



**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking to Review and Revise the Existing Low-Income Usage Reduction Program (LIURP) Regulations at 52 Pa. Code §§ 58.1 – 58.18 (relating to residential low-income usage reduction programs).

Docket No. L-2016-2557886

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REPLY COMMENTS OF

THE TENANT UNION REPRESENTATIVE NETWORK (TURN)

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## INTRODUCTION

The Tenant Union Representative Network (TURN) submitted comments to the Pennsylvania Public Utility Commission (PUC or Commission) on January 16, 2024, in response to the Commission's December 2, 2023 Notice of Proposed Rulemaking concerning the Low Income Usage Reduction Program (LIURP). TURN respectfully incorporates its introduction, as set forth in its comments, herein. The following organizations also submitted comments on January 16, 2024: PECO Energy Company (PECO); the Commission on Economic Opportunity and Pennsylvania Weatherization Providers Task Force (CEO & Task Force); PPL Electric Utilities Corporation (PPL); Peoples Natural Gas Company, LLC (Peoples); The Pennsylvania Coalition of Local Energy Efficiency Contractors, Inc. (PA-CLEEC); Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA); the Office of Consumer Advocate (OCA); FirstEnergy Pennsylvania Electric Company (FirstEnergy); National Fuel Gas Distribution Corporation (National Fuel); Energy Association of Pennsylvania (EAP); Duquesne Light Company (Duquesne); UGI Utilities, Inc. (UGI); a coalition of 37 environmental justice, consumer, environmental, business, and faith-based organizations (Energy Justice Advocates); Philadelphia Gas Works (PGW); and Columbia Gas of Pennsylvania, Inc. (Columbia<sup>1</sup>).

As set forth in the sections that follow, TURN submits several responses to comments submitted by other stakeholders. In many instances, the comments provided by utilities and EAP appear to conflate the intention of the regulations to allow certain practices, with a mandate that each LIURP program be operated in an identical manner. TURN submits that, in light of the ability to revise a LIURP through a Universal Services and Energy Conservation Proceeding (USECP), or another proceeding (as explained more fully below), many of these comments are

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<sup>1</sup> TURN notes that Columbia did not provide substantive comments, but filed its letter in support of the comments of EAP.

misplaced. TURN maintains that the Commission should approve new LIURP regulations consistent with its previously submitted comments and as discussed herein.

## REPLY COMMENTS

### 1. Definitions

*a. TURN Supports PECO's Proposal to Expand the Definition of De Facto Heating.*<sup>2</sup>

In its comment, PECO proposes that the Commission revise the definition of de facto heating, to be defined as “Use of an alternative heating source as the primary heating source when the primary or central heating system is non-functioning or public utility service has been terminated.”<sup>3</sup> For the reasons explained in PECO’s comments, TURN agrees and supports PECO’s proposal to expand this definition.

*b. TURN Supports the Commission's Proposal to Expand the Definition of Special Needs Customers.*<sup>4</sup>

Multiple utilities proposed revisions to the Commission’s definition of a Special Needs Customer.<sup>5</sup> Duquesne submits that the Commission must consider costs and benefits associated with serving special needs customers, asserting that treating such customers could expand program eligibility and direct resources away from those most in need.<sup>6</sup> Duquesne’s concern is not supported by the proposed regulation which explicitly recognizes that special needs customers would be eligible only if they meet the “usage threshold and other criteria for a public

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<sup>2</sup> 52 Pa. Code §58.2. Unless otherwise indicated, or as the context may require, references to Chapter 58 of the Commission’s regulations will refer to the proposed regulations at issue in this proceeding.

<sup>3</sup> Comments of PECO at 2.

<sup>4</sup> 52 Pa. Code §58.2.

<sup>5</sup> See Comments of PECO at 3; Comments of PPL at 4; Comments of National Fuel at 4-5; Comments of Duquesne at 5.

<sup>6</sup> Comments of Duquesne at 5.

utility's LIURP.”<sup>7</sup> PECO comments that the criteria in the definition of “special needs customer” are outside the scope of the information that utilities regularly collect.<sup>8</sup> National Fuel too expresses concern about having to track this information.<sup>9</sup> However, the extent to which a utility adopts practices designed to identify special needs customers is an issue better addressed in a utility-specific proceeding than in a rulemaking such as this one. Indeed, in such utility-specific proceedings, the ability of LIURP to serve special needs customers could be appropriately addressed in an ongoing fashion.

