

Highlights: PA PUC Public Session of March 16, 2017

Note: The Public Meeting [calendar](#) and the Public Meeting [agendas and summaries](#) are available on the Pennsylvania Public Utility Commission's website. [Video](#) from each Public Meeting can also be accessed through the website. Live broadcasts of the Public Meetings may be viewed via [streaming video](#).

At the March 16, 2017 Public Meeting of the Pennsylvania Public Utility Commission ("Commission"), the Commissioners adopted Staff's recommendations for action by a vote of 5-0 on all items listed on the Main Agenda and Carry-In Agenda, except as reflected herein below under the respective Commission agenda headings. Review of particular items considered by the Commissioners at this Public Meeting which may be of interest are addressed under the respective Commission agenda headings below. Relevant motions and statements are attached hereto. The next regular Public Meeting is tentatively scheduled for **April 6, 2017 at 10:00 a.m.** The minutes of the Public Meeting of the February 9, 2017, were, by a vote of 5-0, approved as submitted.

MAIN AGENDA

CASES OF SPECIAL INTEREST

- CITY OF DUBOIS - BUREAU OF WATER, R-2016-2554150, C-2016-2556342, C-2016-2556376, C-2016-2557459. On 6/30/16, DuBois filed Supplement No. 22 to Tariff Water Pa. P.U.C. No. 4, proposing an annual increase in base rate revenues of \$257,604 (subsequently revised to \$229, 551), to become effective 8/29/16. By Order entered 8/11/16, the Commission instituted an investigation and suspended the proposed Supplement by operation of law until 3/29/17. An evidentiary hearing was held on 11/10/16. Main Briefs and Reply Briefs were submitted on 11/29/16 and 12/12/16, respectively, by DuBois, the Commission's Bureau of Investigation and Enforcement (I&E), the OCA, the OSBA and Sandy Township. On 1/13/17, the Commission issued ALJ Hoyer's Recommended Decision which recommended that DuBois be authorized to file tariffs to produce an annual revenue increase of \$97,534. On 2/2/17, DuBois, I&E, the OCA, the OSBA and Sandy Township filed Exceptions. On 2/13/17, DuBois, I&E and the OCA filed Replies to Exceptions. On 2/15/17, I&E and the OCA filed Motions to Strike Portions of the Exceptions filed by DuBois. **RECOMMENDATION:** That the Commission conduct a **BINDING POLL** of the issues to address the Motions to Strike, Exceptions and Replies to Exceptions filed by the parties in response to the ALJ's Recommended Decision. The results of the Binding Poll follow:

Binding Poll Issues and Results

1. Motions to Strike Portions of Exceptions. Vote 5-0 for OCA/I&E.
- 1(a). Rate Base - Additions to Rate Base. Vote 5-0 for ALJ.
2. Rate Base - Deductions from Rate Base. Vote 5-0 for ALJ.

3. Revenues - Falls Creek Borough. Vote 5-0 for ALJ.
4. Revenues - Union Township Contract Sales. Vote 5-0 for ALJ.
5. Revenues - Borough of Sykesville. Vote 5-0 for ALJ.
6. Expenses - Vacant Home Expenses. Vote 5-0 for ALJ.
7. Expenses - Transmission and Distribution Contractual Services. Vote 5-0 for ALJ.
8. Expenses - Water Treatment Contractual Services. Vote 5-0 for ALJ.
9. Expenses - Administrative and General Expenses. Vote 5-0 for ALJ.
10. Expenses - City Buildings: Computer Parts. Vote 5-0 for ALJ.
11. Expenses - Rate Case Expense. Vote 5-0 for ALJ.
12. Expenses - Unaccounted for Water. Vote 5-0 for ALJ.
13. Expenses - Overtime. Vote 4-1 for ALJ.
14. Expenses - Payroll/FICA Tax Adjustment. Vote 4-1 for ALJ.
15. Rate of Return - Capital Structure. Vote 5-0 for ALJ.
16. Rate of Return - Return on Common Equity. Motion of Chairman Brown passes 4-1 with a dissenting oral statement by Commissioner Place.
17. Rate Structure - Cost of Service. Vote 5-0 for ALJ.
18. Rate Structure - Revenue Allocation. Vote 5-0 for ALJ.

BUREAU OF AUDITS

- All matters approved as submitted.

