

TESTIMONY

ON THE

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

**Fiscal Year 2013
Proposed State Plan**

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INTRODUCTION

Good morning. My name is Terry Fitzpatrick. I am the President and CEO of the Energy Association of Pennsylvania (“EAP” or “Association”), the trade organization representing the major electric and natural gas distribution utilities in the Commonwealth.¹ EAP’s member utilities (each of which, by the way, contracts with the Commonwealth as an approved LIHEAP vendor) have a long-running history of helping their low-income customers with bill payment problems. In fact, EAP utilities spend over \$400 million a year providing reduced rates, special payment plans, hardship funding and home weatherization services. Additionally, these members also help their customers access and leverage the utility-administered programs with publicly- and privately-funded programs such as LIHEAP, Weatherization Assistance Program, Salvation Army, Dollar Energy, and local church organizations, to name a few.

EAP appreciate this opportunity to provide input on the Department of Public Welfare’s (“DPW” or “Department”) LIHEAP Proposed State Plan for Fiscal Year (“FY”) 2013. Like each of the entities appearing before you in the State Plan input process, EAP and its members **share the common goal of assisting low-income customers in accessing energy assistance available here in Pennsylvania (“PA”)**. EAP continues to maintain that the best method for assuring that PA’s most vulnerable low-income families maintain utility service and keep the heat on during the winter months is to continue leveraging all sources of energy assistance so that taxpayer and ratepayer funds are managed effectively and equitably.

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.

Communication and cooperation are key ingredients in developing state plans and navigating today's complex policy issues. The optimal time to receive input from LIHEAP Advisory Committee ("LAC") members on the upcoming fiscal year's LIHEAP State Plan is before the plan is developed. The public input process, while necessary, is simply ineffective and too late to receive meaningful input from the LAC membership. To date we are hard-pressed to find even one example where a proposed State Plan, once released, was influenced or modified as a result of the public input process. EAP suggests that a more effective approach would be to set-aside time at the winter meeting of the LAC for staff to receive input from its collective advisory membership prior to finalizing the proposed State Plan.

DPW is to be commended for the LIHEAP program improvements over the last year, which included better communication with energy partners, increased program transparency and data sharing, and participation in policy discussions with other energy assistance stakeholders to identify best practices that seek to leverage available resources and maximize the benefits for PA's LIHEAP clients. EAP recognizes the Department's challenge in recent years to structure the state's energy assistance program in a way that balances vital energy assistance needs of the Commonwealth's most vulnerable citizenry with reduced and uncertain funding levels.

Working together through an open dialogue goes far in achieving greater program efficiencies and effectiveness, and it is with these guiding principles in mind, that EAP offers the following input to DPW on behalf of its member electric and natural gas distribution companies.

SUMMARY OF POSITION

EAP's testimony on the proposed FY 2013 LIHEAP State Plan focuses on the following components which we believe are fundamental in administering a program that effectively and

consistently assists the greatest number of families with heating needs when the need is most crucial:

- A. Eliminate the crisis exception component; and, instead, open and operate the cash and regular crisis components of LIHEAP concurrently;
- B. Extend the LIHEAP Program close date;
- C. Adhere to State Law, 66 Pa.C.S. §1406(g), which 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.*”;
- D. Provide 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 winter moratorium;
- E. Continue the dialogue on complex policy issues; and,
- F. Improve communication and dissemination of LIHEAP program information to LIHEAP Advisory Committee members.

Lastly, EAP continues to affirm that poverty is a societal issue in need of a permanent source of state energy assistance funding to supplement the federally-funded program. There are no guarantees that PA will continue to receive federal LIHEAP funding. Considering recent years’ fluctuations in the timing for releasing federal funds together with reduced amounts, it is vital that Pennsylvania establish a stable energy assistance program where major components remain unchanged from year to year and on which low-income households can rely. DPW and all of its energy assistance partners must continue to advocate for a permanent source of state energy assistance dollars.