Moreover, TURN submits that, together with a standard requirement that LIURP be open for applications (as discussed in TURN's initial comments and in further detail below),<sup>10</sup> customers can easily inform the utility if they fit into a special needs category. Additionally, utilities may have or receive records, from outside of the LIURP context, of customers disclosing their use of medical equipment or the existence of a protection from abuse or similar court order. This information should be retained and used in identifying eligible special needs customers. As discussed above, how a utility acquires and maintains information regarding special needs customers is too granulated a concern for a rulemaking of this type. As a matter of policy, TURN supports the expansion of the regulation; in practice, it will be incumbent on the Commission and utilities to ensure, through periodic review and reporting, that utilities are reasonably identifying special needs customers in the operation of LIURPs.

Finally, EAP and others suggest that the definition of “special needs customer” should be aligned with the DHS definition of vulnerable household.<sup>11</sup> TURN disagrees, and supports the

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<sup>7</sup> 52 Pa. Code §84.2 (definition of “eligible customer”).

<sup>8</sup> Comments of PECO at 3.

<sup>9</sup> Comments of National Fuel at 5.

<sup>10</sup> Comments of TURN at 12.

<sup>11</sup> Comments of EAP at 11; Comments of PPL at 4; Comments of National Fuel at 5.

Commission’s proposed definition of “special needs customer.” Adopting the DHS definition would exclude consideration of households with medical device needs and households who have experienced domestic abuse, both of which place customers at particular risk warranting a particular response, in this case potential eligibility for LIURP.

**2. TURN Emphasizes That a Review of LIURP Budgets and Pilots Cannot Be Limited to USECP Proceedings.<sup>12</sup>**

As reinforced by many commenters,<sup>13</sup> TURN again submits that review and approval LIURP budgets, funding and potential LIURP pilots must not be limited to USECP proceedings where on-the-record review is unavailable.<sup>14</sup>

TURN’s comments encouraged the Commission to revise the language of its regulations to avoid a potential misinterpretation that would limit review of LIURP to USECP proceedings.<sup>15</sup> It was TURN’s view that the Commission could not have intended to preclude review of LIURP in utility base rate and other proceedings. However, in light of comments of others addressing the potential limitation of LIURP review to USECP proceedings, TURN joins CAUSE-PA, Energy Justice Advocates, CEO & Task Force in submitting that such an attempt would be contrary to law<sup>16</sup> as well as violative of sound ratemaking principles, as explained by OCA.<sup>17</sup>

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<sup>12</sup> See, e.g., 52 Pa. Code §58.2 (definition of LIURP budget); §58.4(a.1) (limiting budget changes to future USECP proceedings); §58.4(c) (same); §58.12(b) (limiting incidental repair and health and safety allowance limit determinations to USECP proceedings); §58.13(b) (requiring that energy conservation education budgets be approved in USECP proceedings); §58.13(c) (limiting consideration of pilot programs to USECP proceedings); §58.17 (“A public utility shall establish or subsequently modify its program services and LIURP budget through a USECP proceeding.”).

<sup>13</sup> See, e.g., Comments of OCA at 22-23; Comments of PECO at 3,7; Comments of Energy Justice Advocates at 3; Comments of CEO and the Task Force at 3; Comments of OCA at 23; Comments of CAUSE-PA at 25.

<sup>14</sup> See, e.g., Comments of OCA at 22-23.

<sup>15</sup> Comments of TURN at 5.

<sup>16</sup> Comments of CAUSE-PA at 35-37; Comments of Energy Justice Advocates at 3; Comments of CEO and Task Force at 3.

<sup>17</sup> Comments of OCA at 22.

TURN also notes that both PECO and PPL share TURN's belief that LIURP should be subject to consideration outside of USECP proceedings.<sup>18</sup> As a consequence, and recognizing that some utilities did not address the issue, it is clearly evident that limiting LIURP review to USECP proceedings is supported by only a handful of utilities and EAP. Indeed, at least two prominent utilities are explicitly aligned with OCA, CAUSE-PA, Energy Justice Advocates, and TURN in recognizing the appropriateness of retaining flexibility to review LIURP budgets in utility base rate proceedings and other proceedings. The Commission should abandon its proposed circumscription of LIURP review to USECP proceedings.