OFFICE OF SPECIAL ASSISTANTS

- ROBERT J. KRAMER VS DUQUESNE LIGHT COMPANY, F-2015-2499181. Formal Complaint filed on 8/10/15, alleging that there were incorrect charges on his electric bill because from December of 2000 to December of 2014, he was paying the higher residential heating (RH) rate when it should have been the lower residential add-on heat pump (RA) rate. On 9/8/15, Duquesne filed an Answer and New Matter to the Complaint, as well as a Motion to Strike. On 11/17/15, ALJ Dunderdale issued the First Interim Order denying the Motion to Strike. An evidentiary hearing convened on 11/24/15. In an Initial Decision, issued 3/17/16, the ALJ sustained the Complaint, directed the calculation of a refund and assessed a civil penalty of \$10,000 against Duquesne. Duquesne filed Exceptions and a Motion to Correct Transcript on 4/5/16. RECOMMENDATION: That the Commission adopt the proposed Opinion and Order.

Joint Statement by Chairman Brown and Commissioner Coleman. Statement by Vice Chairman Place. Vote 5-0.

- PECO ENERGY COMPANY, P-2016-2534980. Petition filed on 3/17/16, seeking approval of its Default Service Plan IV, effective 6/1/17. On 7/28/16, a Joint Petition for Partial Settlement as filed, which reserved one issue for litigation. On 10/4/16 the Commission issued the Recommended Decision of ALJ Fordham, wherein she recommended approval of the Partial Settlement without modification, denied Objections to the Partial Settlement, and deferred the issue of CAP shopping to a separate proceeding. Exceptions and Replies to Exceptions were filed. By Opinion and Order entered 12/8/16, the Commission, inter alia, adopted the Recommended Decision. On 12/19/16, Petitions for Reconsideration and/or Clarification of the 12/8/16 Opinion and Order were filed by the OCA, and jointly filed by the Coalition for Affordable Utility Services and Energy Efficiency in PA and the Tenant Union Representative Network and the Action Alliance of Senior Citizens of Greater Philadelphia. Answers were filed on 12/29/16 by PECO and the Retail Energy Supply Association. RECOMMENDATION: That the Commission adopt the proposed Opinion and Order, which grants, in part, the Petitions for Reconsideration and/or Clarification. Vote 5-0.

BUREAU OF TECHNICAL UTILITY SERVICES

- AQUA PENNSYLVANIA WASTEWATER INC., A-2016-2575001. Application filed on 11/8/16, for approval of: (1) the acquisition by APW of certain wastewater system assets of Tobyhanna Township situated in Tobyhanna Township, Monroe County, PA and; (2) the right of APW to begin to offer, render, furnish and supply wastewater service to the public in a portion of Tobyhanna Township, Monroe County, PA. APW submitted proofs of publication and service to the appropriate entities. No protests were filed and no hearings were held. RECOMMENDATION: That the Commission adopt the proposed Order. Vote 5-0.
- CONSOLIDATED COMMUNICATIONS HOLDINGS INC. ET AL. AND FAIRPOINT BUSINESS SERVICES LLC, A-2017-2583431 *et al*, S-2017-2583438. Applications filed on 1/9/17, for approval of a General Rule Transfer of Control for Consolidated Communications Holdings, Inc. and its PA telecommunication utilities and the regulated PA telecommunication utilities of FairPoint Communications, Inc. and registration of related Securities Certificates. No protests were filed and no hearings were held. RECOMMENDATION: That the Commission approve the application and register the securities certificates consistent with the proposed Order. Vote 5-0.
- IRONTON TELEPHONE COMPANY, R-2017-2584520, P-00971182F1000. 2017 Price Stability Index/Service Price Index Report filing filed on 2/1/17. No protests were filed and no hearings were held. RECOMMENDATION: That the Commission adopt the proposed Order. Vote 5-0.
- COMMONWEALTH TELEPHONE COMPANY D/B/A FRONTIER COMMUNICATIONS COMMONWEALTH TELEPHONE COMPANY, R-2017-2584549, P-00961024F1000. 2017 Price Stability Index/Service Price Index Report filing and accompanying tariff supplement requesting a rate increase of \$383,834 filed on 2/1/17. No protests were filed and no hearings were held. RECOMMENDATION: That the Commission adopt the proposed Order. Recusal Statement by Chairman Brown. Vote 4-0 with Chairman Brown recusing.
- FRONTIER COMMUNICATIONS OF BREEZEWOOD LLC, CANTON LLC, LAKEWOOD LLC, OSWAYO RIVER LLC, AND PENNSYLVANIA LLC, R-2017-2584553, P-00951005F1000. 2017

Joint Price Stability Index/Service Price Index Report filing and accompanying tariff supplements requesting an aggregate rate increase of \$32,616.00 filed on 2/1/17. No protests were filed and no hearings were held. RECOMMENDATION: That the Commission adopt the proposed Order. Recusal Statement by Chairman Brown. Vote 4-0 with Chairman Brown recusing.

