the Cash and Crisis components virtually exclude households served by electric and natural gas distribution companies, while low income households in crisis are not adequately served by the Crisis Exception Program.
- **The 2014 Plan will not maximize LIHEAP dollars for households that are served by electric and natural gas distribution companies.** The 2014 Plan selectively maximizes LIHEAP dollars for households served by deliverable fuels, preventing thousands of low income, payment-troubled households served by electric and natural gas distribution companies from participating, while low income households in crisis are not adequately served by the Crisis Exception Program.

Therefore, in order to fully and successfully achieve all three of DPW's LIHEAP goals, the Companies strongly recommend the inclusion of the following components in the 2014 Plan:

1. Open both the Cash and (regular) Crisis components on November 4, 2013;
2. Eliminate the Crisis Exception Program;
3. Close the Cash component on April 30, 2014;
4. Allow maximum Cash component grants of \$1,000 - \$1,500 (with increased federal funding);
5. Close the Crisis component when all 2014 LIHEAP funding is exhausted;
6. Allow awarding of full application of Crisis component grants regardless of premise location;
7. Eliminate the carryover of budget funds from one year to another; and
8. Eliminate the issuance of supplemental grants.

The Companies appreciate DPW's efforts to develop and publish the 2014 Plan, and for providing the opportunity for interested parties to comment on this important matter. The Companies encourage DPW to consider and adopt the recommendations and concepts set forth in the comments herein as part of the Low-Income Home Energy Assistance Program Fiscal Year 2014 Proposed State Plan.

Respectfully submitted,



Lisa M. Watson, Manager
FirstEnergy Compliance and Human Services

BEFORE THE
PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE

LIHEAP

FY 2014 Proposed State Plan

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: August 2, 2013

I. INTRODUCTION

The Pennsylvania Office of Consumer Advocate (OCA) submits these Comments to the Department of Public Welfare (DPW) on the Low Income Home Energy Assistance Program (LIHEAP) proposed State Plan for fiscal year 2014 (2014 Proposed State Plan). The Office of Consumer Advocate is a state office established to represent the interests of consumers in matters involving public utilities. 71 P.S. §§ 309-1, et seq. The Acting Consumer Advocate, Tanya J. McCloskey, serves as a member of the LIHEAP Advisory Committee. All utility consumers, particularly customers of Pennsylvania electric utilities and natural gas utilities, are greatly impacted by the LIHEAP program in Pennsylvania. Natural gas and electric utility service serve as the primary heating source for the majority of Pennsylvania residential households. Even where electric service does not provide the primary heating source, it is often essential to the operation of other heating equipment within the home. In conjunction with utility ratepayer-funded Customer Assistance Programs (CAPs), LIHEAP plays a crucial role in ensuring the continuation of natural gas and electric service for many Pennsylvania low income customers, and in ensuring the protection of the health and safety of these households.

The 2014 Proposed State Plan is based on a projected Federal budget appropriation of \$2.79 billion in block grants with \$150 million in emergency contingency funds. Pennsylvania's share of the block grant is estimated to be \$141.4 million, and when additional leveraging funds and an anticipated carry forward amount of \$19.2 million is added to the block grant, DPW projects a total of \$182.13 million. 2014 Proposed State Plan at iii. Of this amount, DPW proposes to utilize a minimum total of \$141.4 million for LIHEAP benefits. Id.

DPW's projected parameters include an income limit of 150% of the Federal Poverty Income guidelines for the cash and crisis components; a cash component opening November 4, 2013 and a closing date of April 4, 2014; a minimum cash benefit of \$100 and a maximum cash benefit of \$1,000; a crisis component opening January 2, 2014 and closing April 4, 2014, with a Crisis Exception Program from November 4, 2013 to January 1, 2014; and a minimum crisis benefit of \$25 and a maximum crisis benefit of \$500. 2014 Proposed State Plan at iii-iv.

In the FY 2014 Proposed State Plan, DPW has included the same modification to Section 601.45 included in the 2013 Final State Plan regarding the application of the LIHEAP Cash Grant to the bill of a regulated utility customer participating in the utility's CAP. DPW states that it is seeking approval from HHS to ensure that the proposed language meets LIHEAP statutes and regulations. 2014 Proposed State Plan, Appendix B, pages B-11 to B-12, § 601.45. The OCA supports the modification and urges that it be adopted. Under the DPW's proposal, the OCA submits that the LIHEAP cash grant would be properly integrated with a CAP program providing an affordable bill to a customer to maximize the benefits of both LIHEAP and ratepayer-funded CAPs.

The OCA appreciates this opportunity to provide Comments regarding the 2014 Proposed State Plan. In these Comments, the OCA makes the following recommendations regarding the 2014 Proposed State Plan:

- Open and operate the Cash and regular Crisis components of LIHEAP concurrently on November 4, 2013 rather than delaying the opening of the Crisis program until January 2, 2014;

- Consider extending the end date of the LIHEAP Cash and Crisis components, if funds are available; and
- Adopt the proposed changes to the application of the LIHEAP grant to the bill of a utility customer participating in a Customer Assistance Program.

The OCA will discuss each of these recommendations below.

II. COMMENTS

A. The Crisis Program Should Open in November At The Same Time As The Cash Program.

For many years, the Cash Component and the Crisis Component of LIHEAP opened at the same time, usually in November, and ran concurrently throughout the LIHEAP program year. This approach was particularly important for customers of regulated utilities who often need assistance in November in order to avoid termination of their utility service before the beginning of the winter moratorium on utility service terminations on December 1. Leading up to the winter moratorium, utilities should work closely with the Public Utility Commission and with their customers to avoid termination and to restore service so that as few customers as possible will be without essential utility service during the winter. In recent LIHEAP State Plans, DPW has delayed the opening of the Crisis component until January, well into the winter heating season. DPW has proposed to continue this policy in the proposed 2014 LIHEAP State Plan. While DPW created a crisis “exception” program in prior years for utility customers without any service, this program appears to have provided a limited amount of assistance, and it does not address the issue of customers trying to avoid termination prior to the winter moratorium. By essentially forcing customers to be terminated in order to enter the Crisis

Exception program, additional costs are incurred by the customers, the regulated utilities and regulated utility ratepayers.

In the 2014 Proposed State Plan, DPW is intending to again open the Crisis component in January and operate a Crisis Exception program for customers without any service before that time. The OCA urges DPW to consider returning to its prior program design where the Cash and Crisis components of LIHEAP opened at the same time in November and ran concurrently. Having the Crisis funds available in November will assist customers in both maintaining and restoring needed utility service before the harshest part of winter arrives. The OCA understands that funds are limited and that DPW is seeking ways to use each dollar in the most efficient manner. The Crisis “Exception” program, however, resulted in far fewer customers receiving assistance early in the LIHEAP program year when the customers could have used assistance to enter the winter heating season on better footing. The OCA would note that ultimately, DPW ended the LIHEAP program year with a significant amount of excess funds in 2010, 2011, 2012 and 2013.

B. DPW Should Consider Extending the LIHEAP Program End Date.

In the 2014 Proposed State Plan, DPW proposes to close the LIHEAP program on April 4, 2014. For many utility customers, this early of a closing date will restrict or preclude their ability to receive LIHEAP grants to assist them with large arrearages that may have accrued during the winter. Under Section 1406(e)(1) of the Public Utility Code, 66 Pa. C.S. § 1406(e)(1), utility customers below a certain income level generally cannot be terminated between December 1st and March 31st of each winter heating season. Beginning April 1st, however, customers with large arrearages that may have accrued over the winter heating season can have their service

terminated. Many low income families are faced with this situation in the Spring. An end date of April 4th may not give these families sufficient time to apply for LIHEAP and to prevent termination. Without access to LIHEAP at that time of year, these families could face termination of service that might not be resolved until the next LIHEAP grant.

As such, to the extent that program funds allow, the OCA urges DPW to extend the LIHEAP program further into April to allow these households access to LIHEAP. The OCA also urges DPW to extend the program so that all LIHEAP funds can be expended during the program year to reach the greatest number of households possible.

C. The OCA Continues To Support Modifying Section 601.45

In its 2013 Final State Plan, DPW proposed to modify Section 601.45 related to the application of the LIHEAP Cash Grant to utility customer accounts when the customer is in a utility ratepayer-funded Customer Assistance Program. The 2014 Proposed State Plan includes this same modification, but states that the modification is pending approval of HHS. Under the proposal, for a public utility that operates a Rate Discount program, the LIHEAP grant will be applied directly to the “Asked to Pay” amount. For utilities that operate a Percentage of Income Payment Plan (PIPP), DPW proposes that the utilities apply the LIHEAP grant in the following manner:

- First, the utility will determine the customer’s affordable annual bill, which is the amount the customer is responsible for, based on the customer’s income, not any anticipated LIHEAP grant.
- To determine the customer’s CAP Credit that they will receive, the utility will take the estimated annual usage bill and subtract the customer’s affordable annual bill.

- After the CAP Credit is determined, any LIHEAP Cash component benefit received will be credited to the customer's monthly bill incrementally to the CAP Credit.
- Utilities agree that when LIHEAP funds are provided on behalf of a customer, the utility will use those funds only for that specific customer and not for any other customer.
- It will be clearly shown on the LIHEAP client's utility bill that their LIHEAP Cash grant was credited towards their CAP Credit under the PIPP program.
- If the LIHEAP benefit is greater than the annual CAP Credit, the remaining LIHEAP balance will, be first applied to the customer's pre-existing bill arrearages and second to the customer's utility account.

2014 Proposed State Plan, Appendix B, pages B-11 to B-12, § 601.45. The OCA supports DPW's proposed changes regarding the application of the LIHEAP Cash grant to a CAP customer's bill.

The OCA submits that allowing the LIHEAP Cash grant to be applied to the CAP credit subject to the specific requirements in Section 601.45 supports the successful operation of both programs.

III. CONCLUSION

The Office of Consumer Advocate greatly appreciates this opportunity to provide Comments on the 2014 Proposed State Plan and respectfully requests that the Department of Public Welfare consider these Comments and recommendations when finalizing the 2014 State Plan.

Respectfully Submitted,

Christy M. Appleby
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DATE: August 2, 2013



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

Bp8 2297171

August 2, 2013

Beverly D. Mackereth, Secretary
Department of Public Welfare
Commonwealth of Pennsylvania
625 Forster Street
Harrisburg, PA 17120

**RE: LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)
PROPOSED STATE PLAN FISCAL YEAR 2014**

Dear Secretary Mackereth:

Relative to the Low Income Home Energy Assistance Program (LIHEAP) Proposed State Plan for Fiscal Year 2014, the Pennsylvania Public Utility Commission (PUC) files this letter in lieu of formal comments.¹

Among their various and differing statutory obligations, the Pennsylvania Department of Public Welfare (DPW) and the PUC are Commonwealth agencies that share a common goal of assisting low income residential energy customers who cannot afford to pay the full cost of energy on their own. With a cooperative spirit in mind, the PUC encourages DPW:

- To treat termination notices issued by utility companies from December 1 through March 31 as proof of a home heating emergency to qualify for a LIHEAP crisis grant, based on the express provisions of Section 1406(g) of the Public Utility Code, 66 Pa. C.S. § 1406(g). Section 1406(g) specifies that notice of termination shall be sufficient proof for an income-qualified customer to receive a LIHEAP Crisis Grant.
- To expand the operation of the entire LIHEAP crisis program from November 1, 2013, to March 31, 2014, to address customers who receive termination notices between November 1 and January 2 but whose service has not yet been interrupted.

The provisions of the Public Utility Code, *inter alia*, protect the interests of all residential customers, not just low-income customers, and attempt to keep residential utility assistance costs and residential uncollectable expenses, which are borne by all residential customers, as low as possible. Further, a utility's vendor status relative to LIHEAP can neither relieve a utility of its obligations nor deprive a utility of its rights under the Public Utility Code. Accordingly, we encourage DPW to make the 2014 State Plan consistent with these statutory provisions relative to customer and utility rights and responsibilities:

¹ For a more detailed discussion of these matters, see PUC's comments filed August 1, 2012, relative to the 2013 Proposed State Plan, attached hereto for reference relative to the matters raised in this letter regarding the 2014 Proposed State Plan.

- 66 PA C.S. § 1405 – payment agreements – Section 1405 governs, *inter alia*, customer payment agreements with a utility, including the length of payment agreements, interaction between payment agreements and customer assistance rates, the number and extension of payment agreements that may be established for a customer, and the impact of failing to comply with payment agreements.
- 66 PA C.S. § 1406 – termination of utility service, including winter terminations –Section 1406 provides, *inter alia*, grounds for termination of utility service including immediate termination, requires notice to customers, establishes restrictions on terminations based on medical condition, and establishes a winter moratorium on service termination for customers at or below 250% of the federal poverty guidelines between November 30th and April 1st unless termination of service is authorized by the PUC.
- 66 PA C.S. § 1407 – reconnection of service – Section 1407 provides, *inter alia*, that a utility may require a reconnection fee and provisions for payment of at least part of outstanding balances over time prior to reconnections from low income customers during winter moratorium months.

The PUC appreciates the opportunity to work with DPW in light of both agencies' statutory mandates relative to energy needs for low income customers in the Commonwealth. If you have any questions, please contact Grace McGovern, Pennsylvania Public Utility Commission Bureau of Consumer Service, gmcgovern@pa.gov, and Louise Fink Smith, Pennsylvania Public Utility Commission Law Bureau, finksmith@pa.gov. An electronic version of this letter has been sent to LIHEAPmail@pa.gov.