### **3. TURN Supports the Commission's Proposal Regarding Factors to Be Considered in LIURP Budgets.<sup>19</sup>**

In its comments, PECO suggests that considering the estimated and confirmed numbers of low-income and special needs customers should not be required when establishing LIURP budgets because these numbers do not relate to high usage.<sup>20</sup> Likewise, EAP claims that the proposed LIURP budget factors should be eliminated because they would require utilities to be aware of the income demographics of the of the customers they served, specifically the numbers of estimated and confirmed potentially income-eligible customers.<sup>21</sup> In EAP's view, the proposed regulation requires utilities to function like social service agencies.<sup>22</sup>

TURN disagrees and submits that the proposed regulation appropriately requires consideration of the population of customers who are potentially income eligible for LIURP services. Furthermore, the proposed regulations do not require utilities to provide assistance to

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<sup>18</sup> Comments of PECO at 3, 7; Comments of PPL at 5.

<sup>19</sup> 52 Pa. Code §58.4.

<sup>20</sup> Comments of PECO at 4.

<sup>21</sup> Comments of EAP at 13.

<sup>22</sup> Comments of EAP at 13.

customers solely on the basis that they are low-income. Rather, the regulations would require consideration of the total population of potentially eligible customers, *as well as expected participation rates*, in developing a budget in order that the utility and Commission can better identify how its LIURP is designed to address the needs within its service territory. TURN believes that considering the potential pool of eligible customers is a key part of the budgeting process and that concerns raised by PECO and EAP are misplaced.

#### **4. TURN Supports the Rollover of Unused Funds.<sup>23</sup>**

EAP and several utilities including Peoples,<sup>24</sup> UGI,<sup>25</sup> and Duquesne<sup>26</sup> suggest that unused LIURP funds could be redirected or returned to ratepayers instead of rolling over unspent funds to the following year's LIURP. They argue that the fact that money is rolled over into the budget does not mean that the utility will spend that budget the following year.

TURN strongly disagrees with the notion that funds budgeted for LIURP should be diverted, returned or left unspent. Indeed, a crucial measure – perhaps the most crucial measure – of LIURP success is the ability to deliver appropriate and effective treatment to low-income housing pursuant to Commission-approved budgets. It is therefore essential that, to the greatest degree possible, each utility be encouraged to match budgets with expenditures. Furthermore, given the potential for a utility's LIURP to remain unchanged over a five-year period, the Commission's regulation appropriately recognizes that, to the extent there is underspending in one year, the subsequent year's budget should be increased. TURN submits that there is a high need throughout the Commonwealth for these services and the Commission-approved LIURP

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<sup>23</sup> 52 Pa. Code §58.4(d.1).

<sup>24</sup> Comments of Peoples Natural Gas Company at 2.

<sup>25</sup> Comments of UGI at 10.

<sup>26</sup> Comments of Duquesne at 8.

budget should be spent (including rollover amounts) to meet those needs. TURN urges the Commission to clarify, as set forth in its comments, that amounts rolled over from one LIURP program year to the next incrementally increase the utility's program budget.<sup>27</sup>

**5. TURN Emphasizes that LIURP Can Maximize Its Impact by Coordinating with Other Assistance Programs.<sup>28</sup>**

The proposed regulations make several improvements designed to increase coordination between LIURP and other universal service and/or energy assistance programs. As set forth in TURN's comments, we support LIURP's coordination with CAP (without mandatory participation) and urge the Commission to elaborate on coordination with other available home repair, energy efficiency, and weatherization programs to deliver the greatest impact.<sup>29</sup>

In contrast, other stakeholders appear to want LIURP to be siloed such that the offer of, or coordination with, additional customer assistance opportunities is nonexistent. TURN strongly disagrees with these commenters. For example, PPL takes issue with the Commission's proposal that a public utility or third-party providing LIURP services assist with LIHEAP applications.<sup>30</sup> As a threshold matter, the Commission's proposed regulation appears to be more permissive than the existing regulation, specifically allowing a third-party to perform this function instead of the public utility (which is required to do so by current regulations).<sup>31</sup> Additionally, the proposed regulation does not specify how such direct assistance is provided, leaving room for such granular considerations, including administrative costs, to be addressed in utility-specific proceedings. Finally, TURN submits that the time when the utility or its

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<sup>27</sup> Comments of TURN at 10.

<sup>28</sup> 52 Pa. Code §58.7.

<sup>29</sup> Comments of TURN at 9.

<sup>30</sup> Comments of PPL at 7.