LAW BUREAU

- All matters approved as submitted.

OFFICE OF ADMINISTRATIVE LAW JUDGE

- HATTIE BEATRICE HOWELL VS PHILADELPHIA GAS WORKS, C-2016-2568426. Complaint filed 9/24/16 alleging that PGW did not credit her account with a payment made and that she would like her gas service restored. PGW filed its answer on 10/18/16. On 11/4/16, PGW filed a Motion for Summary Judgment based on the doctrine of res judicata. Complainant failed to file a response to the Motion. COMMISSION REVIEW. That the Commission adopt ALJ Heep's Initial Decision granting the Motion and dismissing the Complaint with prejudice. Postponed until the Public Meeting of April 6, 2017.

COMMISSIONERS

- ENERGY AFFORDABILITY FOR LOW INCOME CUSTOMERS - JOINT MOTION OF VICE CHAIRMAN ANDREW G PLACE AND COMMISSIONER DAVID W SWEET. Joint Motion by Vice Chairman Place and Commissioner Sweet. Joint Dissenting Statement by Commissioners Coleman and Powelson. Verbal Statements by Commissioner Sweet and Vice Chairman Place. Vote 3-2 with Commissioners Coleman and Powelson dissenting.

CARRY-IN AGENDA

BUREAU OF TECHNICAL UTILITY SERVICES

- All matters passed as submitted.

ANNOUNCEMENTS

- Commissioner Powelson highlighted National "Fix-A-Leak" Week and underscored the importance of water efficiency and conservation.

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Pennsylvania Public Utility
Commission, et al.

v.

City of DuBois – Bureau of Water

Public Meeting held March 16, 2017

2554150-OSA

Docket No. R-2016-2554150

MOTION OF CHAIRMAN GLADYS M. BROWN

Polling Issue #16

Before the Pennsylvania Public Utility Commission (Commission) are the Exceptions and Reply Exceptions to the Recommended Decision of Administrative Law Judge (ALJ) Mark A. Hoyer in the base rate case filed by the City of DuBois – Bureau of Water (DuBois or the City) on June 30, 2016.

There are substantial differences between the City's, the Office of Consumer Advocate's (OCA), and the Bureau of Investigation and Enforcement's (BIE) claims for the most appropriate return on common equity (ROE). The City proposes an ROE of 10.50%, the OCA a return of 8.25%, and BIE recommends 8.62%. Each claim is fundamentally based on the results of a discounted cash flow (DCF) analysis. The results vary due to the use of different growth inputs and the application of risk adjustments.

The administrative determination of an appropriate ROE is an art as much as it is a science. This is especially the case when the Commission establishes an ROE for a municipal corporation which does not have publicly traded equity shares. Nonetheless, there are a number of means that stakeholders and this Commission can use to make an informed judgement on an appropriate ROE.

The record in this proceeding provides an appropriate ROE in the range of 8.25% to 10.5% based on DCF results for a proxy group of investor owned water utilities. It is also informative to review historical cases for similar utilities. In *The Pennsylvania Public Utility Commission et al. v. The Columbia Water Company*¹ this Commission determined that an ROE of 9.75% was appropriate. In *The Pennsylvania Public Utility Commission et al. v. City of Lancaster Bureau of Water*² this Commission set an ROE of 10.0%. In *The Pennsylvania Public Utility Commission et al. v. Emporium Water Company*³ the Commission set the ROE at 10.0%. As well, in *The Pennsylvania Public Utility Commission v. Templeton Water Company Inc.*⁴ this Commission set an ROE of 10.5%.

¹ Opinion and Order entered January 23, 2014 at Docket No. R-2013-2360798

² Opinion and Order entered July 14, 2011 at Docket No. R-2010-2179103

³ Opinion and Order entered January 28, 2015 at Docket No. R-2014-2402324

⁴ Order entered July 21, 2016 at Docket No. R-2016-2544861

Additionally, it is insightful to review the Commission's most recent report on the earnings of jurisdictional utilities (Earnings Report).⁵ The Earnings Report includes a market based analysis on the return on equity for a proxy group of water utilities to assist the Commission in setting the ROE for Distribution System Improvement Charge (DSIC) tariffs. In the most recent earnings report the Commission determined a water utility ROE range from 7.55 - 10.29% and established an ROE for DSIC tariffs of 9.65%.