Sincerely,

Louise Fink Smith
PA. Bar No. 77373
Assistant Counsel

cc: Grace McGovern, PUC BCS

ATTACH: PUC Comments to 2013 Proposed State Plan, filed August 1, 2012



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

August 1, 2012

Tammy Sampson
Division of Federal Programs and Program Management
Pennsylvania Department of Public Welfare
DGS Annex, Room 224, Willow Oak Building
1006 Hemlock Drive
Harrisburg, PA 17110

Re: Comments of the Pennsylvania Public Utility Commission Re: Low Income
Home Energy Assistance Program Fiscal Year 2013 – Proposed State Plan

Dear Ms. Sampson:

Enclosed please find the Comments of the Pennsylvania Public Utility Commission (PUC) regarding the Department of Public Welfare's (DPW) Proposed State Plan for the 2013 Low Income Home Energy Assistance Program (LIHEAP) Fiscal Year. An electronic version of these Comments has also been sent to the following e-mail address: LIHEAPmail@pa.gov.

If you have any questions, I can be contacted at (717) 787-5000.

Very truly yours,

A handwritten signature in black ink, appearing to read "S.M.W.", is written over a horizontal line.

Stephanie M. Wimer
Assistant Counsel

cc: Secretary Gary D. Alexander
Lourdes Padilla, Deputy Secretary
Kenneth J. Serafin, Chief Counsel
Edward J. Zogby, Director, Bureau of Policy

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
Harrisburg PA 17120

LOW INCOME HOME ENERGY :
ASSISTANCE PROGRAM :
PROPOSED STATE PLAN :
FISCAL YEAR 2013 :

COMMENTS OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

The Pennsylvania Public Utility Commission (PUC or Commission) hereby respectfully submits its comments to the Low-Income Home Energy Assistance Program (LIHEAP) Proposed State Plan for the 2013 fiscal year. (2013 Proposed State Plan). The Pennsylvania Department of Public Welfare (DPW) and the PUC are sister agencies that share a common goal of assisting the needy who cannot afford to pay the full cost of energy on their own. The PUC appreciates the opportunity to work with DPW relative to the 2013 Proposed State Plan and on future plans and anticipates continuing a productive dialogue with DPW. The PUC believes that the joint efforts of our agencies will maximize the use of available energy assistance funding in a lawful manner.

Overview of Comments

The 2013 Proposed State Plan permits regulated utilities that operate a percentage of income payment plan (PIPP) to apply an individual's LIHEAP cash grant to that individual's Customer Assistance Program (CAP) credits. The PUC supports this change in policy and believes that it effectively utilizes available funding to assist low-income utility customers and coordinates the LIHEAP cash grant with utility-sponsored universal

service programs. This policy will be advantageous to all those affected by it, including low-income customers, non-low income residential customers, regulated utilities, DPW, and the PUC.

The PUC does have concerns, however, about several other policy decisions, especially with respect to crisis grants, in the 2013 Proposed State Plan. The PUC realizes that it has different statutory obligations from DPW. For this reason, the PUC believes that the agencies should continue to work together in a collaborative process and look for ways to overcome obstacles for the benefit of assisting low-income utility customers.

With a cooperative spirit in mind, the PUC offers comments on the following topics:

- Application of the LIHEAP cash grant towards a utility customer's CAP account;
- Accessibility of the LIHEAP crisis grant during the public utility winter moratorium;
- Expansion of the operation of the regular LIHEAP crisis program to run from November 1, 2012 to March 30, 2013;
- Revision of the LIHEAP State Plan to be consistent with the Public Utility Code, specifically Sections 1405, 1406 and 1407; and
- Updating LIHEAP regulations using the regulatory review process.

I. Introduction

As an independent Commonwealth agency, the PUC is charged with regulation of the rates and service of public utilities and with interpreting and enforcing the Public Utility Code. *See* 66 Pa. C.S. §§ 101, *et seq.*

With the enactment of the *Electricity Generation Customer Choice and Competition Act* (Chapter 28 of the Public Utility Code) on December 3, 1996, and the *Natural Gas Choice and Competition Act* (Chapter 22 of the Public Utility Code) on June 22, 1999, electric distribution companies (EDCs) and natural gas distribution companies (NGDCs) are required to provide for universal service programs to ensure that electric service and natural gas service remain available to all customers in the Commonwealth.¹

To meet its universal service obligations under Chapters 28 and 22 of the Public Utility Code, the PUC established *Universal Service and Energy Conservation Reporting Requirements*. *See* 52 Pa. Code §§ 54.71-54.78 (electric) and §§ 62.1-62.8 (natural gas). Pursuant to the Reporting Requirements, large EDCs and NGDCs must submit Universal Service and Energy Conservation Plans to the PUC for approval on a triennial basis. 52 Pa. Code § 54.74(a)(1) (electric); § 62.4(a)(1) (natural gas). An electric or gas distribution company may include a CAP in its Universal Service and Energy Conservation Plan.

The PUC adopted a policy statement establishing guidelines for CAPs. *See* 52 Pa. Code §§ 69.261-69.267. The CAP Policy Statement provides a blueprint for electric and

¹ *See* 66 Pa. C.S. § 2802 (declaration of policy – electric); § 2803 (definitions – electric); § 2804 (standards for restructuring of the electric industry); § 2806 (implementation, pilot programs and performance-based rates – electric); § 2810 (revenue neutral collection – electric); § 2202 (definitions – natural gas); § 2203 (standards for restructuring of the natural gas utility industry); and § 2207 (obligation to serve – natural gas).

natural gas utilities to implement a model CAP that is designed to provide a more cost-effective approach for dealing with issues of customer inability to pay than traditional collection methods. CAPs also provide eligible low-income customers with energy service at the most affordable rate available, as the monthly payments are based on household family size and gross income.²

Residential customers pay for the costs of CAPs in their rates. For this reason, the Commission drafted the CAP Policy Statement to provide CAP design guidelines. Among the CAP design guidelines are control features that limit program costs. Controlling program costs is important, since non-CAP residential ratepayers pay for these programs in their monthly bills.

The CAP Policy Statement also integrates existing low-income energy assistance program funding, most notably LIHEAP, into CAPs to reduce the expenses for these customers.³ Keeping costs as low as possible for these ratepayers will ensure the continuation of CAPs and the availability of affordable energy service for low-income customers as well as decrease uncollectible debt for the companies and ultimately ratepayers.

² The Policy Statement establishes three different types of CAPs: (1) Percentage of Income Payment Plan (PIPP); (2) Percentage of Bill Plan; and (3) Rate Discount model. Under a PIPP, the total payment for electric and natural gas home energy is determined based upon a scheduled percentage of the participant's annual gross income. 52 Pa. Code § 69.265(2)(i). Under a Percentage of Bill Plan, the participant's household payment contribution for total electric and natural gas home energy is determined using variables based on family size, income and the household's energy usage level. A participant's annual payment is calculated as a percentage of income payment and converted to a percentage of the annual bill. 52 Pa. Code § 69.265(2)(ii). Under a Rate Discount model, the participant's energy usage is billed at a reduced rate. 52 Pa. Code § 69.265(2)(iii).

³ Utilities may directly receive LIHEAP funds on behalf of their low-income customers if they apply to become LIHEAP vendors. (See § 601.3 of the Proposed State Plan for 2013; a vendor is defined as a company that directly distributes home-heating energy or service in exchange for payment.) As vendors, utilities must apply LIHEAP funds to their customers' accounts.

II. PUC Comments

A. DPW's Policy Regarding the Use of the LIHEAP Cash Component in CAPs Presents a Lawful and Effective Application of Benefits that Will Maximize Leveraging LIHEAP with Utility Sponsored Programs

In the Proposed State Plan for the 2013 Fiscal Year, DPW revised the method in which regulated utilities may apply the LIHEAP cash component to a CAP customer's account. The most significant aspect of this revision is that, under a PIPP, the LIHEAP cash benefit will be applied to the customer's CAP credit. The PUC believes that this revision effectively utilizes available funding from both resources, LIHEAP and CAP, and will benefit all those affected by it – customers, the utilities, DPW, and the PUC. The PUC supports this revision.

1. Background: Application of LIHEAP Cash Grant to CAP Customer Accounts

Effective with the 2010 Proposed State Plan and continuing until the 2013 Proposed State Plan, DPW required utilities to apply the LIHEAP cash component only to the customer's monthly "Asked to Pay" amount.⁴ Under the "Asked to Pay" method, DPW permitted the LIHEAP cash component to be applied only in the following manner: (1) first, to a customer's CAP arrearages; (2) then, to a customer's current CAP payment; and (3) lastly, if any LIHEAP funds remain, towards future CAP payments until the grant was exhausted. Thus, this policy prohibited utilities that operate CAPs from applying LIHEAP funds to a CAP customer's pre-program arrearages or to the actual charges for service used, *i.e.*, the CAP credit.

In addition, under this policy, CAP customers were not responsible for any monthly payment between the time that they received the grant until the grant was

⁴ DPW announced the "Asked to Pay" policy in the LIHEAP Proposed State Plan for the 2010 Fiscal Year. The "Asked to Pay" policy continued throughout the Final State Plan for the 2012 Fiscal Year.

exhausted. After several months of not being responsible for a utility payment, CAP customers were then suddenly faced with a bill.

DPW's "Asked to Pay" policy prompted the PUC to suspend several sections of its CAP Policy Statement. The suspended sections of the Policy Statement provide the following guidance:

(ii) A LIHEAP or other energy assistance grant may not be substituted for a participant's monthly payment.

(iii) The LIHEAP grant should be applied to reduce the amount of CAP credits.

52 Pa. Code § 69.265(9)(ii-iii). *See* 40 Pa.B. 2443, May 8, 2010.

These suspended sections set forth guidelines for utilities to use in developing CAPs, and they address the application of LIHEAP grants in CAPs. The suspension was to encourage utilities to comply with DPW's LIHEAP policy changes in order to prevent utilities from losing LIHEAP vendor status.

Utilities began to revise their Universal Service and Energy Conservation Plans to comply with the "Asked to Pay" application of LIHEAP. Utilities realized that the discontinuance of LIHEAP funds to offset the CAP credit would result in a substantial increase to the cost of operating CAPs. This increase could only be recovered from non-low income residential customers who pay for the costs of universal service programs, such as CAP, through the rates they pay.

To offset these increased costs in a fair and balanced manner, some utilities developed an approach that is generally referred to as a "CAP-plus" program. The CAP-plus method adjusts the "Asked to Pay" amount by increasing the monthly payment for

CAP customers. Some utilities calculated the monthly “plus” amount by determining the value of LIHEAP cash grants that were assigned to the utility as of a certain date, dividing that figure by the number of active CAP participants as of a certain date, and then dividing the resulting dollar figure by 12.⁵

Other utilities proposed to increase CAP customers’ payments by revising specific design elements in their CAP plans. For example, some utilities have proposed to raise the percentage of income payments for each poverty level,⁶ increase the monthly CAP minimum payment,⁷ and/or decrease the maximum CAP credit.⁸

Both of these methods, CAP-plus programs and adjustments to CAP design elements, proposed increased monthly payments for low-income customers as a result of the “Asked to Pay” policy. To date, the PUC has approved CAP-plus programs and other CAP design revisions that utilities filed in response to DPW’s “Asked to Pay” policy. However, the most effective and lawful way to integrate LIHEAP cash grants with and into utilities’ CAPs under the “Asked to Pay” policy is an issue that remains open. The PUC is hopeful that the revised application of the LIHEAP cash grant, which is discussed in the next section, will resolve this question.

⁵ DPW filed letters in two Commission proceedings that involve utilities’ universal service and energy conservation plans to indicate its disapproval of this CAP-plus method. DPW asserted that a CAP-plus model that uses the value of LIHEAP grants to calculate an additional monthly charge for CAP customers most likely violates the LIHEAP statute, 42 U.S.C. §§ 8621-8630. DPW further contended that it must deny LIHEAP vendor status to utilities that implement a cash grant adjustment in this manner. See *Philadelphia Gas Works’ Petition to Modify Its Universal Service and Energy Conservation Plans With Respect to the Customer Responsibility Program*, P-2010-2178610 (DPW Letter filed March 14, 2011); *PaPUC v. Columbia Gas of Pennsylvania, Inc.*, R-2010-2215623 (DPW Letter filed June 8, 2011).

⁶ See 52 Pa. Code § 69.265(2)(i), which provides a range for payments based on a household’s percentage of income within each federal poverty level.

⁷ See 52 Pa. Code § 69.265(3)(i), which provides a range for monthly minimum payments that CAP customers should make.

⁸ See 52 Pa. Code § 69.265(3)(v), which establishes a monetary limit on the amount of CAP credits that a customer should receive on an annual basis.