<sup>31</sup> 52 Pa. Code § 58.7(b).



contractor is providing LIURP services is an ideal occasion to capitalize on the existing engagement and assist with programs such as LIHEAP. In fact, not taking advantage of this contact to access the mutual financial benefit associated with LIHEAP and other assistance programs is unreasonable.

EAP likewise criticizes the Commission's proposed regulation governing program coordination, averring that LIURP should not become a catch all solution for Pennsylvanians struggling with energy burdens or poor housing conditions.<sup>32</sup> Although quite dramatic, EAP is incorrect that the proposed regulation would convert LIURP into a catch all solution; rather, the Commission's regulation would promote LIURP's role among other available assistance programs. It is undisputed that housing conditions often do in fact directly drive up the cost of energy bills, therefore LIURP can be more effective if available programs that address housing conditions are able to serve the household. For these reasons, as set forth in TURN's comments, LIURP should operate in concert with other energy efficiency, home repair, and weatherization programs to help with long-term energy efficiency problems associated with deteriorating housing stock.

**6. TURN Does Not Support Prohibiting a LIURP Contractor from Fixing or Replacing a Water Heater Based on the Fuel Type Used.**

Duquesne submits that the Commission's inclusion of water heater replacement<sup>33</sup> as a potential measure for residential baseload customers requires more discussion.<sup>34</sup> Duquesne submits that contractors in the home for EDC baseload measures may not be qualified to work on a gas hot water heater.<sup>35</sup> TURN submits that these concerns are too granular for consideration in

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<sup>32</sup> Comments of EAP at 9.

<sup>33</sup> 52 Pa. Code §58.14(a)(3).

<sup>34</sup> Comments of Duquesne at 15.

<sup>35</sup> Comments of Duquesne at 15.

a proposed rulemaking and are better addressed in utility-specific proceedings. TURN recognizes that the Commission’s regulation is permissive (stating that applicable program measures “may include” water heater replacement)<sup>36</sup> and does not mandate specific measures for any utility LIURP.

TURN acknowledges that contractors should not perform work outside their qualifications, however this does not support a change to the Commission’s regulation. Indeed, TURN submits that LIURP contractors must not be prohibited from fixing or replacing a water heater, regardless of fuel type. A failing or nonfunctional water heater can be a significant hazard, and if it is capable of being repaired or replaced, a LIURP contractor should be allowed to do so.

**7. TURN Supports the Establishment of a LIURP Complaint Process as a Method of Quality Control, and Other Proposed Quality Controls.<sup>37</sup>**

TURN reiterates its support for the Commission’s proposed regulation requiring a complaint process specific to LIURP. As submitted in TURN’s comments, TURN believes that the ability to file a complaint in a specialized process ensures that customers have a forum in case of poor-quality repairs or other negative program experiences attributable to work performed or not performed by an ESP.<sup>38</sup> The existence of a LIURP complaint process also provides opportunities for important oversight and feedback to improve the functioning of LIURP.<sup>39</sup>

In contrast, PECO opposes a LIURP-specific complaint process on the grounds that customers can file complaints with the Commission and the utilities may have existing channels

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<sup>36</sup> 52 Pa. Code §§58.14, 58.14a(f).

<sup>37</sup> 52 Pa. Code §58.14(a).

<sup>38</sup> Comments of TURN at 12.

<sup>39</sup> See Comments of TURN at 5.

for resolving LIURP issues.<sup>40</sup> Although TURN certainly supports utility development and use of existing channels for resolving LIURP issues, TURN submits that such channels support, rather than undermine, the Commission’s regulation. As the Commission is aware, utilities are required to have their own internal dispute procedures, in addition to their obligation to respond to disputes initiated at the Commission.<sup>41</sup> However, these obligations are not explicitly extended to LIURP issues, nor the services provided by LIURP contractors.<sup>42</sup> As a consequence, the Commission’s proposed regulation ensures that disputes regarding LIURP services can be addressed at the utility level, ostensibly utilizing “existing channels” utilities may have made available. TURN submits that the Commission’s proposed language fills a significant gap for customers and allows utilities to establish appropriate complaint processes for LIURP issues. Beyond that, the consideration of specific processes is too granular for a rulemaking and should instead be considered and documented in the context of utility-specific LIURP proceedings.