Review of the ROE results deliberated in this proceeding, of the ROE determined by the Commission in previous rate cases, and of the Commission's most recent Earnings Report provides substantial evidence for this Commission to make an informed judgement as to a prudent ROE. Taking all of these factors into consideration, I believe that an ROE of 9.3% is appropriate for DuBois. This ROE is supported on the record as the initial, unadjusted, result of the City's DCF analysis.⁶

An ROE of 9.3% is within the range of reasonableness established in this proceeding, supported by record evidence, consistent with the range established in the Commission's most up-to-date Earnings Report, and closer in proximity to the Commission ROE determination in similar rate cases than the 8.62% recommended by the ALJ in this proceeding. Further, an ROE of 9.3% will strike an appropriate balance that can foster strong credit for the City, while not overly burdening Commission jurisdictional customers of the City with rate-increase shock.

Last, I believe the tax rate adjustment proposed by BIE and recommended by the ALJ of 18.22% is appropriate, as explained by the ALJ.

THEREFORE, I move that the Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

March 16, 2017
Date



Gladys M. Brown, Chairman

⁵ Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2016 issued on January 26, 2017 at Docket No. M-2017-2583651

⁶ Schedule 15, Page 1 of 12, within the original rate filing

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Robert J. Kramer
v.
Duquesne Light Company

Public Meeting held March 16, 2017
2499181-OSA
Docket No. F-2015-2499181

JOINT STATEMENT OF CHAIRMAN GLADYS M. BROWN
AND COMMISSIONER JOHN F. COLEMAN, JR.

On August 10, 2015, Robert Kramer filed a Complaint alleging that there were incorrect charges on his electric bill because from December of 2000 to December of 2014, he was paying the higher residential heating (RH) rate when his rate should have been the lower residential add-on heat pump (RA) rate. Following an evidentiary hearing, Administrative Law Judge Dunderdale sustained the Complaint holding that Duquesne failed to provide reasonable service when Mr. Kramer applied to become a customer in 2000, and directed Duquesne to recalculate the rate from December 2010 through November 2014,¹ using the then applicable rate RA, and imposed a civil penalty of \$10,000.

When Mr. Kramer applied for electric service, his residence was placed on the higher rate RH by Duquesne. During the application process, there was no discussion of whether the home heated with electricity or the existence of a heat pump. Tr. at 44. Duquesne testified that its policy when processing an application for service is to “review the account, and the rate that is on the account at that time is the rate that is assigned to the new customer,” using historical data provided by the previous owner or tenant at the service address. Tr. at 45-46. The ALJ noted that Duquesne also made this assumption (that the rate applicable to the previous owner of Mr. Kramer’s home would remain the applicable rate for Mr. Kramer) without advising Mr. Kramer there might be options as to which distribution rate was most applicable to the service address. According to the ALJ, Duquesne, at the very least, knowing it had three applicable residential distribution rates available, should have asked the Complainant, as a new applicant, two simple questions: (1) will electricity be required to heat the premises; and (2) if the answer is “yes,” is there an add-on heat pump? The ALJ opined that if Duquesne had asked those two simple questions, Mr. Kramer would have been placed on the most advantageous rate.²

In its Exceptions, Duquesne argues that since it had no notice of the service conditions, in this case, the heat-pump, it had no Section 1303 duty to place Mr. Kramer’s service on rate RA. Duquesne cites to *Springfield Township v. Pa. PUC*, 676 A.2d 304, at 307 (1996), *Ferguson v. PECO Energy Co.*, Docket No. C-2013-2360708 (January 8, 2014), and *Victory Condominium Assoc. v. PECO Energy Co.*, Docket No. C 2011 2268126, 2012 WL 6087518 (September 27, 2012), to support its case noting that the Commonwealth Court and the Commission alike hold

¹ Section 1312 of the Code, 66 Pa. C.S. § 1312, provides a four-year time limitation for refunds.

² Any public utility, having more than one rate applicable to service rendered to a patron, shall, after notice of service conditions, compute bills under the rate most advantageous to the patron. 66 Pa. C.S. § 1303.

that utilities “must have actual knowledge of service conditions before it is required to compute the most favorable rate for its customer.” *Springfield* at 308.

Duquesne also argues that the Complaint is time barred, as the alleged error occurred in 2000, fifteen years before the filing of the Complaint. The Public Utility Code provides for a three year statute of limitations.³

We agree that *Springfield, Victory, and Ferguson* clearly stand for the proposition that a utility has no obligation to compute the most favorable rate for its customer unless it has actual knowledge of the service conditions. However, the question that must first be asked in a controversy such as this is what is a utility’s obligation with regard to educating its customers that there is more than one rate available? In other words, was reasonable customer service provided?