And, while EAP recognizes the Department’s dilemma in structuring the LIHEAP program around so many unknowns, it cautions that continuing the current program design fails to expend PA’s allotted funding when it is needed most and results in significant excess dollars

at program end – over \$79 million in the 2011-12 program that just ended. By beginning LIHEAP in the fall with crisis exception benefits in lieu of the regular crisis component, the program fails to meet the real need faced by low-income households as the cold weather months approach, (i.e., continued service) and further may be sending improper signals to the federal government that PA’s funding should be reduced.

I. EXPLANATION OF POSITION

A. Eliminate the crisis exception component; and, instead, open and operate the cash and regular crisis components of LIHEAP concurrently.

Again this year, DPW is proposing to open the FY 2013 LIHEAP program with a “crisis exception” component, rather than the traditional crisis program. Customers who participate in the crisis exception program are required to use their cash grant for the emergency rather than to assist with their winter heating bills. The purpose of the crisis program is to alleviate emergency situations and should be used accordingly.

The crisis exception program is confusing and severely limits the amount of energy assistance available when the program opens. This is particularly true for customers of regulated electric and natural gas utilities because it eliminates assistance to customers facing the threat of termination. The result is that many at-risk households are then terminated and are forced to enter into dangerously cold weather without use of their central heating system. Many then may resort to using unsafe measures to heat their homes.

Adding to the problem is DPW’s proposal to then open the regular crisis program from January 2 through March 29, 2013 which closely coincides with the winter moratorium period of November 30 to April 1 (established at 66 Pa. C.S. § 1406(e)(1)). During the winter moratorium “protection” period, regulated utilities are prohibited from terminating service to low-income

customers whose income is less than 250% of the FPIG absent authorization by the Public Utility Commission. This means that customers of regulated electric and natural gas utilities are not afforded the same access to crisis assistance as customers of deliverable fuels such as oil, propane and kerosene. These vulnerable families often wind-up in a perpetual cycle where they enter the heating season without service, get reconnected over the winter, and then face termination after April 1 when funds are no longer available because the program has closed. Often service remains off throughout the summer months only to start-up the cycle again. EAP contends that continuing to design the LIHEAP program in this manner perpetuates the cycle for this very vulnerable population.

Reduced public assistance benefits, continued high unemployment numbers, escalating medical and food costs, and other economic factors are contributing to increased numbers of households in poverty across the state. This means that increasing numbers of families are likely to find themselves without utility service and without energy assistance as cold weather approaches. For many, access to the regular crisis grant can help ensure that service will remain on as the winter approaches and decrease the specter of terminations in the spring.

Finally, in each year that the crisis exception program has been implemented, PA's LIHEAP program closed with millions of unspent dollars which would have been distributed to families during the months when their need was the greatest. DPW's end-of-the-year efforts to "spend down" the surplus by distributing supplemental grants to families without full consideration to immediate need is not the best use of PA's limited dollars. Continuing this trend is puts vulnerable Pennsylvanians at risk and sends the wrong message to Congress. EAP urges the Department to consider returning to a traditional program where both "regular" program components, cash and crisis, open and operate concurrently.

B. Extend the LIHEAP Program Close Date.

Currently, based on the LIHEAP proposed State Plan for FY 2013, the Department plans to close the 2012-13 LIHEAP program on Friday, March 29, 2013, two days shy of the end of the winter moratorium period (March 31, 2013). EAP requests that DPW consider extending the LIHEAP program close date to at least April 15, 2013 if funding is available.

Historically, demand for energy assistance increases dramatically for customers of regulated electric and natural gas utilities after the winter moratorium ends because this is the point at which the potential loss of service becomes a stark reality. Each spring, large numbers of low-income families, despite their best efforts, find that they are not able to pay their monthly utility bills which can include large arrearages that have accrued over the winter months. In each of the last several years, EAP member companies reported between 90,000 and 100,000 residential terminations during the months of April and May. Without access to LIHEAP assistance dollars, regulated utility customers facing likely termination and loss of their utility service will certainly increase, as will public health and safety issues.