PECO and EAP also expressed concerns regarding the proposed quality control requirement of contacting recipients, and potentially re-inspecting, if energy usage increases by more than 10% within the first 12 months post-installation.<sup>43</sup> PECO argued that because energy usage may have increased for reasons unrelated to LIURP, the follow up would be ineffective, while EAP expressed concerns about the cost. TURN asserts, however, that when there is a usage increase in the 12 months following installation, although it is possible that non-LIURP related factors could cause these increases, it is also possible that poor quality installation could

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<sup>40</sup> Comments of PECO at 8.

<sup>41</sup> See 52 Pa. Code §§56.141, *et seq.*

<sup>42</sup> See, *e.g.*, 52 Pa. Code §56.141(1) (indicating dispute procedures may be limited to “any matter covered by this chapter,” i.e., Chapter 56 of the Commission’s regulations).

<sup>43</sup> Comments of PECO at 8-9; Comments of EAP at 22.

cause energy usage to increase. The Commission appropriately seeks to address this with its requirement for follow up in cases where energy usage has increased.<sup>44</sup>

### **8. TURN Strongly Urges Continuing Required Protections for Tenants in Rental Properties That Receive LIURP Services.<sup>45</sup>**

As set forth in its comments, TURN strongly opposed the Commission’s proposed erosion of long-standing tenant protections associated with LIURP receipt.<sup>46</sup> TURN also submitted the Commission should increase tenant access to LIURP measures by establishing a landlord “opt out” as opposed to “affirmative permission” approach.<sup>47</sup> In contrast, EAP,<sup>48</sup> PPL,<sup>49</sup> UGI,<sup>50</sup> and Duquesne<sup>51</sup> assert that removing required tenant protections (and allowing utilities to opt to include protections<sup>52</sup> as part of their programs) from increased rent and eviction will allow more LIURP services to be provided, ostensibly to benefit tenants. Implicit in each of these comments is the acknowledgement that the commenting utilities will not opt to include protections for tenants in their LIURPs if the proposed regulation is adopted.

EAP asserts that the elimination of tenant protections will allow utilities to serve more tenants.<sup>53</sup> Perhaps EAP is correct that more landlords would agree to participate in LIURP measures if they did not have to commit to tenant protections. However, without required protections against rent increases or eviction, a landlord whose property had received LIURP measures could raise the rent and/or seek to evict the low-income tenant. In either case, the

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<sup>44</sup> 52 Pa. Code §58.14a(f).

<sup>45</sup> 52 Pa. Code §58.8.

<sup>46</sup> 52 Pa. Code §58.8(a).

<sup>47</sup> Comments of TURN at 7.

<sup>48</sup> Comments of EAP at 15.

<sup>49</sup> Comments of PPL at 8.

<sup>50</sup> Comments of UGI at 11.

<sup>51</sup> Comments of Duquesne Light at 9.

<sup>52</sup> 52 Pa. Code §58.8(c).

<sup>53</sup> Comments of EAP at 15.

refusal to maintain required protections creates a significant risk that ratepayers would be providing funding for LIURP services that ultimately do nothing to lower energy usage by a low-income customer. Furthermore, as OCA discusses in their comments, removing these protections may not even increase tenant participation, and may in fact have a chilling effect on a tenant's willingness to participate.<sup>54</sup>

TURN reaffirms that this important tenant protection should not be eliminated. Landlords should not be able to obtain utility weatherization measures meant for low-income tenants and then force those low-income tenants out in order to charge higher rents. Such an allowance would transfer the benefit of low-income weatherization dollars to non-low income customers.

**9. TURN Supports Requirements for Utilities to Participate in LIURP Outreach<sup>55</sup> and Energy Conservation Education<sup>56</sup> in Languages Accessible to Their Customers.**

EAP and other utilities indicated a resistance to increasing LIURP outreach or indeed, any outreach at all, citing a concern that the program would be oversubscribed and lead to customer frustration and a lack of trust with the utility.<sup>57</sup> EAP and PGW also emphasize that some utilities, including PGW, do not allow customers to apply for LIURP.<sup>58</sup> TURN submits that the Commission's proposed regulation does not, in fact, increase the frequency of LIURP outreach – like the approved regulation, outreach is required at least once per year.<sup>59</sup> Furthermore, the proposed regulation does not increase the scope of the LIURP outreach, as outreach remains tied to utility-driven determinations of likely eligibility.<sup>60</sup> Finally, as to concerns about aggressive advertising, EAP fails to observe that the proposed regulation, like the

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<sup>54</sup> Comments of OCA at 38.