In a case with a similar fact pattern, *Ben Mauro v. Duquesne Light Co.*, C-871571, 1989 Pa. PUC LEXIS 12; 69 Pa. PUC 105 (January 6, 1989), an existing customer alleged that Duquesne failed to notify him of the availability of a new rate, “Rider 5” service, for his commercial property and thus overcharged him for service. Mr. Mauro asked for a refund of the difference between the two rates. *Mauro* differs from the case at bar in that Duquesne mailed notice of the availability of “Rider 5” to customers, including Mr. Mauro. In fact, the Commission determined that Mr. Mauro was not entitled to a refund of the higher rate because, “we are convinced that the Complainant did not meet his burden of proof of establishing that he did not receive information concerning Rider 5 Service in August of 1984.” *Mauro* at *16.

In the instant case, ALJ Dunderdale summed up the situation succinctly:

Looking at the facts in the light more favorable to Duquesne Light, an applicant initiates residential electric service unaware there are three potentially applicable rates, unaware the previous owners were charged the highest distribution rate available, and unaware the previous owners who installed a heat pump should have notified but did not notify Duquesne Light about the installation of the heat pump. Between the two parties herein, the party most in possession of salient and vital facts was Duquesne Light, not Mr. Kramer.

I.D. at 13. We believe that in order to provide adequate and reasonable customer service under Section 1501 of the Code, 66 Pa. C.S. § 1501, a utility must inform a new customer if there is more than one rate available in that customer’s rate class. This is a basic duty to notify a customer of the availability of new or existing rates. *Mauro* at *10-11. For Duquesne to impute a previous customer’s rate to a new applicant, who has no idea what information the prior occupant may or may not have conveyed to the utility, is not logical, nor is it reasonable under Section 1501 of the Code. Duquesne should treat a new customer as simply that, a new customer.

However, we must agree with Duquesne’s argument that we cannot impose liability in this case as the statute of limitation has expired.⁴ Given this threshold legal issue, it may not


³ 66 Pa.C.S. § 3314.

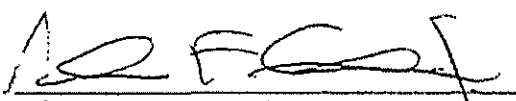
have been necessary for the presiding ALJ to reach a determination on the question of whether Duquesne provided reasonable service. If the statute of limitations had not been at issue, we may have been inclined to find that Duquesne failed to provide reasonable service on the facts before us.

This is a harsh outcome for Mr. Kramer, who like most utility customers, is not aware of the many service and rate details contained in a utility's published tariff. We ask that Duquesne and other similarly situated utilities review whether they are asking new customers salient questions during the service enrollment process and whether sufficient customer education is provided to customers. As demonstrated here, a lack of customer education about rate options can cause customers to spend more than necessary for utility service.⁵

We encourage Duquesne to strongly consider issuing a partial refund to Mr. Kramer for the difference between what he was charged on rate RH, and would he could have been charged under Rate RA for a period of time. We note that at least one other major utility, when it discovers that customers have been on a higher rate, will offer such a credit for at least one year as a goodwill gesture. Finally, we ask that Duquesne review its customer enrollment process for opportunities to improve customer education on this and any other relevant issues.

March 16, 2017
Date


Gladys M. Brown, Chairman


John F. Coleman, Jr., Commissioner

⁴ The ALJ reasoned that the statute of limitations on this matter was not tolled until December 2, 2014, when Mr. Kramer became aware of Duquesne's residential rate options.

⁵ Mr. Kramer's estimate of the rate differential is approximately \$850 per year. Tr. at 20.

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17105**

**Robert J. Kramer
v.
Duquesne Light Company**

**Public Meeting: March 16, 2017
2499181-OSA
Docket No. F-2015-2499181**

STATEMENT OF VICE CHAIRMAN ANDREW G. PLACE

Before the Commission for consideration are the Exceptions filed by Duquesne Light Company (Duquesne or Company) in response to the Initial Decision (I.D.) issued in this case. The I.D. sustained the Complaint of Robert J. Kramer and granted the requested relief of reimbursement as the Administrative Law Judge determined that Duquesne overcharged the Complainant for electric service. In addition, the I.D. imposed a civil penalty against the Company for failing to provide reasonable and adequate service when Duquesne failed to compute billing statements under the rate most advantageous to the Complainant.