2. The Revised Application of the LIHEAP Cash Component Is Beneficial to All Those Affected by It

The new DPW policy, as set forth in the Proposed State Plan for the 2013 Fiscal Year, permits utilities to apply LIHEAP cash grants to CAP credits. Under the new policy, utilities that operate CAPs based on a PIPP model may apply the LIHEAP cash component to the CAP credit using the following guidelines:

- The utility must determine a customer's affordable annual bill based on the customer's income, not any anticipated LIHEAP grant;
- The utility must determine a customer's CAP credit by taking the estimated annual usage bill and subtracting the customer's affordable annual bill;
- The utility must credit any LIHEAP cash component to the customer's monthly bill incrementally to the CAP credit;
- The utility must use LIHEAP funds towards that specific customer's account and not for any other customer;
- The utility must clearly show credit of the LIHEAP cash grant on the client's bill; and
- If the LIHEAP benefit is greater than the annual CAP credit, the utility must apply the remaining LIHEAP balance first to a customer's pre-existing arrearages and then to the customer's account.

See Section 601.45 of the Proposed State Plan, p. B-11 of the 2013 Proposed State Plan (relating to application of benefits).

The revised policy favorably impacts those affected by it: CAP customers, non-CAP residential customers and the utilities. By allowing utilities to apply LIHEAP cash grants to CAP credits, the revised policy remedies the problem of increased CAP costs associated with the "Asked to Pay" policy.

For CAP customers, the benefit is three-fold. First, CAP customers will experience more affordable CAP budget bills because utilities will not have to implement a method to recover the increased costs associated with the prohibition of applying the LIHEAP cash grant to CAP credits, which likely would have included an additional monthly charge to CAP customers. Second, CAP customers will receive a more consistent monthly bill, due to the CAP credit and LIHEAP cash grant being credited incrementally. Third, LIHEAP cash grant dollars will be added to a customer's maximum CAP credit limit, which will reduce the risk of a customer defaulting from CAP and encountering service termination. The use of the LIHEAP grant in this manner significantly supplements the financial benefit that CAP customers receive by virtue of the CAP credit. This is especially noteworthy because DPW may be eligible to receive additional money from the federal government pursuant to section 96.87 of the Department of Health and Human Services (HHS) block grant regulations, 45 C.F.R. § 96.87, as an incentive to leverage LIHEAP with non-federal home energy resources for low-income households.

Non-CAP customers will also benefit from DPW's interpretation in that they will realize lower Universal Service expenses under the revised policy, due to reduced CAP costs and avoided collection costs that otherwise would have been passed on to the general residential rate base.

In addition, utilities should benefit under DPW's revised policy. The application of the LIHEAP cash grant to CAP credits will enable utilities to avoid collection expenses related to in-CAP delinquencies and defaulting CAP customers. Utilities will also avoid costs associated with service terminations and debt write-offs. With reduced CAP expenses, there will be less of a need for utilities to implement limitations on CAP participation in order to contain costs. Utilities may initially incur expenses to change the programming of their billing systems to reflect the revised application of LIHEAP cash

grants to the accounts of their CAP customers, but these one-time costs are minimal compared to the costs incurred under the 2012 policy.

The PUC and the companies it regulates will benefit from the stability and certainty that this revision will provide.

3. The Revised Policy Lawfully Integrates the LIHEAP Cash Component with CAPs

With the new policy in place, DPW will be able to demonstrate compliance with applicable law. LIHEAP is a federal block grant program. As a recipient of LIHEAP funds, DPW must adhere to the LIHEAP statute, 42 U.S.C. §§ 8621-8630, and to HHS regulations relating to block grants, 45 C.F.R. §§ 96.1-96.137. The new application of benefits policy will enable DPW to ensure that the LIHEAP cash grant is used in accordance with the LIHEAP statute— to assist low-income households to meet their home energy needs.

Section 8624(b)(4) of the LIHEAP statute directs DPW, as the LIHEAP grantee, to coordinate its activities with similar programs administered by the federal government and states, particularly low-income energy programs. 42 U.S.C. § 8624(b)(4). By allowing the cash grant to be applied towards CAP credits, the new policy effectively coordinates LIHEAP with CAPs. As noted above, CAP customers will avoid an increased monthly payment and non-CAP residential customers, especially those who fall just outside of eligible income levels yet would otherwise qualify for energy assistance, will avoid paying for the costs associated with arrearages and terminations stemming from increased CAP bills.

The LIHEAP statute also requires LIHEAP funds to be applied in full to the benefit of the individual eligible household. 42 U.S.C. § 8621(a). Pursuant to section 601.45 of the Proposed State Plan for 2013, utilities must agree to use a LIHEAP cash

grant for the specific customer who is the recipient of that grant. Thus, a utility will not be able to use a grant to offset any costs associated with the general administration of low-income utility programs. Rather, the grant recipient/CAP customer receives the full benefit of the cash grant towards his or her energy bill.

Section 8624(f) of the LIHEAP statute provides that any LIHEAP grants being issued to benefit an eligible household shall not be considered income or resources of the household. 42 U.S.C. § 8624(f). Under the revised application of benefits policy, a regulated utility will first determine the amount that a CAP customer can afford under a PIPP. The utility will then direct the entire amount of the cash grant that a CAP customer receives to his or her account. By using this method, the LIHEAP grant will not be considered as income or resources of the household to be taken into consideration when determining the amount that a CAP customer pays, rather, that CAP payment amount is determined prior to receipt and application of that customer's LIHEAP grant.

Section 8624(b)(10) of the LIHEAP statute requires that fiscal control and fund accounting procedures be established to ensure the proper disbursement of and accounting for LIHEAP funds paid to the state. 42 U.S.C. § 8624(b)(10). Section 96.84(c) of HHS regulations requires grantees, such as DPW, to establish appropriate systems and procedures to prevent, detect and correct waste, fraud and abuse under LIHEAP. 45 C.F.R. § 96.84(c). By including receipt of the LIHEAP grant as a separate line item on each utility customer's bill, DPW is able to monitor the funds, and ensure that they are received individually by each LIHEAP recipient and are used exclusively for that customer's energy assistance.

4. The Revised Policy Promotes Responsible Bill Paying Behavior

Another important advantage of DPW's revised application of benefits policy is that it furthers the objectives of CAPs. An important goal of CAP is to foster budgeting

and responsible bill-paying behavior in payment-troubled, low-income households. The reward for such behavior is that arrearage forgiveness is granted over time for a CAP customer who pays his or her monthly CAP bill in full and on time.⁹ Thus, the design of CAPs is intended not only to provide payment-troubled low-income customers with affordable bills, but also to hold customers accountable for paying their bills on a regular basis.

Under the 2012 Proposed State Plan, CAP customers were not responsible for any monthly payment between the time that they received a LIHEAP grant up and until the grant was exhausted. After several months of not budgeting or being responsible for a utility payment, CAP customers were then suddenly faced with a bill.

The revised policy, found in section 601.45 of the 2013 Proposed State Plan, permits the utility to apply the LIHEAP cash grant incrementally to the CAP credit. Under this policy, CAP participants are required to make regular, monthly payments. Further, CAP customers will understand how the utility applied the LIHEAP cash grant to their accounts because the credit will be displayed as a line item on their bills. The PUC appreciates this revision and believes that it constitutes good public policy. CAP customers will be able to keep track of the discounts they receive and will be incentivized to assume responsibility for an affordable, consistent monthly bill.

The PUC greatly appreciates DPW's efforts in revising section 601.45 of the State Plan. The PUC believes that the policy set forth therein will favorably impact all residential utility customers and the utilities, and will enable DPW to demonstrate to the federal government that it efficiently leveraged LIHEAP with CAPs, in order to receive additional funding under the leveraging incentive program.

⁹ It is noted that the purpose of the design element at Section 69.265(9)(ii) of the PUC's CAP Policy Statement, 52 Pa. Code § 69.265(9)(ii), which disallows the use of a LIHEAP payment to substitute for the customer's regular monthly payment, is to ensure that the CAP customer makes regular CAP payments.

B. Several Policies in the Proposed State Plan that Pertain to LIHEAP Crisis Grants Conflict with the Public Utility Code and Limit Leveraging LIHEAP funds with Utility Sponsored Programs

While the PUC appreciates DPW's efforts in developing an effective "application of benefits" policy with respect to the LIHEAP cash grant, the PUC remains concerned that certain provisions of the 2013 Proposed State Plan pertaining to LIHEAP crisis grants are inconsistent with the Public Utility Code and the public interest. In addition, the PUC suggests that the opening and closing dates for the crisis program should coordinate with the winter moratorium in order to maximize the benefit of leveraging LIHEAP funds with CAPs. The PUC would welcome the opportunity to work with DPW to resolve any discrepancies between the Public Utility Code and the 2013 LIHEAP State Plan.

1. The Public Utility Code Mandates that Termination Notices Constitute Proof of a Crisis

Sections 601.62 and 601.108 of the 2013 Proposed State Plan provide that termination notices issued by regulated utilities from December 1 through March 31 are not proof of a home heating emergency to qualify for a LIHEAP crisis benefit. *See* § 601.62 (relating to types of crisis benefits) at pp. B-14; § 601.108 (relating to proof of energy crisis) at p. B-21, of the Proposed State Plan.

Conversely, Section 1406(g) of the Public Utility Code expressly establishes that a termination notice constitutes sufficient proof of a crisis to render a customer eligible for a LIHEAP crisis grant. Section 1406(g) provides the following:

(g) Qualification for LIHEAP. – A notice of termination to a customer of a public utility shall be sufficient proof of a crisis for a customer with the requisite income level to receive a LIHEAP Crisis Grant from the Department of Public Welfare or its designee.

66 Pa. C.S. § 1406(g).

The PUC respectfully asserts that the General Assembly intended Section 1406(g) to apply to the payment of crisis grants during a qualifying customer's period of need. The winter moratorium, which is explained in greater detail in the following section, only halts service terminations and does not halt the accrual of charges to the customer's account for the service received. As such, the need for a crisis grant could rise at any time. Accordingly, the PUC requests that DPW revise the policy proposed in sections 601.62 and 61.108 to state that termination notices issued by utility companies from December 1 through March 31 *are* proof of a home heating emergency to qualify for a LIHEAP crisis grant, pursuant to Section 1406(g) of the Public Utility Code.¹⁰

2. The LIHEAP Crisis Component Does Not Coincide with the Winter Moratorium

The 2013 Proposed State Plan establishes January 2, 2013, as the opening date for the crisis component and March 30, 2013, as the closing date. For utility customers, a winter moratorium is in place from November 30 to April 1. *See* 66 Pa. C.S. § 1406(e)(1). The winter moratorium is a period during which utilities are prohibited from terminating service to customers whose income is less than 250% of the FPIG, absent authorization by the Commission. Given this timeline, the 2013 Proposed State Plan effectively eliminates the ability of the majority of utility customers to apply for crisis grants during much of the winter moratorium period.

While service terminations are halted during the winter moratorium, customers of the utilities remain obligated to pay their energy bills in full, and, if they are unable to do so, arrearages continue to accrue. Without access to crisis grants, many of these low-

¹⁰ The PUC notes that section 601.61 of the State Plan provides the following: "Vendors that accept crisis payments based on utility termination notices . . . must agree to maintain ongoing utility service to such households for no less than 30 calendar days from the date of the resolution of the crisis." *See* § 601.61 of the Proposed State Plan, p. B-12-B-13. This section is inconsistent with section 601.62, where the State Plan prohibits utility termination notices from being considered as evidence of a crisis during winter moratorium months.

income customers cannot pay monthly bills in full, let alone pay down account arrearages. Consequently, once the winter moratorium ends, these customers may face service termination beginning April 1. Many terminated customers who were unable to pay those accumulated arrearages do without energy access during the spring and summer months. By the time the next winter arrives, these customers owe not only the accrued arrearages, but also reconnection fees to gain access to utility services. If they are unable to use LIHEAP funds to pay their arrearage in full and/or reconnection fees, they either cannot reconnect service or they begin a cycle of never digging themselves out of the hole created by those accumulated arrearages. In this regard, any leveraging gained by coordinating LIHEAP with a utility's universal service program is diminished, or eliminated, if a customer is unable to receive a crisis grant during the winter moratorium.

The 2013 Proposed State Plan also establishes a crisis exception program, which opens on November 1, 2012, and closes on January 1, 2013. *See* 2013 Proposed State Plan, p. vii. Utility customers may qualify for the crisis exception during this timeframe if the household has been determined to be eligible for a LIHEAP cash grant and the household's main or secondary heating source has been shut off. *See* 2013 Proposed State Plan, § 601.32, p. B-8. A very positive aspect of the crisis exception program is that it opens the crisis program to vulnerable utility customers two months prior to the opening date of the regular crisis program.

However, the crisis exception program may pose problems because, like the regular crisis program, DPW does not view a public utility-issued notice of termination to be evidence of a heating crisis during the winter moratorium on terminations. This means that a utility termination notice is recognized as verification that a customer qualifies for a LIHEAP crisis grant only for the first twenty-nine days of the crisis exception program, *i.e.*, November 1, 2012, to November 29, 2012. When the winter moratorium begins on November 30, 2012, which is the 30th day of the crisis exception

program, a utility-issued termination notice is not enough to render a customer to be eligible for a LIHEAP crisis grant. This remains to be the case from November 30, 2012, through the end of the crisis exception program on January 1, 2013, to the end of the regular crisis program on March 30, 2013, or two days before the end of the winter moratorium. Under the proposed 2013 State Plan, a customer must receive a termination notice, the PUC must approve termination of the customer and service must be terminated to the account in order for the customer to be eligible for a crisis grant from November 30, 2012, to March 30, 2013.