<sup>55</sup> 52 Pa. Code §58.9.

<sup>56</sup> 52 Pa. Code §58.13.

<sup>57</sup> Comments of EAP at 16.

<sup>58</sup> Comments of EAP at 16; Comments of PGW at 4.

<sup>59</sup> 52 Pa. Code §58.9(a).

<sup>60</sup> 52 Pa. Code §58.9(a).

regulation currently in effect, encourages utilities to utilize media sources, but does not mandate specific advertising. As a consequence, TURN submits that EAP and PGW's concerns regarding increased LIURP outreach efforts are misplaced and unwarranted. As to PGW's specific practice, identifying LIURP recipients without allowing customer applications, TURN reiterates its comments that the Commission must ensure that LIURP has an open application process for eligible customers to apply.<sup>61</sup>

EAP also resists the Commission's proposed language requiring advertisement in languages other than English, pointing to language authorizing the utility to "consider" advertising more generally.<sup>62</sup> TURN perceives no ambiguity in the Commission's regulation and supports the intention that advertising in non-English languages occur in communities with a high percentage of non-English speakers. Indeed, given the extensive regulatory changes proposed, it is logical to require such advertisement where it has not previously been conducted in a manner to reach the customers affected.

PECO, too, expressed concern about what precise requirements the proposed regulations create in relation to language accessibility of outreach materials.<sup>63</sup> TURN submits that PECO's concern is not premised on the language of the proposed regulation, but rather on how its program would be impacted. As with many granular concerns expressed by the utilities, the specific methods of ensuring the required language accessibility should be determined in utility-specific proceedings. It is not unreasonable to require utilities to take steps to communicate with their target audience in a language that the audience will understand. Furthermore, any logistical

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<sup>61</sup> Comments of TURN at 12.

<sup>62</sup> Comments of EAP at 17.

<sup>63</sup> Comments of PECO at 4, 6.

issues related to defining precise requirements could be addressed in the context of utility-specific proceedings where such specifics could be identified.

Finally, TURN also supports CAUSE-PA's proposal to provide appropriate language access to areas with concentrated populations of individuals with limited English proficiency, even where an entire service territory does not reach the 5% threshold.<sup>64</sup>

#### **10. TURN Supports the Commission's Proposed Prioritization of Program Services.<sup>65</sup>**

As set forth in its comments, TURN submits that prioritization of CAP customers with the highest arrearage and highest CAP shortfall is appropriate, and likely to increase the beneficial impact of LIURP services.<sup>66</sup> However, as previously stated in our comments, TURN supports the Commission's proposed prioritization as long as CAP enrollment is not required and non-CAP customers with high usage are allowed to benefit from the program.<sup>67</sup> This is predicated on the assumption, as noted by PGW in their comments,<sup>68</sup> that those CAP customers with the highest usage are likely also those customers with the highest CAP shortfall amounts. Reducing CAP shortfall expenses can help reduce costs for non-CAP ratepayers.

EAP, FirstEnergy, National Fuel, PGW, and PPL all oppose the Commission's prioritization of CAP customers based on arrearages and/or shortfall considerations.<sup>69</sup> In TURN's view, opposition to these considerations limits the ability of LIURP to provide lasting savings to low-income customers and associated savings to customers who contribute to the costs of CAP. Indeed, for participants in CAP, LIURP can reduce the ongoing bill impacts

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<sup>64</sup> Comments of CAUSE-PA at 82-83.

<sup>65</sup> 52 Pa. Code §58.10.

<sup>66</sup> Comments of TURN at 5.

<sup>67</sup> Comments of TURN at 5.

<sup>68</sup> Comments of PGW at 4.

<sup>69</sup> Comments of EAP at 17; Comments of FirstEnergy at 4; Comments of National Fuel at 7; Comments of PGW at 4; Comments of PPL at 10.

associated with CAP shortfalls. In the event a household becomes ineligible for CAP, the energy savings associated with LIURP may create enough room in a family's budget to contribute to prior arrears. In either case, the associated benefit of LIURP is increased.

EAP also submits that the Commission's regulations should require LIURP recipients to be on CAP.<sup>70</sup> Similarly, PGW opposes the provision, asserting that CAP customers must be required to accept LIURP.<sup>71</sup> TURN submits that, as a matter of prioritization, it is important to overall program operation and integration with other Universal Services to take into consideration CAP shortfall and arrears. However, this does not warrant mandating participation in CAP by LIURP recipients nor requiring CAP customers to accept LIURP services in all instances. Furthermore, inclusion of such a requirement would preclude LIURP receipt by special needs customers and others for whom CAP is unavailable. LIURP may be the only utility program that can provide desperately needed assistance for those customers who cannot participate in CAP. For these reasons, TURN submits that the Commission's regulation should be clear that CAP participation must not be required to receive LIURP services.