In this case, Mr. Kramer's residence had an add-on heat pump which was installed by the previous owner. When Mr. Kramer initiated service at his newly acquired property in 2000, he was placed on the rate schedule of the previous owner. Tr. 22-23. At that time and until 2014, the Complainant indicated that he was not aware that the Company offered several rate schedules for residential heating customers or that he or the previous property owner was to inform Duquesne that an add-on heat pump was already located in the home. Tr. 12-13.

Also, the record in this proceeding demonstrates that Duquesne's tariff directs its customers to notify the Company if any changes are made to the connected load, demand or other conditions of use. Tr. 52, Exh. 6. This tariff provision may, however, be difficult for customers to locate – which becomes a barrier to informing Duquesne of any changed conditions to ensure the most advantageous residential heating rate is applied to their account. In order for customers to fully inform the Company of any changes to their residences regarding heating sources, they must be aware of their obligations. Thus, I would encourage Duquesne to increase its efforts to provide additional information to customers concerning residential heating rates and the significance of informing the Company of their heating sources. This type of education can be accomplished in a variety of ways including, social media, news releases, bill inserts as well as customer service representative training. In addition, I encourage the Company to consider changes in the application process as another avenue to ensure residential customers are aware of the applicable rate options.

I believe it is prudent that all utilities consider examining this issue to determine whether additional consumer education is needed on the availability of discrete residential rates and whether they are impacted by customers' heating sources. Consumer education on the part of utilities may well provide broad positive results and be in the best interest of both customers and companies.

DATE: March 16, 2017



Andrew G. Place, Vice Chairman

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265


Commonwealth Telephone Company, d/b/a
Frontier Communications Commonwealth
Telephone Company

Public Meeting held March 16, 2017
2584549-TUS
Docket Nos. R-2017-2584549
P-00961024F1000

STATEMENT OF CHAIRMAN GLADYS M. BROWN

Consistent with Section 1102 of the Commonwealth's Ethics Act, 65 P.S. § 1102, I will
recuse myself from this matter because my brother is employed by Frontier Communications.

March 16, 2017
Date



Gladys M. Brown, Chairman

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Frontier Communications of Breezewood LLC,
Canton LLC, Lakewood LLC, Oswayo River
LLC and Pennsylvania LLC

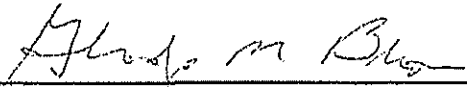
Public Meeting held March 16, 2017
2584553-TUS
Docket Nos. R-2017-2584553
P-00951005F1000

STATEMENT OF CHAIRMAN GLADYS M. BROWN

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March 16, 2017

Date



Gladys M. Brown, Chairman

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105**

Energy Affordability for Low Income
Customers

Public Meeting: March 16, 2017
2587711-CMR
Docket No.

**JOINT MOTION OF VICE CHAIRMAN ANDREW G. PLACE
AND COMMISSIONER DAVID W. SWEET**

The Public Utility Code requires that utility services be universally affordable, and that universal service and energy conservation programs be developed, maintained, and appropriately funded to ensure such affordability.¹ In furtherance of this requirement, in 1992, the Commission published a Customer Assistance Program (CAP) policy statement, which established affordability ranges for low income customers by heating source and income level.

CAP Policy Statement Energy Burden Levels²

Utility Service	0-50% poverty	51-100% poverty	101-150% poverty
Non-electric	2%-5%	4%-6%	6%-7%
Gas Heat	5%-8%	7%-10%	9%-10%
Electric heat	7%-13%	11%-16%	15%-17%

As provided in the Commission's Policy Statement, if a consumer's energy burden falls within these ranges, it is assumed to be affordable for a low-income household.

However, the Commission noted in 2006 that these energy burden levels may be too high. In the Commission's Final Investigatory Order on CAP Funding Levels and Cost Recovery, the Commission stated that "our policy requiring a low-income household to pay 17% of their household income for home energy services compared with an average household who pays about 5% of their income may need to be revised."³ National low-income energy burden models also suggest that levels be between 6%⁴ and 11%⁵ of income. At its Public Meeting on March 2, 2017, the Commission took action on the affordability concerns raised in the Bureau of Consumer Services' analysis of Duquesne Light Company's Universal Service and Energy Conservation filing.

More than 23 years after the publication of the Commission's CAP Policy Statement, and more than 10 years after the Commission's acknowledgement of concerns regarding energy

¹ 66 Pa. C.S. §§ 2203(7) and 2804(9).