C. 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*”.

Pennsylvania state law 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.*”

Pennsylvania’s LIHEAP State Plan cannot ignore statute as implied 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 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 may implement any notice issued after February 1 on April 1 or later. 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 states that 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, individual states possess the discretion to establish when a crisis exists, and the Pennsylvania General Assembly has defined a crisis to include receipt of a termination notice under section 1406(g). EAP believes that whenever possible, a state agency should endeavor to read federal and state statutes in concert with one another. Under Pennsylvania law, a notice of termination is defined as a crisis and receipt of the notice qualifies the household for a crisis grant under federal law. Absent that crisis grant, each April, thousands of regulated utility low-income families needlessly face termination of utility service.

D. Provide 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 “winter moratorium”.

EAP and its members recommend that the Department return to its practice of setting aside a dedicated reserve of funds earmarked for regulated utility customers who receive termination notices dated February 1 or later. By not doing so, customers of regulated utilities, who (as noted earlier) are subject to the winter moratorium “protections” do not have the same

access to energy assistance over the winter as do customers using deliverable fuels. This policy treats customers of regulated utilities inequitably. As a result, many face the cycle of a spring termination, followed by no service during the summer months and the daunting reality of entering yet another cold weather season without heat because of excessive arrearages. In earlier years, even when PA's federal funding was significantly less, DPW recognized this need and included a set-aside provision in its LIHEAP budget. While available funds may not yet 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 provisional funding for eligible customers facing termination following the winter moratorium should Pennsylvania receive adequate funding.

E. Continue the dialogue on complex policy issues.

As with any stakeholder process on matters of significance, varying opinions on policies and effects are to be expected. EAP believes that the benefit of exploring options, sharing alternative perspectives and engaging in collaborative communication is often the best method of identifying the best solution. Taking time to completely understand an issue along with its collateral impacts is necessary to assure best practices, good policy and reasonable implementation.

As noted earlier, EAP commends the Department for its participation in a stakeholder dialogue that sought to identify a best practice for assuring that LIHEAP funds are leveraged with other energy assistance programs and resources so as to maximize the benefit for the individual LIHEAP client. The Department's interpretation for applying LIHEAP benefits to customers enrolled in utility-administered Customer Assistance Programs ("CAPS") as outlined

in the FY 2013 Proposed State Plan will go far in assisting low-income utility customers by helping them to meet the current CAP payment and provide a means to cure/pay arrearages.

EAP applauds DPW for exploring its options and for using its discretion to revise its policy interpretation in this area. As the economy continues in a depressed state, low-income program budgets are cut and jobs are scarce making it more important than ever for Pennsylvania's energy assistance partners to work together to develop programs and policies that maximize assistance and benefits for the Commonwealth's most vulnerable families.

F. Improve communication and dissemination of LIHEAP program information to LIHEAP Advisory Committee members.

EAP notes that while Departmental communication with LIHEAP Advisory Committee ("LAC") members has improved, further efforts are recommended. Timely communications from Department staff to LAC members outside the regular quarterly meeting schedule would be extremely helpful. Notice of significant program developments (e.g., policy clarifications, personnel changes, availability of the LIHEAP State Plan, receipt of additional funding) could be disseminated to LAC members in a single, established email notification. For matters involving vendor manpower needs such as the distribution of supplemental grants or a program extension, notification will assure sufficient time to prepare for and manage increased application volumes and to adjust staffing levels as appropriate. Providing a quick "heads up" could mean the difference between frustration and coordinated assistance to the LIHEAP customer. Currently, information pertaining to the LIHEAP program is often learned 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 will improve program coordination and performance.

IV. CONCLUSION

The Energy Association of Pennsylvania appreciates the opportunity to provide these comments on the proposed LIHEAP State Plan for FY 2013 and asks the Department to thoughtfully consider the input and suggestions contained herein when finalizing the Commonwealth's LIHEAP State Plan. We look forward to working with staff again this year.

Thank you.

Respectfully Submitted,

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