**11. When Conducting Energy Audits, Appropriateness of Program Measures Should Be Determined in the Context of All Measures Completed in the Home.<sup>72</sup>**

PGW asserts that in determining the appropriateness of a program measure, cost effectiveness should be measured at the job level instead of by the individual measure.<sup>73</sup> TURN supports this strategy, as it would allow for certain measures that may not independently lower energy usage, but are necessary to safely complete others.<sup>74</sup>

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<sup>70</sup> Comments of EAP at 18.

<sup>71</sup> Comments of PGW at 5.

<sup>72</sup> 52 Pa. Code §58.11(d).

<sup>73</sup> Comments of PGW at 6-7.

<sup>74</sup> Comments of PGW at 6



## **12. TURN Supports Permitting LIURP Funds to Be Used for Fuel Switching.<sup>75</sup>**

As TURN explained, the Commission’s proposal to allow LIURP funds to be used for fuel-switching is a positive change, but will be frustrated by inter-utility coordination, which threatens to impede access based on case-by-case agreement, rather than customer needs and cost effectiveness.<sup>76</sup> Similarly, PPL raised questions about how such agreement between utilities can be effectuated and what avenues would be in place to resolve disputes.<sup>77</sup> TURN submits that inter-utility agreements regarding fuel switching are unnecessary and create avoidable complexities, such as those raised by PPL. Fuel switching is critically important, and it is essential that permission from both utilities is not required, or it will be functionally impossible.

PGW questions the Commission’s authority to approve use of LIURP dollars for fuel switching.<sup>78</sup> PGW’s comment is not addressed to circumstances where one utility provides both electric and gas service,<sup>79</sup> but instead is limited to the circumstance where two separate utilities provide electric and gas service.<sup>80</sup> PGW, like National Fuel,<sup>81</sup> expresses concerns about which utility pays for the costs of switching, and specifically submitted that its customers should not subsidize fuel switching to an electric utility.<sup>82</sup> TURN is aware of no provision of the Pennsylvania Public Utility Code, or any other law, that prohibits the use of LIURP dollars for fuel switching. Moreover, as set forth in the proposed regulation, any fuel switching between separate utilities would only occur if the primary heating source were “inoperable or unrepairable or if the cost to repair would exceed the cost of replacement.”<sup>83</sup> In this regard, the

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<sup>75</sup> 52 Pa. Code §58.11a.

<sup>76</sup> Comments of TURN at 3-4.

<sup>77</sup> Comments of PPL at 13.

<sup>78</sup> Comments of PGW at 7.

<sup>79</sup> 52 Pa. Code §58(a)(1).

<sup>80</sup> 52 Pa. Code §58(a)(2).

<sup>81</sup> Comments of National Fuel at 8.

<sup>82</sup> Comments of PGW at 7.

<sup>83</sup> 52 Pa. Code §58(a)(2).

Commission's regulation is clearly focused on energy savings as they may be attained in the context of potential fuel switching, and is a matter appropriately within its discretion.

Concerning the source of funds utilized for fuel switching, TURN submits that these are all appropriate issues to resolve in the context of a utility's proposed and approved LIURP, rather than in the regulations, as the answers may vary between different service territories.

### **13. TURN Supports the Commission's Proposed Inclusion of Health and Safety Measures in LIURP.<sup>84</sup>**

As TURN previously submitted,<sup>85</sup> the inclusion of health and safety measures in LIURP is a significant, sensible improvement, that enables LIURP recipients to also obtain improved efficiency measures. Although UGI and PECO believe that health and safety measures should be limited to those that limit energy use,<sup>86</sup> TURN believes that the purpose of the health and safety funds is specifically to allow for those repairs that may not themselves limit energy use but enable other measures to be delivered. Indeed, absent health and safety measures, it may not be possible for customers or LIURP contractors to remain in the home safely.