² 52 Pa. Code § 69.265(2)(i)(A-C).

³ Final Investigatory Order on CAP Funding Levels and Cost Recovery, Docket No. M-00051923 at 48, Order entered December 18, 2006. www.puc.pa.gov/PcDocs/646476.doc.

⁴ "LIHEAP Energy Burden Evaluation Study," *Applied Public Policy Research Institute for Study and Evaluation (APPRISE)*. www.appriseinc.org/reports/LIHEAP%20BURDEN.pdf.

⁵ "Home Energy Affordability in New York: The Affordability Gap (2008 – 2010)," *New York State Energy Research Development Authority (NYSERDA)*.

burden levels, “home energy [costs]”, according to the 2015 Home Energy Affordability Gap Study, “[...]remain] a crippling financial burden for low-income families.”⁶

The Commission routinely considers complaints involving residents enrolled in CAP programs failing to keep up with payments, accumulating arrearages, facing service disconnection and loss of program eligibility.⁷ This payment, assistance and arrearage cycle is a recurrent issue for many low-income customers.

Additionally, only 30% of eligible Pennsylvania households are enrolled in a CAP program, and residents falling below 50% of the Federal Poverty Guidelines pay an average 30% of their income on home energy costs alone.⁸ While there are likely other barriers to participation, unaffordable energy bill payment arrangements may well be among them.

Given these realities, the necessary first step to evaluate the affordability, cost-effectiveness and prudence of Universal Service Programs is for the Commission to undertake an energy affordability study. In undertaking any subsequent review of Universal Service Programs in their entirety, the Commission must of course continue to balance the costs⁹ and benefits of these programs as potential changes to affordability standards will inevitably require an examination of overall program funding.¹⁰

We recommend that this matter be referred to the Commission’s Bureau of Consumer Services to determine what constitutes an affordable energy burden for Pennsylvania’s low-income households and, based on this analysis, whether any changes in the Commission’s CAP Policy Statement or other Universal Service and Energy Conservation guidelines are necessary to bring these programs into alignment with any affordability recommendations. Additionally, this work will complement the Commission’s Low Income Usage Reduction Program (LIURP) rulemaking and serve to inform a potential future CAP rulemaking.

THEREFORE WE MOVE THAT:

1. The Commission’s Bureau of Consumer Services, in conjunction with other necessary Commission Bureaus, initiate a study regarding home energy burdens in Pennsylvania, resulting in recommendations concerning affordable home energy burdens for low-income Pennsylvanians.

⁶ Fisher, Sheehan & Colton, “The Home Energy Affordability Gap 2015: Pennsylvania,” *Public Finance and General Economics*, <http://www.homeenergyaffordabilitygap.com/>.

⁷ *Billy Jo Knapp v. Pennsylvania Electric Company*, Docket No. C-2015-2511723, Order entered October 27, 2016.

⁸ Fisher, Sheehan & Colton, “The Home Energy Affordability Gap 2015: Pennsylvania,” *Public Finance and General Economics*, <http://www.homeenergyaffordabilitygap.com/>.

⁹ Total gross CAP costs for EDCs have increased by approximately 177% between 2001 and 2015 (inflation adjusted), from \$68.25 million to \$189 million (expressed in 2001 dollars), and total gross CAP costs for NGDCs have increased by approximately 270% (inflation adjusted) from 2002 to 2015, from \$22.6 million to \$83.6 million (expressed in 2002 dollars). During the 2001/2002 to 2015 timeframe, the number of estimated low-income electric and natural gas customers has increased by 80% and 104% respectively. PUC Reports on *Universal Service Programs & Collections Performance*, Years 2001 through 2015.

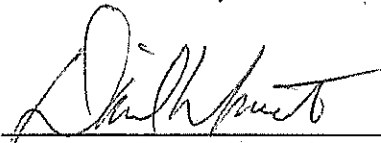
¹⁰ *PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015*, Docket No. M-2012-2290911, Order entered July 8, 2015.

2. The Commission's Bureau of Consumer Services finalize a scope of work within 45 days of the entry of this Order.
3. The Commission's Bureau of Consumer Services conclude the study within nine months of this Order and report its findings to the Commission within one year from the entry date of this Order.
4. The Commission publish the final report and provide for a comment and reply comment period as necessary.
5. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

DATE: March 16, 2017



Andrew G. Place, Vice Chairman



David W. Sweet, Commissioner

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

**Energy Affordability
For Low Income Customers**

**Public Meeting March 16, 2017
2587711-CMR**

**JOINT STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR. AND
COMMISSIONER ROBERT F. POWELSON**

For our consideration today is a Motion directing Pennsylvania Public Utility Commission (Commission) staff to undertake a review of energy affordability levels for low income customers participating in Customer Assistance Programs (CAP). At present, the Commission utilizes a range of energy affordability levels, varying by income level and heating source, that are codified in our Policy Statement on Customer Assistance Programs.¹ The Motion directs staff to conduct an internal study and prepare a public report on this matter within one year. The Motion states that the Commission may revise the portions of the Policy Statement that pertain to the energy burden levels consistent with any findings and recommendations of this study.