It appears that DPW may have been trying to aid a utility customer whose service was terminated after the end of the prior winter moratorium (April 1) and remained out of service all Spring and Summer, by creating the crisis exception program. However, creating a separate crisis exception program may not be the most efficient way to administer the crisis program. The Commission respectfully submits that, instead of creating an exception, DPW should expand the operation of the entire crisis program from November 1, 2012, to March 31, 2013, and should recognize that receipt of a utility termination notice qualifies a customer for a LIHEAP crisis grant, in accordance with Section 1406(g) of the Public Utility Code, for the duration of the expanded crisis program. The timeframes for the crisis exception and the regular crisis programs, in conjunction with the statutorily prescribed winter moratorium, illustrate the need for DPW and the PUC to continue to work together to coordinate our respective programs for the benefit of low-income residential utility customers.

3. The 2013 Proposed State Plan Appears To Direct Utilities To Act Inconsistently With the Public Utility Code

The 2013 Proposed State Plan appears to direct a utility to enroll recipients of a crisis grant into a CAP, to establish a payment arrangement, or to prohibit termination of service during the winter moratorium where termination of service has been approved by

the PUC. Section 601.61 of the 2013 Proposed State Plan reads in pertinent part as follows:

Vendors that accept crisis payments based on utility termination notices or based on reconnection of utility service must agree to maintain ongoing utility service to such households for no less than 30 calendar days from the date of the resolution of the crisis. The amount of the crisis grant cannot exceed the amount listed on a utility termination notice, subject to the minimum and maximum LIHEAP crisis benefits allowed. Crisis benefits may be used for reconnect fees. With regard to crisis payments made pursuant to any grants approved during the Public Utility Commission winter termination procedure referred to in §601.62(2)(ii)(A), the earliest allowable termination date is considered to be 30 days following the resolution of the crisis, or May 1, whichever is later.

All participating energy vendors shall enroll a crisis recipient in a CAP or establish a budget plan, if the monthly CAP or budget plan amount is the most advantageous rate for the household.

2013 Proposed State Plan, p. B-12-B-13.

However, as noted above, the PUC is the agency legislatively empowered to regulate public utilities, to interpret and enforce the Public Utility Code, and to approve the design and funding of CAPs. DPW does not have oversight responsibility for the design of such programs, including eligibility criteria for CAP participants, and therefore, cannot direct a public utility to enroll a recipient of a crisis grant in a CAP.¹¹ The PUC must take into account not only the eligibility of CAP customers, but also all other residential rate payers, including those just above the 150% cut-off, who will have to bear the uncollectible expenses associated with CAP programs. The PUC has established policies to balance the interests of all residential customers, not just low-income

¹¹ It is noted that DPW correctly recognized elsewhere in the Proposed State Plan that customers must meet eligibility requirements to be enrolled in a CAP or to be granted a payment agreement in Section 601.31(2)(vii). See 2013 Proposed State Plan, B-7. This provision states that: “[u]tilities must also agree to keep service on through the moratorium and enroll the client in a CAP or budget program if the customer is eligible.”

customers. The 2013 Proposed State Plan attempts to dictate terms of the CAP programs conflicting with the PUC's statutory mandate.

Moreover, Section 1405 of the Public Utility Code, governs payment agreements, including the length of payment agreements and the number of payment agreements that may be established for a customer. *See* 66 Pa. C.S. § 1405 (relating to payment agreements). Section 1405(d)¹² limits even the PUC's ability to direct a public utility to establish a payment arrangement for a customer. Since the PUC, the agency that regulates public utilities, is limited in its authority to direct a utility to grant a payment agreement to a customer under certain circumstances, DPW is also without authority to direct a public utility to establish a payment arrangement or a yet-to-be-defined budget plan for a customer who receives a crisis grant.

Furthermore, the winter termination procedure for public utility customers, regardless of income, is governed by Section 1406(e) of the Public Utility Code. 66 Pa. C.S. § 1406(e). This section provides for a moratorium on service termination for customers at, or below 250% of the federal poverty guidelines between November 30th and April 1st unless termination of service is authorized by the PUC. DPW's direction in Section 601.61 of the State Plan, that "the earliest allowable termination date is considered to be 30 days following the resolution of the crisis, or May 1, whichever is later," is inconsistent with this section of the Public Utility Code.

Finally, Sections 1406(e)(2) and (3) of the Public Utility Code, 66 Pa. C.S. § 1406(e)(2) and (3), contain a different winter termination procedure for Philadelphia

¹² Section 1405 provides that:

(d) Number of payment agreements.-Absent a change in income, the commission shall not establish or order a public utility to establish a second or subsequent payment agreement if a customer has defaulted on a previous payment agreement. A public utility may, at its discretion, enter into a second or subsequent payment agreement with a customer.

66 Pa. C.S. § 1405(d).

Gas Works (PGW). Under these provisions, PGW is permitted to terminate service during the winter to a customer, with household income between 150% and 250% of the FPIG, and starting January 1, if the customer has not paid 50% of his or her charges for each of the prior two months. Termination may be stayed for a customer under the following circumstances: (1) the customer has proven that his or her household contains one or more persons over 65 or under 12 years of age; (2) the customer has a medical certification in accordance with PUC rules; or (3) the customer has paid an amount equal to at least 15% of the customer's monthly household income for each of the last two months.

A utility must follow the Public Utility Code and PUC regulations. Consequently, DPW should not require PGW, or any other utility to act inconsistently with the Code, especially to refrain from terminating service to a customer who received a crisis grant until May 1st. *See* 2013 Proposed State Plan, p. B-13.

For these reasons, the PUC respectfully requests that DPW modify the provisions set forth in the fourth and fifth paragraphs of § 601.61 in the 2013 Proposed State Plan as follows:

Crisis benefits may be used to reconnect utility service and pay reconnection fees. Crisis benefits may also be used to prevent termination of utility service. Vendors that accept crisis payments based on utility termination notices or based on reconnection of utility service must adhere to Section 1405 of the Public Utility Code, 66 Pa. C.S. § 1405 (governing payment agreements), Section 1406 of the Public Utility Code, 66 Pa. C.S. § 1406 (relating to termination of utility service) and Section 1407 of the Public Utility Code, 66 Pa. C.S. § 1407 (relating to reconnection of service).

All participating energy vendors are encouraged to enroll a crisis recipient in a CAP, if eligible, or establish a budget plan, if the monthly CAP or budget plan amount is the most advantageous rate for the household. Establishing a budget plan for a crisis recipient shall be subject to the

limitations on payment agreements in Section 1405(d) of the Public Utility Code, 66 Pa. C.S. § 1405(d).

If this revision does not address DPW's concerns pertaining to the use of crisis grants with respect to utility customers, the PUC is willing to collaborate with DPW and further revise Section 601.61 of the 2013 Proposed State Plan along with other provisions of the Plan that appear to be inconsistent with the Public Utility Code.

C. The 2013 Proposed State Plan Appears to Direct a Utility to Accept Only 50% of a Customer Account Balance from a Previous Address to Reconnect Service at a New Address

Section § 601.31(2)(vii), provides as follows:

For customers whose service has been disconnected at their previous address and need services to be connected at their new address, DPW will allow a regulated utility to request 50 percent of the customer's back balance from the previous address and a reconnection fee in order to restore service. If a LIHEAP Cash grant is over the 50 percent of the customer's back balance and reconnection fee, the regulated utility must apply the remainder of the Cash grant to a household's future bills. Utilities must also agree to keep service on through the moratorium and enroll the client in a CAP or budget program if the customer is eligible.

2013 Proposed State Plan, § 601.31(2)(vii), p. B-7.

This provision appears to allow a utility to use up to 50% of a LIHEAP grant to pay a customer's back balance for reconnection of service at a new location. The PUC believes that it is appropriate to allow use of LIHEAP grants to assist with arrearages to former service locations. In application, however, DPW's proposed policy – *i.e.*, to require a regulated utility to keep service on for the duration of the moratorium when the utility may have only been able to collect 50% of the back balance – appears to impermissibly restrict public utility collection practices and to adversely affect uncollectibles for the public utility and its residential customers.

Section 1407(c)(2)(iii) of the Public Utility Code, addressing payment for reconnection of service, provides as follows: :

(c) Payment to restore service.--

(2) A public utility may require:

* * * *

(iii) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated pursuant to this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation except that this requirement shall not apply if the financial benefits to such customer or applicant are greater if served outside of that assistance program.

66 Pa. C.S. § 1407(c)(2)(iii)(relating to reconnection of service; payment to restore service).

Residential ratepayers pay for the cost of energy conservation and universal service, including CAP costs related to arrearage forgiveness, and for costs associated with uncollectible accounts. DPW does not have jurisdiction over utility rates, but by proposing a policy that can result in increased uncollectibles for the utility, DPW's policy can directly result in increased rates for residential customers.

For these reasons, the PUC respectfully requests that DPW revise Section 601.31(2)(vii) (relating to general eligibility requirements; responsibility for heating costs) at B-7 of the 2013 Proposed State Plan. Specifically, the PUC recommends that Section 601.31(2)(vii) be revised to expressly state:

- (1) That the public utility may apply up to 50% of a customer's LIHEAP grant to pay for the past balance on a customer's account to reconnect service at a new address; and
- (2) That the remainder of the customer's account balance shall be treated in accordance with the utility's CAP rules if the customer is enrolled in CAP, or shall be recovered in accordance with Section 1407(c)(2)(iii) of the Public Utility Code, 66 Pa. C.S. § 1407(c)(2)(iii).

D. The DPW Rules in Appendix B of the 2013 Proposed State Plan Conflict with the LIHEAP Regulations at Title 55 of the Pennsylvania Code

Act 22 of 2011,¹³ section 403.1 authorizes DPW to establish rules, regulations, procedures and standards for the administration of assistance programs without going through the regulatory review process. Section 403.1(b) appears to pertain to LIHEAP in particular and permits DPW to place rules governing the administration of federally-funded programs in a State Plan. Section 403.1(b) states the following:

(b) The department is authorized to develop and submit State plans, waivers or other proposals to the Federal Government and to take such other measures as may be necessary to render the Commonwealth eligible for available Federal funds or other assistance.

62 P.S. § 403.1(b).

Clearly, it would be very difficult for DPW to make changes to the State Plan on an annual basis if it also had to issue a notice of proposed rulemaking every year. The PUC notes, however, there are outdated regulations in Title 55 of the Pennsylvania Code. The PUC recommends that the outdated regulations be revised so that the regulations set forth in Appendix B of the 2013 Proposed State Plan and future plans are not in conflict with Title 55 of the Pennsylvania Code.

¹³ See

<http://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2011&sessInd=0&billBody=H&billTyp=B&billNbr=0960&pn=2258>.

For example, in the 2013 Proposed State Plan, Appendix B, sets forth rules that are applicable to DPW's LIHEAP program. These rules address subjects such as customer eligibility requirements, including income determinations with verification and documentation of eligibility. However, there are also regulations that govern LIHEAP programs published in the Pennsylvania Code at Title 55, Chapter 601. These regulations, which have not been updated since October 15, 1987, address the same subject matter as the rules in Appendix B, and share the same section numbers, but do not share identical language. For example, the rule at Section 601.84 in Appendix B of the 2013 Proposed State Plan, and the regulation published as Section 601.84 in Title 55 of the Pennsylvania Code, address "income exclusions," but the rule in Section B of the State Plan lists eight additional exclusions to income.

Moreover, Appendix B lists additional rules that do not appear in the LIHEAP regulations published at Title 55 of the Pennsylvania Code. These additional rules are set forth in Appendix B at: § 601.65 (relating to refunds), § 601.105 (relating to proof of residence), § 601.108 (relating to proof of energy crisis); § 601.109 (relating to lawfully admitted non-citizen status), and § 601.145 (relating to accounts receivables).

Having two sets of rules that govern the same DPW program – *i.e.*, the rules in Appendix B of the LIHEAP State Plan and the LIHEAP regulations published in the Pennsylvania Code at Title 55 – create confusion as to which set of rules are to be followed. Clarifying this situation will ensure that the public and all interested parties, *i.e.*, LIHEAP applicants, recipients and their advocates and vendors, have adequate due process notice of the rules/regulations that are applicable to LIHEAP.

The PUC believes that an articulated process for the proposal of changes to the State Plan, opportunity for public comment, and the adoption of a final state plan would be useful. The PUC welcomes the opportunity to participate in such a proceeding.

CONCLUSION

In conclusion, the PUC appreciates the opportunity to work cooperatively with DPW relative to the 2013 Proposed State Plan as well as on future plans. The PUC believes that DPW has devised a policy for 2013 and beyond that effectively coordinates LIHEAP cash grants with CAPs, and commends DPW for this policy revision. The PUC respectfully requests that DPW consider the additional comments offered herein. The PUC looks forward to working with DPW to resolve any remaining issues.