In response to the concerns of PGW about having separate allowance limitations for health and safety and incidental repairs,<sup>87</sup> TURN acknowledges that strict dollar allowance limitations may be inappropriate in some circumstances but avers that the regulation does not prohibit a utility from approaching the allowance limitations on a total cost or program-wide basis, or seeking waiver/exemption in appropriate circumstances. Accordingly, as with many utility concerns, allowance limitations are appropriately considered in the context of utility-specific proceedings, as opposed to this rulemaking.

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<sup>84</sup> 52 Pa. Code §§58.2 (definition of "health and safety measure"), 58.12.

<sup>85</sup> Comments of TURN at 9.

<sup>86</sup> Comments of UGI at 6; Comments of PECO at 2.

<sup>87</sup> Comments of PGW at 7.

#### **14. TURN Supports Implementation of the Commission’s Proposed Energy Conservation Education Requirements.<sup>88</sup>**

The Commission’s proposed energy conservation education regulations update existing requirements by imposing an obligation provide post-installation education where usage has increased 12-months post installation.<sup>89</sup> TURN submits that this is an important addition to the existing requirements. Although EAP suggests it would be costly to offer energy conservation education to the households whose energy usage has increased 12 months post-installation,<sup>90</sup> TURN disagrees. As defined, “energy conservation education” can be provided in several different cost-effective ways. Ultimately, such details are best hashed out in utility specific proceedings.

As PECO comments, it is true that non-LIURP factors could drive usage up, such as weather and changes in behavior.<sup>91</sup> However, energy conservation education may help customers respond to such non-LIURP factors. Moreover, if energy efficiency measures (such as a smart thermostat) are not being utilized as well as intended, whether due to a customer’s misunderstanding or lack of knowledge, additional conservation education can help ensure the measures provide actual energy usage impacts.

PECO also notes that it already provides usage monitoring for the 12 months post-installation and issues monthly letters to highlight usage changes.<sup>92</sup> On this basis, PECO appears to submit that an additional education activity would be unnecessary and/or duplicative.

However, this concern appears to be rooted in PECO’s own, individualized LIURP program

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<sup>88</sup> 52 Pa. Code §58.13.

<sup>89</sup> 52 Pa. Code §58.13(d)(4).

<sup>90</sup> Comments of EAP at 20. See also Comments of PECO at 6-7 for similar concerns submitted by PECO.

<sup>91</sup> Comments of PECO at 7.

<sup>92</sup> Comments of PECO at 7.

operation, not the regulations themselves. This is another instance in which the level of granularity is an issue of program design, rather than Commission regulation.

### **15. TURN Supports the Commission's Proposed Standards for Reporting and Evaluation.<sup>93</sup>**

TURN submits that revised reporting requirements, as proposed by the Commission, are essential to program evaluation and addressing new program features such as fuel switching, health and safety measures, and coordination with other agencies. PPL expresses that it is time-consuming, expensive, and not valuable to track and report data such as the number of fuel-switching jobs, the number of deferred dwellings, the number of inter-utility coordinated jobs, the breakdown of LIURP costs, the percent energy usage reduction, and the number of CAP and special needs households served.<sup>94</sup> TURN submits that this annual reporting is not overly-burdensome, and will capture important data to consider when evaluating LIURP. Although certainly some costs and administrative burden is associated with reporting, in its absence the Commission and other stakeholders will be unable to evaluate whether, and how, LIURP is achieving its intended purposes.

EAP takes issue with the Commission's proposal that utilities track the number of deferred dwellings and specifically requests a two-year deferral on reporting this information so that tracking can be implemented.<sup>95</sup> TURN finds it hard to believe that utilities do not track this data and are incapable of doing so for two years. As the Commission points out, this proposed regulation is consistent with DCED Weatherization Assistance Program (WAP) protocols and adopts a uniform approach to tracking low-income homes in need of repairs to provide

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<sup>93</sup> 52 Pa. Code §58.15.

<sup>94</sup> Comments of PPL at 18.

<sup>95</sup> Comments of EAP at 20.

weatherization services.<sup>96</sup> TURN submits that tracking deferrals, in combination with coordination of LIURP with other programs, serves a vital purpose: helping reduce the number of households for whom a deferral is effectively a denial. By requiring utilities to track these deferrals, consistent with WAP protocols, more low-income households can ultimately receive the necessary measures to significantly reduce energy usage.

### **CONCLUSION**

TURN urges the Commission to act in accordance with the recommendations in these reply comments, as well as TURN's initial comments.

Respectfully Submitted,

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<sup>96</sup> Notice of Proposed Rulemaking at 71-72.