We cannot support this Motion because we do not believe it is appropriate to examine the CAP energy burden levels as a stand-alone issue, without considering the other factors that impact the Commonwealth's universal service programs. The design, budgeting, and administration of universal service and energy conservation programs are a complex undertaking for our public utilities. It is also a serious and challenging obligation for the Commission to monitor, evaluate and, when necessary, make changes to the regulatory scheme or individual plans. When considering acting in this area in the past, the Commission has preferred to undertake a comprehensive review of the entire regulatory model for universal service, and we believe that is the appropriate course of action today.

The current CAP Policy Statement and its energy burden levels were a result of a formal investigation initiated by the Commission in 1990. The Commission was very concerned by rising levels of uncollectable balances and a growing population of payment troubled customers. At the outset, the Bureau of Consumer Services (BCS) held a series of informational meetings with utilities, followed by a series of data requests. Public comments were also solicited, and statewide public hearings were held at which seventy-five different individuals, interest groups, and government officials participated. Subsequently, the Commission issued an Interim Report, which was subject to public comment. This was followed by a Final Report of BCS, which contained the recommendations that led to the adoption of the CAP Policy Statement in 1992.

In 2007, the Commission initiated a universal service rulemaking and proposed revisions to the CAP Policy Statement based on the findings of a 2005 CAP investigation. The proposed changes addressed a broad range of issues, including the adoption of a more formal process for

¹ 52 Pa. Code § 69.265.


the review and approval of universal service plans, the methods of program cost-recovery, and CAP program design. Several rounds of comments were solicited in response to these proceedings. Unfortunately, this review occurred during a time of expiring rate caps, rising wholesale energy prices, and uncertainty about federal policy regarding the Low Income Home Energy Assistance Program (LIHEAP). Accordingly, the Commission closed these dockets in 2012 without taking action. However, we did commit to revisiting the rulemaking and Policy Statement at a future date when these issues had been resolved.

We believe that with the successful transition from rate caps and the significant, and apparently lasting, stabilization in wholesale energy prices, it is now an appropriate time to begin another review of the CAP program. However, the approach set forth in the Motion, with its singular focus on energy burdens, is very different than the comprehensive reviews that the Commission has undertaken in the past. Given the complexity of this matter, we would prefer that the Commission adhere to its past practice of taking a comprehensive approach in reviewing and considering changes to universal service policies, programs and procedures.

While the Motion mentions balancing the interests of all customers, there is no definitive commitment to undertake a comprehensive review of all relevant issues, including the impact that revising energy burdens alone would have on those customers who do not participate in CAP, but fund the program. CAP program enrollments and budgets have significantly increased since their inception, and public utilities (with the limited exception of Philadelphia Gas Works) recover these costs solely from residential customers at the same charge per customer, regardless of income level.² Our concern is that the Commission will take the easier path of simply addressing energy affordability levels in a vacuum, without considering other issues relevant to a well-designed approach to universal service and energy conservation.

We believe it would be more appropriate to convene a collaborative of all interested stakeholders to examine the entirety of the CAP program. In this collaborative, participants could identify their priorities, concerns, and suggestions for improving CAP. This process would better inform the Commission about the scope of the work that needs to be done and the means of going about it. A collaborative would also have been an appropriate way to assure stakeholders that the Commission would address all relevant issues and make every effort to balance the sometimes conflicting objectives we wish to achieve through these very important programs.

Accordingly, we will be dissenting from this Motion.


JOHN F. COLEMAN, JR.
COMMISSIONER


ROBERT F. POWELSON
COMMISSIONER

DATE: March 16, 2017

² The Public Utility Code requires that gas and electric utility universal service programs be "appropriately funded and available" but does not identify a specific benchmark. 66 Pa.C.S. §§ 2203(8), 2804(9). Total gross electric CAP costs have increased from \$63 million in 2000 to \$253 million in 2015. Total gross gas CAP costs have increased from \$23 million in 2002 to \$110 million in 2015.