WHEREFORE, the Pennsylvania Public Utility Commission respectfully requests that the Pennsylvania Department of Public Welfare:

1. Adopt the proposed changes relative to cash grants and percent of income payment plans.
2. Revise the policy determination at proposed Section 601.108, which states that termination notices by utility companies from December 1 through March 31 are not proof of a home heating emergency to qualify for a LIHEAP Crisis grant as it is inconsistent with the express language of 66 Pa. C.S. § 1406(g).
3. Revise the application period for LIHEAP Cash and Crisis Components so that these programs run concurrently, beginning on November 1, 2012, and closing on or after April 1, 2013.
4. Expand the operation of the regular Crisis program from November 1, 2012, to March 30, 2013, in lieu of creating a Crisis Exception Program.
5. Delete provisions in Section 601.61, and other provisions of the 2013 State Plan that are inconsistent with the Public Utility Code, namely the provisions

that direct a public utility to enroll recipients of a Crisis grant into a customer assistance program, establish a payment arrangement or prohibit termination of service during the winter moratorium where termination of service has been approved by the PUC.

6. Revise Section 601.31(2)(vii) (relating to general eligibility requirements), which contradicts and thus is inconsistent with the Public Utility Code, as set forth in the discussion herein, relative to these comments.
7. Submit revisions to its regulations at 55 Pa. Code Chapter 601 (relating to Low Income Home Energy Assistance Program) to the Independent Regulatory Review Commission and to the appropriate standing committees in the Pennsylvania House and Senate; and the Office of Attorney General for review and approval consistent with the Regulatory Review Act; and
8. Grant other relief as may be appropriate.

Respectfully submitted,



Stephanie M. Wimer, Assistant Counsel
Louise Fink Smith, Assistant Counsel
Robert F. Young, Deputy Chief Counsel
Bohdan R. Pankiw, Chief Counsel

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Harrisburg, PA 17105-3265

Date: August 1, 2012

**BEFORE THE
PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE**

**Regarding
Low-Income Home Energy Assistance Program
Fiscal Year 2014 Proposed State Plan**

**COMMENTS OF
UGI Utilities, Inc. – Gas Division,
UGI Utilities, Inc. – Electric Division,
UGI Central Penn Gas, Inc.
and
UGI Penn Natural Gas, Inc.**

August 2, 2013

Submitted by: Yvette Belfort
Supervisor, Outreach Services
UGI Utilities, Inc.

LIHEAP Proposed State Plan

Fiscal Year 2014

UGI Utilities, Inc. (“UGI Utilities”), UGI Penn Natural Gas, Inc. (“PNG”) and UGI Central Penn Gas, Inc (“CPG”) (collectively, the “UGI Companies” or individually a “UGI Company”) would like to thank the Pennsylvania Department of Public Welfare (“Department” or “DPW”) for the opportunity to submit these written comments on the proposed Low Income Home Energy Assistance Program (“LIHEAP”) plan for fiscal year 2014. Together, UGI Utilities– Gas Division, PNG and CPG constitute the Commonwealth’s largest provider of natural gas distribution service. Our service territory covers 45 counties in rural and urban Northern, Southern, Central, Eastern, and Western Pennsylvania, with more than 530,000 residential gas customers. Among other locations, we provide gas service in the Cities of Allentown, Carlisle, Bethlehem, Easton, Harrisburg, Lancaster, Reading, Scranton, Wilkes-Barre, and Williamsport and the suburban and rural points in between. UGI Utilities – Electric Division also serves 56,000 electric distribution residential customers in portions of Luzerne and Wyoming Counties.

UGI begins these comments by commending the department for its recommendation to increase the maximum Crisis grant from \$400 to \$500. Overall, we support the comments presented by the Energy Association of Pennsylvania on the following items:

- A. Open and operate the cash and regular crisis components of LIHEAP concurrently;
 - The crisis exception does not allow a low-income customer to maximize the potential of LIHEAP assistance.
- B. Adhere to State Law, 66 Pa.C.S. §1406(g), which states that “*A notice of termination to a customer of a public utility shall be sufficient proof of a crisis for a customer with the requisite income level to receive a LIHEAP Crisis Grant from the Department of Public Welfare or its designee.*”;
 - Recognition of a termination notice as a crisis, as defined under Pennsylvania law, will allow for low income families to avoid termination of their utility service.
- C. Promote communication and dialogue surrounding the Department’s policy for the manner in which Cash benefits are applied to CAP customer accounts;
 - There has been no clear resolution to this issue despite repeated efforts to obtain policy clarification and a final decision. UGI along with many industry peers are left without clear direction on the programming and implementation needs relating to the future application of LIHEAP Cash benefits for our CAP customers.
- D. Establish a provision for a “set-aside” of funding earmarked for customers of regulated utilities who receive termination notices after Feb 1 and face termination in the spring following the end of the statutory “winter moratorium” period;
 - UGI encourages the DPW to allow all low income Pennsylvania residents to have an equal opportunity to receive the benefits offered by the LIHEAP program. Allocating funds for customers of regulated utilities who receive a termination notice dated February 1 or later will extend an equal level of benefits to customers of regulated utilities and customers of deliverable fuels.

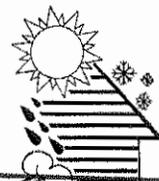
- E. Improve communication to LIHEAP Advisory Committee members and LIHEAP vendors.
- LIHEAP is a multi-faceted program with many interested parties and UGI recognizes the challenges the Department faces in regard to program communication. For this upcoming LIHEAP program year, UGI looks forward to working with DPW in an effort to provide additional training at the CAO level in order to eliminate the misallocation of LIHEAP grants for UGI customers. (Example: a UGI Penn Natural Gas customer's grant is processed using the UGI Central Penn Gas vendor number). While UGI acknowledges improvement on this item, there are still many instances when the LIHEAP payments are sent to the wrong UGI Company. This error creates customer frustration and results in significant delays for processing low-income customers' LIHEAP grants.

In addition to supporting the testimony of the Energy Association, UGI adds these additional comments:

- F. Continue to monitor the DPW application processing for LIHEAP recipients more closely. There has been a delay and backlog experienced the last two LIHEAP seasons. In addition, inform interested parties, such as vendors and LAC members, if a processing delay is encountered.
- G. Consider providing contracted-LIHEAP crisis agencies access to the PROMISE system to ensure an efficiently-run program. When a contracted-LIHEAP crisis provider has authorized a crisis approval for a UGI Company, there is a delay with the processing and receipt of the CRISIS grant. The grant is sent from the CRISIS provider to a designated DPW office for entry into the PROMISE system. Therefore, we recommend that the Department grant the contracted-LIHEAP crisis provider's access to PROMISE so that these providers may obtain process the grant in a time efficient matter.
- H. In addition, UGI recommends DPW to consider increasing the minimum CASH grant from \$100 to \$300. This increase will allow for program dollars to be spent, as intended, during the traditional LIHEAP season. Additionally, a minimum CASH grant of \$300 will further help low income customers with their energy costs.

UGI Utilities, PNG and CPG appreciate the opportunity to submit these comments as well as the significant challenges facing DPW in administering the LIHEAP program. Given the difficulty of the task, we are asking the Department to give due weight and consideration to the issues raised and recommendations presented in both our comments and those of the Energy Association. We hope these comments aide the Department's efforts in finalizing a plan that will better serve all Pennsylvania citizens.

Weatherization Works!



RECEIVED

AUG 5 2013

DIV. OF FEDERAL PROGRAMS
& PROGRAM MANAGEMENT

July 22, 2013

Tammy Sampson
Division of Federal Programs and Program Management
Department of Public Welfare
DGS Annex, Room 224
Willow Oak Building
1006 Hemlock Drive
Harrisburg, PA 17110

RE: Comments on LIHEAP Proposed Plan

The PA Weatherization Providers Task Force is a network of 43 organizations providing energy conservation services in each of the Commonwealth's 67 counties. In addition to weatherization, the Task Force executes another valuable component of the LIHEAP Program -- the Crisis Component. The Crisis Interface Program allows us to help the most vulnerable of our families by repairing or replacing heating systems, and fixing gas or fuel lines, hot water systems or broken windows. This service would not be available without the transfer of LIHEAP funds to the Crisis Interface Program, since these services are not eligible under the Low Income Weatherization Assistance Program (Title 10 CFR Part 440).

The elderly and poor struggle to pay energy costs. The best way to get ahead of this problem is through conservation. Only by making low income homes more efficient can we begin to solve this problem. The 15% transfer to DCED will allow weatherization providers all across the state to continue to weatherize homes, thus preparing more families to face next winter with lower bills and a reduced need for cash assistance. Without an investment in weatherization, each crisis will recur the next year, and we will continue paying bills, rather than conserving energy and saving taxpayer dollars.

The following comments are on behalf of the PA Weatherization Providers Task Force. Thank you for the opportunity to make these comments part of the record.

- We are pleased that the State Plan for the LIHEAP Program contains the appropriate framework for transferring 15% of the federal allocation to the Department of Community & Economic Development for both the Crisis Interface and Weatherization Programs.
- The start date of the Crisis Interface Program puts many families at risk. While the "exception program" may resolve some issues for crisis payments, or what is commonly

PENNSYLVANIA WEATHERIZATION TASK FORCE

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called supply related emergencies, it causes confusion when applied to the Crisis Interface Program, or weather related emergencies. We recommend that there be no distinction in how the Crisis Program operates from November until January. The heating season in PA really begins in October, and furnace breakdowns can occur anytime the heating system is operating. Delaying the opening of the Crisis Program and operating under an "exception" program places families without heat at risk, and appears to accomplish nothing.

- With diminishing US Department of Energy funds, it is important that LIHEAP funds are available for standard weatherization before, during and after the Crisis season. Last year the Weatherization Providers were unable to perform standard weatherization until after the Crisis season, which this past year extended until April 26th. We recommend that Weatherization continue throughout the Crisis season.

Thank you again for the opportunity to present these comments.

Sincerely,


Gene Brady
Chair

PENNSYLVANIA WEATHERIZATION TASK FORCE

P.O. Box 991, Wilkes-Barre, PA 18703
Phone: 800-822-0359 Fax: 570-829-1665

COMMENTS OF
The Pennsylvania Utility Law Project

Submitted July 19, 2013

FISCAL YEAR 2014
LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM
PROPOSED STATE PLAN



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I. INTRODUCTION

The Pennsylvania Utility Law Project (“PULP”), as the designated statewide specialized project of the nonprofit Pennsylvania Legal Aid Network, provides representation, advice, and support in energy and utility matters on behalf of low-income, residential utility customers. These comments are presented on behalf of our low-income clients. For more than three decades PULP has worked alongside the Department of Public Welfare (“DPW” or “the Department”) in an effort to further our mutual goal of protecting and serving Pennsylvania’s most vulnerable households through the effective management of Low-Income Home Energy Assistance Program (“LIHEAP”) resources.

II. GENERAL STATEMENT

LIHEAP is an essential program. The Cash and Crisis grant programs as well as the weatherization Crisis Interface component are critical to assisting Pennsylvania households get safely through the winter. Unfortunately, some of the major program design features implemented during the past number of years—such as a separate calendar for the Cash and Crisis components; a late Crisis program start scheduled for January; a reduction in the amount of grants which are provided to tenants who pay for heat indirectly through their rent; and, a ceiling on the maximum cash grant amount—have had negative consequences for many households in need of LIHEAP. Furthermore, these policies have resulted in the failure to allocate all available funding during the program year, and a substantial under spending for grants which would have aided tens of thousands of low-income households. These policies are unnecessary, unwise and should be revisited.

Additionally, DPW has again proposed a potential application of LIHEAP grants to the accounts of Customer Assistance Program (CAP) program participants that may conflict with federal law and, at the very least, poses significant logistical concerns regarding inter-agency cooperation. PULP addresses Appendix B, section 601.45 within these comments and requests that the Department provide necessary safeguards, clarification and policy development in conjunction with any potential adoption.

III. PULP RECOMMENDATIONS IN BRIEF

PULP respectfully recommends that DPW make the following changes to its Fiscal Year 2014 State Plan DPW. These recommendations are made to protect and serve Pennsylvania's most vulnerable citizens and assist DPW to effectively manage its resources.

1. Open both Cash and Crisis concurrently on November 4, 2013, and close both on or after April 4, 2014 or until all available funds are expended.
2. If LIHEAP Crisis Exception is maintained, eliminate the requirement that individuals must be eligible for a LIHEAP Cash grant in order to get a Crisis Exception grant to restore their heat.
3. Correct discrepancies within the Plan to make it clear that renters whose heat is either a designated or an undesignated portion of their rent qualify for a LIHEAP grant.
4. Remove the requirement that life-threatening emergencies requiring Crisis assistance within 18 hours be a "documented medical emergency" or clarify what documentation is required.
5. Prior to implementation of proposed § 601.45:
 - Respond to the concerns outlined in a April 11, 2013 Letter from the Division of Energy Assistance, Administration for Children and Families, United States Department of Health of Human Services to DPW concerning § 601.45 ;
 - Specify which utility Customer Assistance Programs ("CAPs") fall within the designation of a Percentage of Income Payment Program ("PIPP") ;

- Define what constitutes a permissible means of integrating LIHEAP and CAP for those CAP programs that are not PIPPs;
 - Specify how DPW will ensure that application of § 601.45 will provide CAP customer protection from shut-offs;
 - Specify how excess LIHEAP grants greater than the annual CAP credit are to be applied;
 - Define the energy burden levels required to ensure that § 601.45 will result in a coordination of LIHEAP and CAP programs which achieves affordable utility bills and results in affordable energy burdens for CAP customers who apply their LIHEAP Cash grants to their CAP bill.
- 6.** Specify that implementation of vendor plans such as CAP-Plus, which deem LIHEAP as an available resource or adversely treat LIHEAP recipients, is in violation of federal law and regulations and will jeopardize an entity's LIHEAP status as an approved vendor.
 - 7.** Increase the maximum Crisis Grant for fuel oil delivery to \$1000.
 - 8.** Reinstate and make permanent the fuel oil discount program.
 - 9.** Ensure that the Crisis Interface Program with DCED, which enables repair and replacement of heating systems, receives funding sufficient to ensure that it opens on November 1, 2012 and remains open until all available LIHEAP funds are expended.
 - 10.** Ensure that LIHEAP crisis is available to the homebound ill and disabled.
 - 11.** Develop and implement a robust communication plan to inform the public, local LIHEAP offices and sub-grantees in a timely manner of all program parameters and changes.
 - 12.** Utilize all available LIHEAP 2013-2014 funding and resources by April 4, 2014.
 - 13.** Actively advocate for stable and continuous supplemental LIHEAP funding.

IV. COMMENTS IN SUPPORT OF SPECIFIC RECOMMENDATIONS

A. Cash and Crisis components should open concurrently on November 4, 2013 and remain open until on or after April 4, 2014 or until all available funds are expended.

Despite almost universal opposition from all commenters, DPW has again proposed to separate the LIHEAP Cash and Crisis programs. PULP opposes the bifurcated opening of the LIHEAP Cash and Crisis programs. The Crisis Program should open on November 4, 2013 concurrently with the Cash Program.

The proposed opening of the Crisis Exception Program on November 4, 2013 is an inadequate substitute for an actual Crisis grant program. First, the Crisis Exception program is neither structured nor intended to prevent shut-offs. This is major failing. In Pennsylvania, the financial and legal requirements to gain restoration of service are far more burdensome than the requirements to prevent termination of service. After a service shut-off occurs, security deposits and reconnection fees may be required, thus making restoration of service more expensive. Since LIHEAP funds may not be used to pay for a security deposit, in some cases waiting until the service has been shut-off will make restoration of service virtually impossible. In addition, Public Utility Commission (PUC) rules are more restrictive after a shut-off, reducing the potential assistance available through the PUC.

The LIHEAP experience during the past three years has clearly confirmed that a limited Crisis program, such as the one again presently proposed by DPW, provides insufficient time to meet the needs of applicant households or of local grant processing agencies. Based on historic spending patterns of the past three years, the anticipated federal block grant amount expected this year is adequate to support a Crisis program longer than the one currently being proposed by DPW. Even in the current political and economic environment, DPW currently expects to

receive a \$162.93 million LIHEAP block grant and to carry over \$19.2 million from the 2012-13 LIHEAP season. Despite the significant amount of LIHEAP funds it expects to receive, DPW has proposed a short LIHEAP season and proposes a LIHEAP Crisis season that will be open for just 3 months. This is inadequate to the need and the resources available and should be modified.

The actual time it takes to process a LIHEAP Cash grant is simply too long. It often significantly exceeds even the 30-day anticipated time frame. Because the Cash grant processing time period is neither designed nor capable to assist a household in an actual crisis, the bifurcation of the two grant programs and the slow Cash grant processing time results in a failure to assist households in need of immediate help. By opening the Crisis and Cash grant components at the same time, DPW would ensure that the protective benefits of the grants are received within Crisis grant time frames. A Crisis grant, which must be processed within 48 hours, ensures an expeditious result which is responsive to the actual need. A LIHEAP Cash grant processed alone may not achieve that same result.

Furthermore, while utility companies may refuse to accept either a Cash grant or a Crisis grant alone to prevent termination or to reconnect service, the effect of combining the two grants often achieves better results. LIHEAP applicants must have the opportunity to use both the Cash and Crisis components in combination and at the same time, in order to have the best opportunity to maintain and restore essential heat service during the cold weather months.

Additionally, the proposed program dates provide too narrow a time frame for orderly program administration. LIHEAP applicants, even during longer program years, have often been subject to long waiting lines at processing sites, and processing and payment delays in those counties having inadequate staffing. DPW regularly hires, employs and trains temporary energy assistance personnel. The curtailed program year which DPW proposes will result in these

temporary and sub-contracted workers being overwhelmed by an onslaught of applications submitted over an extremely condensed period of time. With a curtailed program year, it is highly unlikely that this critical program will be able to function in an orderly manner and efficiently process and provide Crisis grants within 48 hours or less or Cash grants within the mandated 30 day time period.

Finally, having such a short Crisis program as proposed by DPW will significantly reduce the effectiveness of the Crisis Interface component which refers crisis eligible candidates to the weatherization program for emergency heating system repairs and replacement, because the period of referral and operation will be dramatically curtailed. It should be clearly stated within the Plan that this essential program component is intended to run from November 4, 2013 until the actual LIHEAP program end date.

B. If LIHEAP Crisis Exception is retained, DPW should eliminate the requirement that individuals apply for and receive LIHEAP Cash grant in order to get a Crisis Exception grant to restore their heat.

Section 601.32 provides that Crisis Exception grants will only be issued if the amount of the household's Cash grant is insufficient to restore heat to the residence. Since the LIHEAP Crisis Exception grant is available only for households that have entered the cold weather months without heat (i.e. they are already in a crisis), restricting eligibility for this grant only to those situations when the applicant's Cash grant is insufficient to cure the crisis creates an unwarranted exclusion from eligibility of those households in a crisis situation.

Additionally, this application of LIHEAP households' Cash grant arguably conflicts with the intent of the LIHEAP program because it re-characterizes the recipient's Cash grant as a Crisis grant. This is problematic because the purpose of the LIHEAP Cash grant differs from the Crisis grant in that former is meant to assist the household in supplementing the costs of home

heating over the winter and the latter is designed to assist the household resolve an energy crisis. By requiring a Cash grant to be used to resolve the home energy crisis, DPW is potentially depriving the household of essential resources that it may need to pay for ongoing heating costs once the energy crisis is resolved. It is by far preferable to permit eligible households to apply their Crisis grant first to resolve the home energy crisis and then, only if that grant is insufficient, to apply the Cash grant to the remaining balance.

C. DPW should correct the language within the Plan to align with its Policy Clarification and to make it clear that renters whose heat is either a designated or an undesignated portion of their rent qualify for a LIHEAP grant.

A discrepancy exists between the Policy Clarification and Alignments contained at the beginning of the State Plan and the language of the Plan itself as related to the eligibility of renters who pay for their heat as a part of rent. In its Policy Clarification, DPW clarifies that those households who “are renting with heat included and have a specific portion of their rent use for their heating costs are considered to have a heating responsibility and are therefore eligible for benefits.” (FY 2014 Proposed State Plan, Policy Clarifications and Alignments ¶ 1.) PULP supports this clarification. Despite this clarification, however, § 601.31 of the Proposed State Plan continues to contain the outdated and inconsistent language of prior plans which states that only renters who pay for their heat as an “undesignated part of rent” are considered to have responsibility for heating costs. This discrepancy should be corrected. There is no rational basis to distinguish between those renters who pay for heat as a designated portion of rent and those who pay for heat as an undesignated portion of rent. As such DPW should clarify this section by either removing the word “undesignated” or by inserting the word “designated”. In other words, the section should clearly state that households who pay for heat as a part of their rent (whether it

is a designated part of rent or an undesignated part of rent) are considered to have home heating responsibility.

D. Remove the requirement that life-threatening emergencies requiring Crisis assistance within 18 hours be a “documented medical emergency” or clarify what documentation is required.

One of the requirements imposed by the Federal LIHEAP statute is that DPW, as the state block grant recipient, must ensure that “not later than 18 hours after a household applies for crisis benefits, [that it] provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits and is in a life-threatening situation.” 42 U.S.C. § 2604(c) (2). As in past years, DPW has inserted this provision into its plan, but for the first time added the qualification that the life-threatening situation “must be a documented medical emergency.” Proposed State Plan § 601.4. This additional qualification should be eliminated.

First, no such limitation appears in the statute and thus PULP submits that it is an improper limitation on the Crisis Program. This requirement for prior medical documentation places an unwarranted administrative barrier in the way of receiving expedited life-sustaining assistance that is contrary to the intent and letter of the statute. The statute clearly intends that emergency, crisis assistance be provided as quickly as possible in life threatening situations. This requirement to provide prior documentation virtually nullifies the intent of the statute.

Second, such a requirement limits the life-threatening emergency to only those situations that are medical emergencies. While without a doubt this is a subset of life-threatening emergencies it is not the universe of such emergencies. For example, a household may not be experiencing a medical emergency, but the outside temperature may be such that without prompt intervention within 18 hours the household could suffer severe consequences that are characterized as life-threatening. Finally, the term “documented medical emergency” is not

defined and begs the question: documented by whom? A household facing a life threatening home energy crisis should not be required to spend time, energy, and money (on co-pays, deductibles or the like) to have their doctor “document” their medical emergency prior to receiving assistance.

The receipt of expedited life-sustaining intervention is perhaps the most important crisis intervention to be provided, yet DPW has not publicly highlighted this change in any manner. It is neither noted as a Proposed Change or as a Policy Clarification or Alignment. It appears only in the body of Appendix B. The Department has provided no explanation in its State Plan as to why this language has been added as a requirement. There is no indication that this provision has been abused or that this additional requirement is necessary. As such, it should be removed prior to the submission of the Final State Plan. In the alternative, if DPW insists that this provision remain, it should accept a self-certification from the household that the situation is life-threatening in the absence of prompt crisis intervention.

E. DPW must clarify proposed section 601.45 Application of Benefits.

In § 601.45 of its Plan, DPW has proposed a method of applying LIHEAP Cash grants to the accounts of customers enrolled in utility Customer Assistance Programs. Section 601.45 refers to both a Percentage of Income Payment Program (“PIPP”) and a Rate Discount Model and specifies alternate methods for application of benefits according to the model a public utility operates. However, in Pennsylvania there is not a clear demarcation concerning whether a public utility is operating a PIPP or a Rate Discount model or a variation of the two. Of the more than 14 CAP programs run by EDCs and NGDCs within the Commonwealth each is unique. Very few are pure PIPPs or Rate Discount Models; most are hybrid models of some kind.

The DPW Policy enunciated in proposed § 601.45 must be capable of actual application. This point was driven home by a recent letter sent by the Department of Health and Human Services to DPW which expressed concerns with § 601.45. To achieve a correlation of policy and application, there needs to exist from the outset, a clear, consistent, statewide policy as to which of the two proposed ‘application of benefits’ policies would apply to each CAP program. There must be clarity as to which CAP programs would be subject to the 601.45 requirements of the Rate Discount Model, and which to the policy that is appropriate to the PIPP Model. That is not presently found in the Proposed State Plan and must be addressed. Furthermore, prior to implementation, DPW must fully address each of the concerns articulated by HHS in its April 11, 2013 letter, and must specify an appropriate energy burden applicable to CAP programs operating as a PIIPP prior to permitting LIHEAP funds to be applied to a customer’s CAP credit rather than the asked to pay amount.

- 1. DPW must ensure that the application of benefits as proposed in § 601.45 must result in a coordination of LIHEAP and CAP programs which achieves affordable utility bills and results in affordable energy burdens for CAP customers who apply their LIHEAP Cash grants to their CAP bill.**

The type of integration of LIHEAP with utility company CAPs as proposed by DPW in § 601.45 requires DPW to assess the resulting affordability of CAP payments. The federal LIHEAP statute specifically states that LIHEAP should be “furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income.”¹ PULP agrees with the Comments submitted by Community Legal Services, Inc (“CLS”) to the FY 2014 Proposed LIHEAP State Plan that the purpose of this provision was to ensure that LIHEAP grants are used to reduce the amount those with the lowest incomes spend on energy.²

¹ 42 U.S.C. § 8624(b) (5).

² The section of the Act later codified at 42 U.S.C. § 8624(b) (5) was amended in 1994 to specify that LIHEAP benefits should be used to decrease the energy expenditures of those with the lowest incomes. The legislative history

DPW, as a result of the assurances which it provides to the federal government as part of its application for leveraging incentive funds in accordance with Pub. L. 97-35, Section 2607 (a), 42 U.S.C. §8626, as amended under the leveraging incentive program, has indicated that CAP programs are leveraged resources under Criterion iii D. See Proposed Plan pages 11-18. Pennsylvania has provided assurance to the federal government that Pennsylvania's LIHEAP and the benefits provided with leveraged resources are coordinated and provided in cooperation and conjunction with each other. However, this has not been the case. There is nothing in the State Plan or in DPW's actions to suggest that the use of LIHEAP grants to pay for PIPP programs have been coordinated or analyzed to produce a result which will reduce the current energy burdens of Pennsylvania CAP customers or bring those energy burdens to affordable levels.

Section 601.45 proposes a process of integration of LIHEAP with utility company CAPs which has only been done in states that have reasonable maximum energy burdens. Colorado, for example, has a maximum energy burden of just 6% of annual income.³ The energy burden of Colorado's low-income customers is significantly lower than Pennsylvania's which has a maximum energy burden of 17% of annual income—almost three times Colorado's.⁴

of the 1994 amendments makes it clear that LIHEAP is intended to reduce energy expenditures of those with the lowest incomes and recognizes that energy burdens of 15% of annual income are high and should be addressed:

This section also adds the concept of “highest home energy needs” to the current provision of the LIHEAP Act that **requires States to target their assistance in a way that provides varying levels of assistance for households depending on their incomes and energy burden (energy expenditures in relation to income)**. For example, according to HHS, over 7 million eligible **households have energy bills that exceed 15 percent of their annual income. There is a need to focus on those households with the lowest incomes which are most drastically burdened** and on those at highest health risk.

* * * * *

Looking at energy burden alone may not assure that LIHEAP assistance is truly targeted to households most in need. For example, two households may have energy burdens of 10 percent, but one household has an income of \$2,000 and the other has an income of \$10,000. **Clearly the household with the lowest income, as well as the 10 percent energy burden, will have the harder time meeting its immediate energy needs.**

S. Rep. No. 103-251, at 67 (1994) (emphasis added).

³ See <http://www.dora.state.co.us/puc/rules/723-3.pdf> and <http://www.dora.state.co.us/puc/rules/723-4.pdf>.

⁴ 52 Pa. Code §§ 69.261-69.267.

Our view is that the integration of LIHEAP with utility CAPs as proposed by § 601.45 works only when coordinated with **affordable energy burdens** for CAP customers. The determination of what constitutes affordable utility bills and affordable energy burdens is essential to any plan which attempts to integrate and coordinate LIHEAP and CAP.

If, as is the case here, DPW proposes to apply a LIHEAP recipient's funds in a manner intended to integrate and coordinate LIHEAP with CAP, then we submit that it is within the purview and responsibility of DPW to determine and designate the required affordable energy burden to be achieved through such integration. Accordingly, DPW must actively make such a determination when, as in Pennsylvania's Proposed Plan, it has provided leveraging incentive assurances that CAPs and LIHEAP have been actively developed and coordinated with each other. This issue must be addressed by DPW now, prior to the application of proposed § 601.45. This is particularly so since Pennsylvania's energy burden levels, which were set some time ago and have not been updated, are dramatically higher than other states, such as Colorado, which have adopted the proposed DPW approach. This scrutiny is doubly important because the Pennsylvania Public Utility Commission is no longer pursuing its CAP Rulemaking or Policy Statement review of the appropriate energy burden level in Pennsylvania and there is no other forum currently available to adopt a state-wide approach. PULP respectfully submits that DPW address the issue of an appropriate energy burden for its LIHEAP/CAP recipients **prior** to adoption of § 601.45 in its Final Plan.

2. Section 601.45 must be amended to clarify that for clients facing termination of service, LIHEAP Cash grants must first be applied to stop termination before being applied to the customer's CAP credit.

Section 601.45 should be amended to require that all utility companies, regardless of whether they operate a PIPP or a Rate Discount Model, first apply LIHEAP funds to past-due

balances that have resulted in a termination notice. If DPW receives permission from the U.S. Department of Health and Human Services to implement § 601.45 as described in its proposed state plan, CAP customers of utility companies who operate a PIPPs and who are facing termination of service would be treated adversely as compared to those CAP customers of utilities who do not operate PIPPs and who are facing termination of service for non-payment. Those enrolled in PIPPs would not be able to use the combination of their Crisis and Cash grants to avoid termination of service because their Cash grants would be applied not to their past-due CAP balances, but rather to their CAP credits. This inequitable and adverse treatment must be rectified.

Specifically, a utility (whether it operates a PIPP or some other CAP model) should not be permitted to receive a LIHEAP grant in an amount sufficient to cure a delinquent balance and apply that grant to a customer's CAP credit and then terminate the customer's service. Therefore, prior to any application of § 601.45, it must be clarified that in cases where a CAP customer is facing termination of service for past-due CAP payments the utility should first apply the customer's Crisis grant to that balance, and, if insufficient to cure the arrears should apply the Cash grant to the customer's past-due CAP balance. Only after the balance is cured and termination cancelled should any remaining Cash grant be applied to a customer's CAP credits and then only in the manner specified in § 601.45 after it has been approved by HHS.

3. DPW must specify in greater detail how LIHEAP grants greater than the annual CAP credit are to be applied.

The Proposed State Plan, section 601.45, states the following 'application of benefits' policy for a PIPP:

If the LIHEAP benefit is greater than the annual CAP Credit, the remaining LIHEAP balance will be first applied to the customer's pre-existing bill arrearages and second to the customer's utility account.

In light of this proposal, additional clarity is needed in the form of **a statewide policy directing how LIHEAP grants greater than the annual CAP credit are to be applied.**

We propose the following application: First, to the customer's CAP arrears, if any; and second, carried forward as a credit to the customer's CAP asked to pay amount. Given that LIHEAP Cash grants are designed to assist households in meeting their home energy needs, it is our view that these grants should not be applied to the household's pre-program arrears that are frozen and eligible to be forgiven as a part of the household's participation in CAP. This provision will likely affect few households but we believe will provide necessary clarification and uniformity.

F. DPW should specify that implementation of vendor plans such as CAP-Plus, which deem LIHEAP as an available resource or adversely treat LIHEAP recipients, is in violation of federal law and regulations and will jeopardize an entity's LIHEAP status as an approved vendor.

Two utility companies in Pennsylvania have implemented CAP-Plus programs.⁵ Others have proposals for CAP-Plus pending.⁶ DPW should specify in its final state plan that implementation of vendor plans such as CAP-Plus, which deem LIHEAP as an available resource or adversely treat LIHEAP recipients, is in violation of federal law and regulations and will jeopardize an entity's LIHEAP status as an approved vendor. This is particularly needed in light of the possibility that, even with the inclusion of section 601.45 into the state plan, some utilities may continue to implement CAP-Plus.

On July 21, 2010, the Department of Health and Human Services (HHS) released Low-Income Home Energy Assistance Information Memorandum 2010-13 ("LIHEAP IM 2010-13"), to advise states as to the allowable uses of LIHEAP funds in coordination with vendor energy

⁵ PPL and Columbia Gas.

⁶ Duquesne, Peoples Natural Gas.

assistance programs, like the Customer Assistance Programs, or CAPs, that many Pennsylvania utility companies offer. In LIHEAP IM 2010-13, HHS states that the IM is “guidance . . . for any LIHEAP program that is presently coordinating or plans to coordinate vendor energy assistance programs, such as [Percentage of Income Payment Plans].” LIHEAP IM 2010-13 clearly articulates that “any LIHEAP funds provided to low-income households to meet their home energy needs must be expended in accordance with the LIHEAP statute, HHS block grant regulations, State plan, and plan amendments.” (Id.) The IM lists a series of examples of how LIHEAP funds may be inappropriately coordinated with energy vendor assistance programs. These inappropriate uses of LIHEAP funds include the use of one individual’s LIHEAP grant for the use of any other individual’s energy bill and the subtraction of a LIHEAP grant amount from an individual’s bill in order to calculate the amount the individual will be billed. In relevant part, the IM states:

When LIHEAP funds are provided to a utility on behalf of a client to pay his energy bill, the utility does not have the independent authority to use those funds for any other customer or for any other purpose.

...

When LIHEAP funds are applied to a LIHEAP client’s utility arrearage amount under the PIPP program, this use of LIHEAP funds must be described in the LIHEAP plan.

HHS has determined that the process of subtracting the LIHEAP benefit from the client’s energy bill and to then calculate the PIPP discount and/or the client’s payment amount appears to be using LIHEAP as a resource and creates an inequity or adverse treatment for LIHEAP clients participating in the PIPP. Such use of LIHEAP funds appears to be out of compliance with Sections 2605(b)(7) of the LIHEAP statute, which in part states: “...no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements...” and Section 2605(f) which states “...home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under this title shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or State law...” HHS will

question any such practice and ask for a grantee's legal opinion supporting this practice and its compliance with the LIHEAP statute.

In accordance with Section 2605(b) (10) of the LIHEAP statute, States must monitor the use of LIHEAP funds coordinated with PIPP programs to ensure the proper disbursement of and accounting for LIHEAP funds.

(LIHEAP IM 2010-13 at 3-5.)

CAP-Plus programs are in conflict with HHS Guidance in at least two ways. First, within CAP-Plus, LIHEAP funds meant for the benefit of a LIHEAP recipient who is also enrolled in the CAP program are being used for the benefit of other non-LIHEAP recipients. The CAP-Plus model circumvents the guidance provided in this IM by increasing the CAP LIHEAP recipient's asked-to-pay amount to which the LIHEAP grant is applied. The dollar increase – the “plus” amount – while not based on any one customer's individual LIHEAP Cash Grant, is based on the aggregate of all LIHEAP Cash Grants received by CAP customers in the prior heating season.

Second, CAP-Plus programs use LIHEAP grants as resources available to a customer. LIHEAP IM 2010-13 recognized that “the process of subtracting the LIHEAP benefit amount from the client's energy bill to then calculate . . . the client's payment amount appears to be using LIHEAP as a resource and creates an inequity or adverse treatment for LIHEAP clients participating in the [vendor energy assistance program].” (LIHEAP IM 2010-13 at 4.) CAP-Plus is mathematically equivalent to the prohibition outlined in the IM.

In CAP-Plus, a utility determines a CAP participant's required CAP payment amount. Once the appropriate amount is chosen, then the utility adds a LIHEAP adjustment or “plus” amount of to the customer's bill. The effect of this “plus” amount is to add to the customer's CAP payment a portion of the LIHEAP grant that the customer will receive or is deemed to be eligible to receive. For those CAP participants who do in fact receive LIHEAP, the adding of this amount to his or her CAP payment *after* the CAP payment is calculated is functionally

equivalent to the prohibition outlined by HHS in LIHEAP IM 2010-13. It acts to reduce or ‘subtract’ the benefit of LIHEAP to the individual recipient. In both cases, a CAP participant who received LIHEAP has his or her LIHEAP grant treated as an available resource. Furthermore, because this “plus” amount is not assessed for *all* of the company’s customers, CAP customers who receive LIHEAP are treated adversely; the type of treatment which is unequivocally prohibited by the LIHEAP statute and the guidance contained in LIHEAP IM 2010-13.

Thus, HHS’ guidance in LIHEAP IM 2010-13 confirms that CAP-Plus violates the LIHEAP statute because it treats CAP participants who receive LIHEAP adversely from other utility customers, it uses the LIHEAP benefit to assist other non-LIHEAP eligible customers, and it treats as an available resource the LIHEAP grants that these customers receive. Such impermissible acts will endanger the LIHEAP approved status of the vendor. In order to avoid this situation, the LIHEAP State Plan and the vendor contract should specifically prohibit these CAP plus formulations and advise all vendors that their use will endanger their status as approved vendors.

G. PULP supports the increase in the Crisis Grant maximum to \$500 and recommends that the maximum be increased to \$1,000 for those households who heat with home heating oil.

PULP fully supports the decision to increase the maximum Crisis grant to \$500. This is a much needed increase, especially for those who heat with deliverable fuels. While the cost of natural gas has come down in recent years, the cost of home heating oil continues to climb. The United States Energy Information Agency estimates that the average cost to heat a home with

heating oil for the winter of 2012-2013 was approximately \$2400.⁷ There is no indication that these costs will go down. Thus, even if a household received a \$500 Crisis grant and the maximum Cash grant of a \$1,000, LIHEAP households who heat with oil will have to come up with almost \$1,000 over and above of the maximum they could receive. Cruelly, this \$1,000 that a household would have to come up with from other resources represents approximately the *total* that a household would have to pay to heat their home with natural gas.⁸ This inequity can be alleviated by increasing the maximum crisis grant that is available for households who heat with home heating oil to \$1,000. Even this amount is insufficient to bring any parity between the costs of heating with oil and other sources, but it would partially correct the fact that currently low-income households who heat with oil receive less of a LIHEAP benefit in terms of their energy burden than those who heat with other sources. Given the significant underspending by DPW over the past number of years, PULP submits that this increased maximum Crisis grant for those heating with home heating oil is both justified and feasible.

H. Reinstate and make permanent the Discount Oil Program

PULP calls upon DPW to reinstate and make permanent the Discount Oil Program or an enhanced version of that program. In 2008, DPW, to its credit, initiated a much needed Discount Oil Program Pilot. It was successfully piloted for a number of years and DPW intended for the program to be implemented statewide in this upcoming program year. As DPW stated in the Proposed LIHEAP State Plan for FY 2011:

DPW is continuing the expansion of the Oil Discount Program. During the 2009-2010 LIHEAP season ... DPW successfully administered the program in nine counties. The program increases the purchasing power of LIHEAP recipients who use fuel oil or kerosene by requiring vendors to provide fuel to LIHEAP

⁷ See U.S. Energy Information Administration, Table WF01. Average Consumer Prices and Expenditures for Heating Fuels during the winter (March 2013). Available at: <http://www.eia.gov/forecasts/steo/tables/pdf/wf-table.pdf>

⁸ *Ibid.*

recipients at a discounted price....DPW plans to implement the program statewide by the 2013-2014 heating season.This program is similar to various fuel discount programs currently being offered by Pennsylvania's neighboring states, including Maryland, New York, New Hampshire, Connecticut, Vermont and Massachusetts.⁹

The Final LIHEAP State Plan for FY 2011 indicated that the Oil Discount Program would continue.¹⁰ However, subsequent to publication of the Final State Plan, DPW abruptly suspended implementation.

The Department of Public Welfare (DPW) has decided to suspend implementation of the Discount Oil Program for the 2010-2011 heating season. DPW will instead focus its attention on researching fuel discounting program options to determine whether enhancements can be made to Pennsylvania's program.¹¹

No public information has been presented about the results of the research mentioned above or whether DPW will seek to make "enhancements" to its program; instead, the program has remained dormant since its abrupt suspension. In our view, DPW has established and implemented the structure for a successful discount program. It learned a great deal in the several years it piloted its successful Oil Discount Program, and undoubtedly has come to some additional conclusions during the past three years in which it has been studying potential enhancements. The Department's intent to have a statewide roll-out in the 2013-2014 program year should be incorporated into the 2014 Final Plan.

Additionally, the ability of the state to continue its program of direct vendor payments may be contingent on its success to comply with federal statutory requirements to ensure that unregulated vendors take appropriate measures to alleviate the energy burdens of eligible

⁹ Commonwealth Of Pennsylvania, Low-Income Home Energy Assistance Program Fiscal Year 2011 Proposed State Plan, iii.

¹⁰ Commonwealth Of Pennsylvania, Low-Income Home Energy Assistance Program Fiscal Year 2011 Final State Plan, vii.

¹¹ Letter dated October 4, 2010 from Linda T. Blanchette, DPW Deputy Secretary, Income Maintenance to Harry Geller, Executive Director, Pennsylvania Utility Law Project.

households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs.¹²

DPW has a dual obligation: on the one hand to provide meaningful and sufficient LIHEAP assistance to those households in greatest need while at the same time administering federal LIHEAP funds in an equitable, efficient and economical manner. As previously noted, compared to other sources of energy, the cost of oil and kerosene continues to be disproportionately high. Because of these disproportionately high costs and the significant economic burden placed on LIHEAP eligible participants who heat with oil, PULP has recommended that DPW provide a meaningful and sufficient LIHEAP Crisis Grant by increasing the maximum Crisis Grant to \$1,000 for households heating with oil. Similarly, the reinstatement of the Oil Discount Program or an enhanced version of that program will enable DPW to efficiently and economically administer LIHEAP and expand the purchasing power of those who heat with oil.

I. Remove the maximum \$1000 LIHEAP Cash grant to ensure that the greatest LIHEAP benefits go to those with the greatest need.

DPW's \$1000 cap on LIHEAP Cash grants contradicts the federal Low Income Home Energy Assistance Act, which mandates that those with the lowest incomes and biggest energy burdens get the highest level of energy assistance.¹³ Under DPW's Cash Grant formula, DPW attempts to satisfy federal law by giving the biggest LIHEAP Cash grants to those who live in the coldest areas of the state, have the highest fuel costs and the lowest household incomes. Only the most vulnerable households living in the most extreme poverty are eligible for the maximum LIHEAP Cash grants. It is precisely these households who should not have their Cash grants artificially capped. Capping the grant amounts of those with the greatest need for energy

¹² 42 U.S.C. § 8624 (7) D

¹³ 42 U.S.C. § 8621(a); 42 U.S.C. § 8624 (b)(1)(A)

assistance unduly precipitates the need for Crisis grants and places these most vulnerable households at even greater risk of losing heat in the winter. This is contrary to the purpose of the LIHEAP program and should be changed.

J. Make LIHEAP Crisis fully accessible to those too sick or disabled to leave their homes.

PULP endorses the Comments of CLS that DPW must make LIHEAP Crisis fully accessible to those too sick or disabled to leave their homes. Disabled, sick, and elderly individuals are among those who have the most crucial need for LIHEAP Crisis benefits. They are more susceptible to illness or death when left in a cold house and are often unable to leave their homes to seek help or find warm shelter. Federal law recognizes the vulnerability of this population and requires that agencies administering LIHEAP crisis benefits accommodate disabled LIHEAP applicants and provide homebound applicants with a way to access LIHEAP benefits without leaving their homes.¹⁴ Federal law also requires that LIHEAP Crisis applications be processed in 48 hours.¹⁵ DPW currently provides no accommodations to disabled or physically infirm individuals so that they may be able submit a Crisis application and receive benefits in the same 48 hour time period as those who are physically able to leave their homes and apply in person at the LIHEAP administering agency. Currently, disabled applicants who are experiencing a home heating emergency and need Crisis benefits have the following inadequate options for applying for LIHEAP Crisis: 1) submit a paper or electronic application and wait for 30 days to get the application processed, 2) submit a paper or electronic application and then call the LIHEAP administering agency to report the home heating emergency, or 3) find a non-disabled person they can trust to walk into the LIHEAP administering agency's office to submit an application for them. None of these options works to consistently give disabled applicants equal access to the

¹⁴ 42 U.S.C. § 8623(c)(3)(B)

¹⁵ 42 U.S.C. § 8623(c)(1)

Crisis program. However, a few simple changes can be made that would significantly alleviate these concerns.

First, the LIHEAP application should be modified so that an applicant can use it to get LIHEAP Cash and Crisis benefits. Currently, paper and internet LIHEAP applications provide no space for an applicant to indicate that they are experiencing a home heating emergency, so when the LIHEAP administering agency receives a disabled applicant's paper application in the mail, they have no information about whether the applicant is in need of Crisis benefits. The LIHEAP administering agency takes no steps to contact the applicant to determine if they are experiencing a home heating emergency and processes all paper and internet applications as applications for LIHEAP Cash. LIHEAP Cash applications are processed in 30 days. As a result, all paper and internet applications for disabled individuals with home heating emergencies are being processed in 30 days, not 48 hours. If the disabled applicant calls the LIHEAP administering agency to report the crisis, the application may be processed more quickly than 30 days, but it can only be processed once the agency receives the LIHEAP application, which will almost always take more than 48 hours.

Second, DPW should facilitate home visits. When disabled and homebound individuals who had not yet submitted a LIHEAP application call their local County Assistance Office and reported a need for LIHEAP benefits they are sometimes referred to a social service agencies. These agencies were sometimes able to make a home visit for LIHEAP applications. When the agency could not make the home visit, the entire burden was then placed on the disabled individual to find a way to get their application submitted. When DPW tells disabled applicants to find a trustworthy person who is able to travel to the LIHEAP administering agency to submit a Crisis application for them, DPW is providing no accommodation for the disabled applicant.

DPW must implement these changes to reach out to these vulnerable applicants in their own homes so that they are able to use the Crisis program just as all non-disabled applicants are able to utilize it.

K. DPW should ensure that the Crisis Interface Program with DCED receives funding sufficient to ensure that it opens on November 4, 2013 and remains open until all available LIHEAP funds are expended and is enabled to replace inoperable heating systems with more energy and cost efficient systems.

Several times during the past several LIHEAP years, DCED weatherization contractors have been uncertain regarding the availability of funding as well as the dates of program operation. DPW is strongly urged to coordinate with DCED to ensure that all weatherization contractors receive sufficient funding to operate the Interface program during the LIHEAP program operating dates.

Furthermore, DPW should specifically designate that LIHEAP funds dedicated to DCED may be used to replace *de facto* electric space heating or irreparable fuel oil heaters with natural gas heaters. Crisis Interface permits an inoperable heating system to be replaced. It should enable that replacement to be accomplished with the most energy and cost efficient system. DPW should make the most use of Crisis Interface dollars by allowing households who need a heater replacement to get, when economically feasible the added benefits of natural gas heaters. The State Plan should include a clear statement of DPW's policy in this area, especially if DCED's plan is silent or is applicable only in limited circumstances.

DPW can and should authorize a policy which permits conversion of one fuel source to another. A request to convert from one fuel source to another should automatically be approved when the applicant is utilizing *de facto* electric space heating or the furnace cannot be repaired, when the infrastructure for the conversion is present at the property, and when the applicant cannot afford to pay the high heating costs of remaining with the original fuel source because he

or she is low income. When some or all of these factors are not present, a request to convert from one fuel source to another should be granted on a case by case basis. This analysis could include the comparative costs and benefits of converting, whether a conversion is necessary for the health of a household member, or consideration of other equities that would make fuel conversion a better choice for the household. PULP supports the inclusion of this policy regarding heater replacement within the Final State Plan.

L. DPW must ensure that DCED does not delay Emergency Crisis Interface Assistance

Appendix C-IV of the FY 2014 State Plan, regarding Crisis Interface Program Responsibilities (page C-3), appropriately states that a crisis application is required to be addressed within 48 hours of the application and within 18 hours if the situation is life threatening. In addition, C-VI (page C-4), appropriately points out that DHHS regulations require that owners and renters receive equitable treatment under the LIHEAP program. However, C-VI also indicates that on the basis of the implied warranty of habitability prior to referral the appropriate action should be taken by the CAO to have the furnace repair/replacement completed by the landlord.

PULP submits that attempting to hold the landlord responsible for its implied warranty to tenants is only appropriate *so long as the action by the CAO does not delay addressing the crisis beyond the 48 or 18 hour period.* The landlord may ultimately be responsible for the costs, however, the household should not suffer harm or be delayed its required crisis assistance while the CAO is pursuing habitability claims. PULP requests clarification that the 18 or 48 hour crisis period still applies in tenant situations and that the CAO should initiate an immediate attempt to contact and resolve the matter with the landlord, but pursue the issue of responsibility and payment for the repair or replacement only after remedying the crisis.

M. Do not punish LIHEAP eligible individuals who live with ineligible LIHEAP individuals by giving them less than their fair share of a LIHEAP grant.

There are some households that include individuals who are eligible for LIHEAP as well as individuals who are ineligible for LIHEAP. Ineligible household members are excluded from household number but not household income. This penalizes the eligible members of the household by creating a smaller household with a larger income, falsely increasing the household's percentage of poverty, unfairly decreasing the household's chances of being LIHEAP eligible and reducing the size of the LIHEAP Cash grant the household may receive. If a LIHEAP household's size is reduced by the number of ineligible members who live in the household, the LIHEAP household's total countable income should also be reduced by the ineligible household member's share of the household's income. The resulting LIHEAP grant will be smaller than it would have been if the ineligible member was included fully, but the amount of the reduction would be fairly proportionate to the household's size and income.

The SNAP (food stamps) program does this. SNAP rules exclude ineligible household members from the household size and prorate the ineligible household members' income. So, if there are three people in a household and one person is ineligible, just 2/3 of the ineligible household member's income is counted as available to the two eligible household members. The ineligible household member's 1/3 share of the income is not counted because the ineligible household member is not counted as part of the household. Only the amount of income that can be fairly attributed to the two eligible household members is counted and SNAP benefits are issued for a household of two. The State Plan should be revised to exclude a prorated share of ineligible LIHEAP household members' income when determining a household's LIHEAP eligibility and grant amount. This rule will ensure that eligible members of the LIHEAP

household will receive the LIHEAP they need. Using this SNAP rule in the LIHEAP program will also contribute to uniformity in CAO administration, reducing program errors.

N. Request State Supplemental LIHEAP Funding.

Pennsylvania does not currently provide state supplemental funding for LIHEAP. State supplemental funding would stabilize the program from year to year by providing a consistent, controllable, and reliable funding stream not dependent on the political determinations of officials outside the Commonwealth. This kind of stability would improve the ability of DPW to administer the program and could enable longer program duration with higher benefit levels. Rather than depriving potentially eligible households from receiving the LIHEAP Assistance they need now. Rather than consistently under-spending each year in order to retain a carry-over of funding from one year to the next; thereby depriving potentially eligible households from receiving the LIHEAP Assistance they critically need.

PULP encourages DPW to formally and informally work with the Governor's Office and the General Assembly to supplemental funding for the 2013-1014 LIHEAP program. PULP is fully cognizant of the current national economic condition and how it has affected the Commonwealth and its budget. However, LIHEAP funding for program stability requires long term advocacy and planning beyond this current year. That advocacy and planning must start now. An appropriation in this amount would enable the program to stabilize, while ensuring that the maximum available levels of benefits are provided to those who require it each winter.

O. The Plan should be amended to specifically articulate policy for public notification when Plan changes are proposed by DPW.

The Plan fails to address how the public will be notified of changes to the program during the course of the program year. This omission must be corrected with specificity in the Final Plan.

DPW reserves the right to change any number of facets of the program during the course of the program year, not the least of which are the program end date and the level of benefits. These kinds of changes affect substantive rights of the low-income clients DPW serves and for whom LIHEAP is essential. Program changes have serious repercussions for the low-income households who are eligible for the program. Program changes not publicized may result in a household not receiving a benefit for which it might otherwise qualify simply because the family is ignorant of the change in eligibility, benefit amount, or program application dates. Basic fairness and transparency of program administration dictate that DPW should provide to the public in a timely manner meaningful communication of each change made to the LIHEAP program.

PULP notes the failure of the Proposed Plan to include a specific strategy for how to communicate program changes during the course of the program year. PULP recommends that DPW should include in the Final Plan a clear description of the tools it will use to communicate in a timely and meaningful manner each change in the LIHEAP program. At a minimum, PULP recommends that DPW specifically state in the Final Plan its intent to use the following methods to communicate each change to the LIHEAP program prior or concurrently to that change being implemented: state and local press releases; notices made to the LIHEAP Advisory Committee; notices posted in all County Assistance Offices; and mailed notices to all potentially affected LIHEAP recipients.

VI. CONCLUSION

PULP thanks DPW for this opportunity to submit these comments on the Fiscal Year 2014 Proposed State Plan. If any further information about these comments is necessary, PULP is pleased to provide clarification as required.

Respectfully submitted,

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